

DEPARTMENT OF TREASURY

**INTERNAL REVENUE
MANUAL**

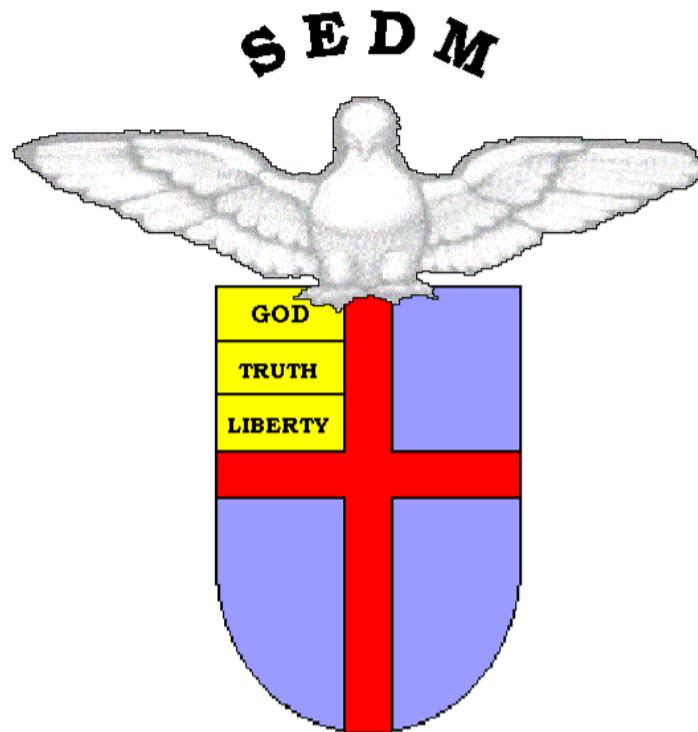
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**Balance Due Account
Procedures**

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List of Current Pages

Page No.	Page No.	Page No.	Page No.	Page No.	Page No.
01 (11-15-85)	27 (11-15-85)	57 (11-15-85)	87 (11-15-85)	121 (11-15-85)	151 (11-15-85)
1 (11-15-85)	29 (11-15-85)	59 (11-15-85)	89 (11-15-85)	123 (11-15-85)	153 (11-15-85)
3 (11-15-85)	31 (11-15-85)	61 (11-15-85)	91 (11-15-85)	125 (11-15-85)	155 (11-15-85)
(11-15-85)	33 (11-15-85)	63 (11-15-85)	93 (11-15-85)	127 (11-15-85)	157 (11-15-85)
05 (11-15-85)	35 (11-15-85)	65 (11-15-85)	95 (11-15-85)	129 (11-15-85)	159 (11-15-85)
07 (11-15-85)	37 (11-15-85)	67 (11-15-85)	97 (11-15-85)	131 (11-15-85)	161 (11-15-85)
11 (11-15-85)	39 (11-15-85)	69 (11-15-85)	99 (11-15-85)	133 (11-15-85)	163 (11-15-85)
(11-15-85)	41 (11-15-85)	71 (11-15-85)	101 (11-15-85)	135 (11-15-85)	165 (11-15-85)
(11-15-85)	43 (11-15-85)	73 (11-15-85)	103 (11-15-85)	137 (11-15-85)	167 (11-15-85)
15 (11-15-85)	45 (11-15-85)	75 (11-15-85)	105 (11-15-85)	139 (11-15-85)	169 (11-15-85)
17 (11-15-85)	47 (11-15-85)	77 (11-15-85)	107 (11-15-85)	141 (11-15-85)	171 (11-15-85)
19 (11-15-85)	49 (11-15-85)	79 (11-15-85)	113 (11-15-85)	143 (11-15-85)	173 (11-15-85)
(11-15-85)	51 (11-15-85)	81 (11-15-85)	115 (11-15-85)	145 (11-15-85)	175 (11-15-85)
(11-15-85)	53 (11-15-85)	83 (11-15-85)	117 (11-15-85)	147 (11-15-85)	177 (11-15-85)
23 (11-15-85)	55 (11-15-85)	85 (11-15-85)	119 (11-15-85)	149 (11-15-85)	179 (11-15-85)

Current Manual Supplements

5G-305 Elimination of Collection Closed
Files 12/85

Manual Transmittal

Department
of the
Treasury

Internal
Revenue
Service

5300-1

November 15, 1985

Purpose

This transmits a complete revision to IRM 5300, Balance Due Account Procedures.

Background

IRM Part V has been completely revised to eliminate outdated procedural guidelines as well as text and exhibits which were non-procedural in nature. IRM Part V has also been renumbered and reorganized to parallel the work flow of the Collection Activity.

Nature of Changes

IRM 5300 has been retitled "Balance Due Account Procedures."

Editorial changes have been made throughout.

IRM 5310, Accounts Receivable—Assessment and Billing Procedures, contains text formerly at IRM 5210.

IRM 5320, Collection Information Statements, Financial Analysis and Verification, contains text formerly at IRM 5220.

IRM 5330, Installment Agreements and Short Term Extensions of Time to Pay, contains text formerly at IRM 5230.

IRM 5340, Adjustments, Payment Tracers, Credit Transfers, Entity Changes, TDA/TDI Assignment Code Changes, Manual Refunds and Offsets, contains text formerly at IRM 5270.

IRM 5348, IMF/BMF Refund Offset to Non-IMF/BMF Liabilities, contains text formerly at IRM 52(11)0.

IRM 5390, Transfer of Accounts, contains text formerly at IRM 5290.

IRM 5350, Lien for Taxes, contains text formerly at IRM 5400.

IRM 5360, Levy on Third Parties, contains part of text formerly at IRM 5300.

IRM 5370, Currently Not Collectible Accounts, contains text formerly at IRM 5600.

IRM 5380, Collection Waivers, contains text formerly at IRM 55(12)0.

IRM 53(10)0, Cases Requiring Special Handling, contains text formerly at IRM 5250.

Effect On Other Documents

01. Manual Supplement 5G-302 dated April 12, 1985 is superseded.

02. Manual Supplement 5G-305 dated May 14, 1985 remains in effect. Amending and supplementing IRM 5375.2, 5375.3, 53(10)4.1 and 53(10)4.3.

/s/ Grant A. Newman
Director,
Office of Field Operations

Filing Instructions

Remove:

MS 5G-302

Insert:

5300-1 through 5300-149

MS 5G-305

NOTE: Dispose of all supplements issued prior to the Part V revision. The new Chapters and Handbooks issued have included (at the end of each Chapter and/or Handbook) those supplements which remain in effect.

Table of Contents

General Lien Under IRC 6324(a) and 6324(b) • 5352 1	Files Maintenance • 535 10 4
Specific Estate Tax Lien Under IRC 6324A and 6324B • 5352 2	General • 535(10) 4 1
Specific Lien Under IRC 6324A • 5352 2 1	Processing of CP 528 Notices • 535(10) 4 2
Specific Lien Under IRC 6324B • 5352 2 2	Processing Master File (SAT 53) MUD
Force of Lien • 5353	Transcripts and Listings of Satisfied TC 530
Validity and Priority of Lien • 5353 1	Accounts • 535(10) 4 3
Protection for Certain Interests Even Though Notice of Lien Filed • 5353 2	Annual Review of Lien Files • 535(10) 4 4
Priority of Certain Other Interests • 5354	Refiling Notice of Lien • 535(11)
General • 5354 1	General • 535(11) 1
45 Day Period for Making Disbursements • 5354 2	Criteria for Refiling • 535(11) 2
Priority of Interest and Expenses • 5354 3	Required Refiling Period • 535(11) 3
Filing Notice of Lien • 5355	Place for Refiling • 535(11) 4
Considerations Before Filing • 5355 1	Address Change Procedures Affecting Notice of Lien Refiling • 535(11) 5
General • 5355 1 1	Processing DTR or Form 4355 (Notice of Overpayment Applied to Unpaid Tax) in District Offices • 535(11) 6
Procedural Guidelines • 5355 1 2	Procedures and Responsibilities for Refiling • 535(11) 7
Form of Notice • 5355 2	General Guidelines • 535(11) 7 1
Preparation of Notice • 5355 3	Collection Field Function Inventory • 535(11) 7 2
General • 5355 3 1	Special Procedures Function • 535(11) 7 3
Use of Trade Names • 5355 3 2	Automated Collection System Branch • 535(11) 7 4
Consideration of Transferee and Nominee Cases • 5355 3 3	Preparation of Form 668-F • 535(11) 8
Corporations—Alter Ego Doctrine • 5355 3 4	Processing Executed Form 668-F • 535(11) 9
Partnerships • 5355 3 5	Release of Refiled Notice of Lien • 535(11) 10
Place for Filing of Notice • 5355 4	Certificate of Release of Lien • 535(12)
Location of Property Subject to Lien • 5355 5	Authority To Execute Release of Lien • 535(12) 1
General • 5355 5 1	Conditions for Release • 535(12) 2
Filing of Notice by Mail • 5355 5 2	General • 535(12) 2 1
Filing of Notice in Another District • 5355 6	Liability Is Satisfied • 535(12) 2 2
Filing of Notice Generated by ACS • 5355 7	Liability Is Unenforceable • 535(12) 2 3
Recording Fees • 5356	Acceptance of a Bond • 535(12) 2 4
General • 5356 1	Request for Release of Lien by Taxpayer • 535(12) 3
Input of Lien Fees to IDRS • 5356 2	Requirement for Release • 535(12) 3 1
General • 5356 2 1	Form of Request • 535(12) 3 2
Fee Input Procedure • 5356 2 2	Processing Taxpayer Requests for Lien Release • 535(12) 3 3
Input of Lien-Filed Indicators to IDRS • 5356 3	Acceptance of an Offer in Compromise • 535(12) 4
General • 5356 3 1	General • 535(12) 4 1
Criteria for Input of Lien-Filed Indicators • 5356 3 2	Revocation of Certificate of Release of Lien • 535(12) 4 2
Preliminary Editing of Lien-Filed Indicator Input Document • 5356 3 3	Abatement of 100-Percent Penalty • 535(12) 5
Removing Lien-Filed Indicators • 5356 3 4	Certificate of Release • 535(13)
Contenting of Notice of Lien • 5357	General • 535(13) 1
Local Rules in Re Notice of Lien • 5358	Request for Release • 535(13) 2
Actual Notice or Knowledge of Lien Requirement • 5358 1	Request for Release in Another District • 535(13) 3
Copies of Notices of Lien to Third Parties • 5358 2	Issuance of Release • 535(13) 4
General • 5358 2 1	Disposition of Certificate of Release • 535(13) 5
Insurance Companies • 5358 2 2	Other Certificates Relating to Liens • 535(14)
Department of Agriculture • 5358 2 3	General • 535(14) 1
Disclosure of Amount of Outstanding Lien • 5359	Discharge of Property • 535(14) 2
Maintenance of Notice of Lien File • 535(10)	Subordination of Lien • 535(14) 3
General File Maintained by the Special Procedures Section • 535(10) 1	Nonattachment of Lien • 535(14) 4
Suspense File Maintenance • 535(10) 2	Revocation of Certificate of Release or Nonattachment • 535(15)
Processing Notice of Lien File • 535(10) 3	Reinstatement of Lien • 535(16)

Table of Contents

Filing of Certificates and Notices • 535(17)	General • 535(23) 1
Applications for Certificates of Discharge	Payments to Senior Lender for Which
Subordination or Nonattachment • 535(18)	Reimbursement May Be Required • 535(23) 2
General • 535(18) 1	Review of Requests for Reimbursement
Submission of Applications • 535(18) 2	• 535(23) 3
Investigation of Applications • 535(18) 3	Soliciting Agreements to Bid • 535(24)
General • 535(18) 31	General • 535(24) 1
Report of Investigation • 535(18) 32	Commercial Advertising • 535(24) 2
Issuance of Certificate of Discharge or	Deposit Submitted With Agreement to Bid
Subordination • 535(18) 4	• 535(24) 3
General • 535(18) 41	Processing Recommendations to Exercise Redemption
Preparation of Certificates • 535(18) 42	Right • 535(25)
Certificates of Discharge in Special Cases	Special Procedures Function Activity • 535(25) 1
• 535(18) 5	Advance From Revolving Fund • 535(25) 2
General • 535(18) 51	Tender of Amount to Redeem • 535(26)
Foreclosure Proceedings • 535(18) 52	Definition • 535(26) 1
Certain Government Agency Discharges	Proffer of Money • 535(26) 2
• 535(18) 6	Proper Person • 535(26) 3
General • 535(18) 61	Amount To Be Paid • 535(26) 4
Applications for Discharge • 535(18) 62	Certificate of Redemption • 535(27)
Issuance of Certificate of Discharge • 535(18) 63	General • 535(27) 1
Applications for Certificates of Nonattachment	Preparation and Disposition of Certificate
• 535(19)	• 535(27) 2
General • 535(19) 1	Filing Certificate • 535(27) 3
Issuance of Certificate of Nonattachment	Taxpayer Rights • 535(28)
• 535(19) 2	Erroneously Filed Notice of Federal Tax Lien
Disposition of Certificate of Nonattachment	• 535(28) 1
• 535(19) 3	Definition of Terms • 535(28) 2
Notice of Nonjudicial Sale (IRC 7425) and Redemption	Certificates of Release of Federal Tax Lien
Rights • 535(20)	• 535(28) 3
Notice of Nonjudicial Sale • 535(20) 1	Notice of Lien on Automated Systems • 535(29)
Adequacy of 7425 Notice • 535(20) 2	General • 535(29) 1
Inadequate Notice • 535(20) 3	Form 668(Y): Notice of Federal Tax Lien Under
Acknowledgment of Notice • 535(20) 4	Internal Revenue Laws and Form 668(Z).
Disclosure of Adequacy of Notice • 535(20) 5	Certificate of Release of Federal Tax Lien:
Notice of Nonjudicial Sale of Property Liable to	• 535(29) 2
Perish • 535(20) 6	Request for Notice of Lien • 535(29) 3
General • 535(20) 61	Request for Release of Lien • 535(29) 4
Definition of Perishable Goods • 535(20) 62	Refiling Notice of Lien • 535(29) 5
Consent to Nonjudicial Sale of Property Free of	Notice of Lien Files • 535(29) 6
Lien • 535(20) 7	Filing of Notice in Another District • 535(29) 7
General • 535(20) 71	Facsimile Signatures • 535(29) 8
Application for Consent • 535(20) 72	Lien Fees • 535(29) 9
Processing Applications • 535(20) 73	Lien Filed Indicators • 535(29) (10)
Form of Consent • 535(20) 74	CP-528 Notices • 535(29) (11)
Determining the Date of Nonjudicial Sale	Security Considerations • 535(29) (12)
• 535(20) 8	Delegation of Authority • 535(30)
Processing Notices of Nonjudicial Sales • 535(20) 9	
Right to Redeem Property Sold at Nonjudicial Sale	
• 535(20) (10)	
Government as Party to Judicial Sale Proceeding	5360
• 535(21)	Levy on Third Parties
General • 535(21) 1	Introduction and General Concepts • 5361
Right to Redeem Property Sold at Judicial Sale	Statutory Authority to Levy • 5362
• 535(21) 2	Delegations of Authority • 5363
Processing Joinders in Judicial Foreclosures	Limitations on Levy • 5364
• 535(21) 3	Property Exempt From Levy • 5364.1
Investigation Guidelines—Judicial and Nonjudicial	Bankruptcy or State Insolvency Cases • 5364.2
Sales • 535(22)	
Reimbursement for Payments to a Senior Lender	
• 535(23)	

Table of Contents

- Domestic Child Support Obligations • 5364.3
- Levy Action • 5365
- Levy on Wages, Salary and Other Income • 5366
 - Limitations • 5366.1
 - Procedures for Levy on Wages, Salary and Other Income • 5366.2
 - Additional Provisions for Levy on Wages, Salary and Other Income • 5366.3
 - Service on Employers with Centralized Payrolls • 5366.4
 - Continuous Levy File • 5366.5
- Service of Notice of Levy • 5367
 - General • 5367.1
 - Examination of Books and Records • 5367.2
 - Personal Service • 5368
- Service by Mail • 5369
 - Messages for Notice of Levy • 536(10)
 - Levy in Other Districts • 536(11)
 - General • 536(11).1
 - Receiving District Procedures • 536(11).2
 - Use of Compliance With Levy • 536(12)
 - Release of Notice of Levy • 536(13)
 - General • 536(13).1
 - Release of Levy • 536(13).2
 - Use of Levy in Special Cases • 536(14)
 - Benefit Income • 536(14).1
 - Social Security Benefits and Retirement Plan Benefits • 536(14).2
 - Social Security Benefits • 536(14).2.1
 - Retirement Plan Benefits • 536(14).2.2
 - Medicare Payments • 536(14).3
 - WELFARE Supplemental Security Income, Manpower Development and Training Act and the Area Redevelopment Act • 536(14).4
 - Pension and Retirement Plans • 536(14).5
- Federal Employees • 536(15)
 - General • 536(15).1
 - Military Personnel on Active Duty • 536(15).2
 - Military Personnel—Retired • 536(15).3
 - Military—Class D Allotments • 536(15).4
- Department of Defense Civilian Employees Overseas • 536(15).5
 - Department of Health and Human Services Employees • 536(15).6
- Postal Employees • 536(15).7
- Agricultural Stabilization and Conservation Service (ASCS) • 536(15).8
 - Federal Home Loan Bank • 536(15).9
 - Internal Revenue Service • 536(15).10
- Levy on Insurance Companies • 536(16)
 - Cash Loan Value of Insurance Policies • 536(16).1
 - Death Benefits • 536(16).2
 - Employees of Insurance Companies • 536(16).3
 - Veterans Administration Insurance Policies • 536(16).4

- Mutilated Currency • 536(17)
- Property Used in Violation of Internal Revenue Laws • 536(18)
- Receivables • 536(19)
 - General • 536(19).1
 - Computerized Accounts Receivable • 536(19).2
 - General • 536(19).2.1
 - Direct Payments to Subscriber • 536(19).2.2
 - Payments to Computer Service and Remittance to Subscriber • 536(19).2.3
 - State and Municipal Employees • 536(20)
 - United Nations Headquarters District • 536(21)
 - United States "HH" Bonds—Interest • 536(22)
 - Amish Taxpayers—Self-Employment Taxes • 536(23)
 - Judgments for Child Support Payments • 536(24)
 - Relocation Act Payments • 536(25)
 - Cash Deposited as Security for Bail • 536(26)
 - Educational Institutions • 536(27)
 - Levy on Fees of Attorneys Representing Claimants for Social Security Benefits • 536(28)
- 5370
- Currently Not Collectible Accounts
 - General • 5371
 - Tolerance Cases • 5372
 - Authority to Report Accounts Currently Not Collectible • 5373
 - Automated Collection System Branch Authority • 5373.1
 - Service Center Collection Branch Authority • 5373.2
 - Collection Field Function Authority • 5373.3
 - Special Procedures Function Authority and Procedures • 5373.4
 - Action Required Prior to Reporting an Account Currently Not Collectible • 5374
 - Collection Information Statements • 5374.1
 - Lien Filing • 5374.2
 - Full Compliance Check • 5374.3
 - Currently Not Collectible Conditions • 5375
 - Unable-To-Pay Cases—Hardship • 5375.1
 - General • 5375.1.1
 - Verification of Inability to Pay • 5375.1.2
 - Unable-To-Locate Cases • 5375.2
 - Unable-To-Contact Cases • 5375.3
- Corporate Trust Fund Taxes • 5376
- Bankruptcy Cases • 5377
- Decedent and Decedent Estate Cases • 5378
- Statutory Collection Period Cases • 5379
- Special Conditions • 537(10)
 - Transferee Cases • 537(10).1
 - Assessments Against Two or More Taxpayers • 537(10).2
 - Distilled Spirits Taxes • 537(10).3
 - Cases Reported Currently Not Collectible Without Courtesy Investigations • 537(10).4

Table of Contents

Accounts on Relocated Witnesses • 53(10)5	General • 53(10)6 21
Accounts That May Be Reported Currently Not Collectible Based on a Prior Form 53 • 53(10)6	Processing Notice Responses • 53(10)6 22
W-4 Penalty and Frivolous Return Penalty • 53(10)7	Securing Addresses of Military Personnel • 53(10)6 23
Preparation of Form 53 Report of Currently Not Collectible Taxes • 53(11)	Military Detements • 53(10)6 3
Completion of Form 53 • 53(11) 1	Universal Military Training and Service Act • 53(10)6 31
Scheduling Mandatory Follow-up • 53(11) 2	Procedure for Military Detement Cases • 53(10)6 32
Forms 53 for Pre-TDA Status Accounts (IMF, BMF Only) • 53(11) 3	Interest and Limitations on Collection • 53(10)6 33
Forms 53 for NMF Accounts Not on IDRS • 53(11) 4	Failure to Deposit Penalty Assertions • 53(10)7
Multiple Accounts on the Same Taxpayer • 53(11) 5	Erroneous Refunds • 53(10)8
Managerial Approval of Currently Not Collectible Accounts • 53(11) 6	Cases Involving Household or Agricultural Employees • 53(10)9
Other Procedures for Currently Not Collectible Accounts • 53(12)	Accounts on Taxpayers Located in High Assault Risk Areas (HARA) • 53(10)10
Area Office Reactivation of TDAs Reported Currently Not Collectible • 53(12) 1	General Procedures • 53(10)10 1
5380	Cases Involving an "Innocent Spouse" • 53(10)11
Collection Waivers	General • 53(10)11 1
Extending the Statutory Period for Collection • 5381	Procedure • 53(10)11 2
Accounts Requiring Tax Collection Waivers • 5382	Referral to Examination Division • 53(10)11 21
Preparation of Waiver Forms • 5383	Original TDA Disposition • 53(10)11 22
Disposition of Executed Waivers • 5384	TDA Reissuance • 53(10)11 23
	Application of Payments in Multiple Assessment Cases • 53(10)11 24
	Notices of Federal Tax Lien • 53(10)11 25
	Offer in Compromise Consideration • 53(10)11 3
	Political Activity Case TDAs • 53(10)12
	General • 53(10)12 1
	Procedures • 53(10)12 2
	Transaction to Prohibit Offset-in to Specific Master File Accounts • 53(10)13
	General • 53(10)13 1
	Procedures • 53(10)13 2
	Ad Valorem Penalty Adjustments • 53(10)14
	Cases with Mathematical or Clerical Errors • 53(10)15
	General • 53(10)15 1
	Procedures • 53(10)15 2
	Child Support Obligation TDAs • 53(10)16
	General • 53(10)16 1
	Service Center Collection Branch Procedures • 53(10)16 2
	Collection Field Function Procedures • 53(10)16 3
	Coordination With States • 53(10)16 4
	Action Against False Refund Claims • 53(10)17
	General • 53(10)17 1
	Procedures • 53(10)17 2
	Combined Annual Wage Reporting (CAWR) TDAs • 53(10)18
	Non-Petitioning Spouse Cases • 53(10)19
53(10)0	
Cases Requiring Special Handling	
Self-Employment Tax Liabilities of Amish Taxpayers • 53(10)1	
Income Tax Assessed Against A Child • 53(10)2	
Telephone Excise Tax Cases • 53(10)3	
Reopening of Cases by Examination Division • 53(10)4	
Collection Requests for Reconsideration of Deficiency Assessments • 53(10)4 1	
Premature Assessments in Tax Court Cases • 53(10)4 2	
Other Cases Reopened by Examination • 53(10)4 3	
Taxpayers Entitled to Installment Billing • 53(10)5	
Defaulted Deferred Payments on Straddle Contracts • 53(10)5 1	
Accounts on Military Personnel and Employees of Department of Defense • 53(10)6	
Accounts on Taxpayers Who Served in a Combat Zone • 53(10)6 1	
Military Personnel and Civilian Employees of Department of Defense Residing Overseas • 53(10)6 2	
	EXHIBITS
	Exhibit 5300-1
	Pattern Letter P-513 (Rev. 5-78)
	Exhibit 5300-2
	Special Situations
	<hr/>
	MT 5300-1
	Table of Contents
	IR Manual

Table of Contents

Exhibit 5300-3 Action for Certain Commercial Transactions Financing Agreements, Etc.	Exhibit 5300-17 Letter 1886(P)
Exhibit 5300-4 Notice for Entry Notice of Federal Tax Lien	Exhibit 5300-18 Suggested Delegations of Authority Applicable to IRM 5350- Lien for Taxes
Exhibit 5300-5 668	Exhibit 5300-19 Agreement Locator Number Designations
Exhibit 5300-6 Form 668-F	Exhibit 5300-20 Report of Currently Not Collectible Taxes—Part 1 (Front)
Exhibit 5300-7 Letter 1879(P)	Exhibit 5300-21 Report of Currently Not Collectible Taxes—Part 1 (Reverse)
Exhibit 5300-8 Pattern Letter P-402	Exhibit 5300-22 Post-53 Review Sampling Table
Exhibit 5300-9 Pattern Letter P-403	Exhibit 5300-23 Sample Remittance with RPS Audit Trail
Exhibit 5300-10 Form 1628(P)	Exhibit 5300-24 Requirements for Manual Refund Processing
Exhibit 5300-11 Form 4376	Exhibit 5300-25 Pattern Letter P-295
Exhibit 5300-12 Pattern Letter P-597	Exhibit 5300-26 Pattern Letter P-297
Exhibit 5300-13 Pattern Letter P-544	Exhibit 5300-27 Pattern Letter P-298
Exhibit 5300-14 Form 1696(P)	Exhibit 5300-28 Lien Relinquish Chart
Exhibit 5300-15 Letter 1697(P)	Exhibit 5300-29 United States Department of Education Regional Offices
Exhibit 5300-16 Pattern Letter P-548	Exhibit 5300-30 Letter 1629(P)

Balance Due Account Procedures

5310 (11-15-85)

Accounts Receivable— Assessment and Billing Procedures

5311 (11-15-85)

Assessment Authority

(1) The initial step in the collection process is to establish an account against a taxpayer by assessing the amount due and unpaid. The assessment may arise under various provisions of law, but usually results from a return filed by a taxpayer on a prescribed form which discloses the facts upon which the assessment is made. The assessment may also result from an inquiry made or an investigation conducted by an internal revenue officer, either because a required return has not been filed or because a return as filed does not disclose the correct tax liability.

(2) Section 6201 of the 1954 Code and regulations thereunder authorize and require District Directors and Service Center Directors, as appropriate, to make all the inquiries necessary to the determination and assessment of all taxes, whether imposed by the 1954 Code or any prior internal revenue law. District Directors and Service Center Directors, as appropriate, are further authorized to determine and assess all taxes, including interest, additional amounts, additions to the taxes, and assessable penalties.

5312 (11-15-85)

Method and Time of Assessment

(1) The assessment is made by an assessment officer designated by the District Director or Service Center Director, as appropriate. The assessment officer signs a Form 23-C, Assessment Certificate, and this record, through supporting data, provides identification of the taxpayer by name and number the taxable period, the nature of the tax and the amount assessed.

(2) The date of assessment is the date that the Form 23-C is signed by the assessment officer. This date is particularly important in the collection process, since it establishes the beginning of the six-year statutory period for collection and is the date that the statutory lien, provided by IRC 6321 arises.

(3) Assessment lists and document registers are used to record assessments and are so designed that the listing of the amounts to be assessed is related to the taxpayer's identification number. The assessment lists support the assessment certificate, which is used to sum-

marize and record the official action of the assessment officer.

5313 (11-15-85)

Jeopardy, Termination, Quick, and Prompt Assessment Procedures

5313.1 (11-15-85)

General

(1) Jeopardy assessments are made when it is determined under IRC 6861 and 6862 or presumed under IRC 6867 prior to assessment that deficiencies of income, estate, gift and certain excise taxes will be endangered if regular assessment and collection procedures are followed. IRC 6862 applies to taxes other than income, estate, gift and certain excise taxes whether or not the due date for filing and paying such tax has expired.

(2) Termination assessment of income tax, IRC 6851, including terminations under the conditions described in IRC 6867 applies when the taxable year of a taxpayer has not ended or when the taxable year has ended but the due date, determined with respect to extensions, for filing the return has not arrived.

(3) All jeopardy assessments must be in full compliance with policy statement P-4-88 or P-4-89. At least one of the following conditions must exist:

(a) the taxpayer is or appears to be designing quickly to depart from the United States or to conceal himself/herself

(b) the taxpayer is or appears to be designing quickly to place his/her or its property beyond the reach of the Government either by removing it from the United States, by concealing it, by dissipating it, or by transferring it to other persons.

(c) the taxpayer's financial solvency is or appears to be imperiled. (This does not include cases where the taxpayer becomes insolvent by virtue of the accrual of the proposed assessment of tax, penalty and interest.)

(d) the taxpayer is in physical possession of cash, or its equivalent, in excess of \$10,000 who does not claim it as his/her's or as belonging to another person whose identity can readily be ascertained and who acknowledges ownership of it, so that the collection of tax on it is presumed to be in jeopardy within the meaning of IRC 6867.

MT 5300-1

5313.1

IR Manual

(4) A potential jeopardy or termination assessment may develop as the result of information received from a confidential informant. The source of the information must not be divulged to the taxpayer or other unauthorized personnel.

(5) When service center personnel discover a math error on a return submitted for a prompt assessment, they will prepare Form 2644, Prompt Assessment Billing Assembly, to indicate the math error amount. When the taxpayer is given notice of the liability, parts 3 and 4 of the Form 3552, the math error assessment, must be explained and the taxpayer advised on the appeal rights. If the assessment is contested, collection action will not be pursued on the math error amount and the taxpayer will be advised to address the request for abatement to the service center.

(6) If payment is secured prior to assessment of an additional tax liability, i.e., TC 290, Additional Tax Assessment, or TC 300, Additional Tax or Delinquency Assessment by Examination Division, the Collection employee must enter input of a TC 570, Additional Liability Billing, to prevent the payment from being credited.

(3) Form 2644, Recommendation for Jeopardy/Recommendation for Termination Assessment, will be prepared for all jeopardy assessments. Form 3177 will be prepared requesting the input of TC 570. In addition, a report will be prepared setting forth the conditions and factors in support of the recommendation. The following information should be submitted in all cases to the extent practicable:

- (a) name, address and taxpayer identification number (TIN);
- (b) tax, penalty and interest to be assessed by periods;
- (c) the nature of the taxpayer's business or activity;
- (d) the taxpayer's present financial condition;
- (e) information regarding the taxpayer's activity giving rise to the recommendation, such as transfer of assets without consideration;
- (f) records or statements with respect to continuing business or personal losses;
- (g) filing record of taxpayer;
- (h) the taxpayer's record for resisting payment of taxes in the past (collection delays and unpaid taxes);
- (i) the nature and location of the taxpayer's assets and the source(s) of income;
- (j) a statement as to the factual basis for the determination of taxable income and a schedule showing how the tax was computed;
- (k) any other information having a bearing upon the taxpayer's financial condition, future anticipation of losses, etc.

(4) Because of the urgency involved in jeopardy assessments, the file will be given the highest priority of handling within and between various divisions. The following clearances will be secured:

- (a) group manager;
- (b) Chief, Field Branch;
- (c) Chief, Special Procedures function;
- (d) Chief, Collection Division;
- (e) Chief, Examination Division;
- (f) Chief, Criminal Investigation Division (only when fraud is an issue);
- (g) District counsel (see (5) below);
- (h) District Director. Only the director or acting director is authorized to sign the Form 2644. The director may, however, orally approve the assessment. If so, the initiator's workpapers should show the reasons why the assessment was approved by telephone and the date of approval. Formal review and signature on Form 2644 should be secured as soon as possible.

5313.2 (11-15-85)
Jeopardy and Termination
Assessment Procedures

5313.21 (11-15-85)
Jeopardy Assessments, Proposed Assessments and Approval Procedures

(1) Jeopardy assessments initiated by Collection personnel are confined to proposed 100 percent penalty assessments, proposed employment and excise tax assessments whether or not the return due date has expired, proposed partnership penalty assessments, and proposed income tax assessments when there is no question as to the amount of the liability. Proposed 100 percent penalty and IRC 6020(b) proposed employment, excise, and partnership liabilities can also be processed as quick and prompt assessments.

(2) Information which could lead to a jeopardy assessment of a proposed transferee liability, disputed additional income taxes or any other tax liability, should be referred to the Examination function for appropriate action.

(5) If time permits, Form 2644 and report will be referred to district counsel prior to review by the director. If time does not permit prereview, a copy of the file with Form 2644 will be sent to district counsel after assessment.

5313.22 (11-15-85)**Termination Assessments, Pre-Assessment and Approval Procedures**

Collection personnel will not initiate termination assessment recommendations. Information which could lead to a termination assessment should be referred to the Examination Division for appropriate action.

5313.23 (11-15-85)**Responsibility of Chief, Collection Division**

(1) Prior to approval by the district director, the Chief of the Collection function (group manager if no chief) will review all termination and jeopardy assessment recommendations, including those initiated by the Examination and Criminal Investigation Divisions.

(2) The Chief (group manager if no chief) will discuss disputed cases with the originating division. If the issue remains unresolved, the facts will be documented and reported to the director, who has final responsibility for determining that collection of the proposed tax liability is in jeopardy.

5313.24 (11-15-85)**Assessment and Post-Assessment Procedures**

(1) Immediately after the district director has approved the jeopardy or termination assessment, the tax will be assessed by a telephone call to the Service Center. Furnish the following information:

(a) date that the Director approved the assessment;

(b) name and address of the taxpayer as well as taxpayer identification number (TIN), if known;

(c) type of tax;

(d) taxable period or date;

(e) amount of tax, including penalty, if applicable, and

(f) amount of any payments and balance.

(2) Upon receipt of Form 4135, Criminal Investigation Control Notice, necessary action should be taken to input TC 914. This applies only on termination assessment cases.

(3) After the tax is assessed, the taxpayer must be presented a Notice and Demand to pay the tax, a Notice of Jeopardy or Termination Assessment, a computation of income and tax, and notification of right of appeal and right of review under IRC 7429. However, for jeopardy and termination assessments under the circumstances described in IRC 6867, the individual found in possession will be notified that he/she is not entitled to review under IRC 7429 and no notice of right of appeal will be provided (see IRC 6867(b)(3)). Form 3552, Statement of Tax Due on Federal Tax Return, may be completed and used to provide Notice and Demand. An effort should be made to effect personal delivery; however, the documents can be sent by certified mail to the last known address of the taxpayer. If the taxpayer no longer resides at the address on the assessment, efforts to contact the taxpayer should include checking IDRS for a new address and review of the jeopardy or termination file for the taxpayer's current residence. No matter which method of delivery is used, the required notices must be provided to the taxpayer within 5 days after making the assessment. See Exhibit 5300-1 for a copy of Pattern Letters P-513, Notice of Jeopardy Assessment and Right of Appeal and 1583(P), Notice of Termination Assessment of Income Tax.

(4) Unless the taxpayer fully pays the amount of the assessment upon issuance of the Notice and Demand, Notices of Federal Tax Lien should be filed. If it is determined that the filing of the lien will not ensure that the taxpayer will not dispose of, dissipate or secrete personal property, immediate action should be taken to levy on cash or other liquid assets of the taxpayer in the possession of third parties.

(5) IRC section 6863 provides conditions for the stay of collection of jeopardy or termination assessments.

(6) Except as provided in (8) below, property seized under a jeopardy or a termination assessment may not be sold until the time for petitioning the District Court under IRC 7429 or IRC 6862 has expired, or if a petition has been made to the District Court, such time as the District Court has rendered a final decision. In addition, the property may not be sold until:

(a) in the case of a jeopardy assessment made under IRC 6862, the time for the taxpayer to petition the District Court has expired, or if a

MT 5300-1

5313.24

IR Manual

petition has been made to the District Court, such time as the District Court has rendered a final decision.

(b) in the case of a termination assessment under IRC 6851, the time for petitioning the Tax Court after the issuance of a Statutory notice has expired, or if a petition is filed, such time as the Tax Court renders a final decision. A Statutory notice will be issued within 60 days of the due date of the return regardless of whether a return is filed).

(c) in the case of a jeopardy assessment under IRC 6861, such time as the period within which the taxpayer may petition the Tax Court to determine the deficiency has expired and such petition has been filed, or if a petition has been filed with the Tax Court, such time as the Tax Court has rendered a final decision.

(8) In the event that an appeal is taken by the taxpayer from a decision of the Tax Court in IRC 6851 or 6861 assessments, seized property will be sold if an appeal bond has not been

(9) Property seized on an assessment may be sold, notwithstanding the limitations in (6) above, if:

- a) the taxpayer consents to the sale,
- b) the property is of the type considered perishable goods, or
- c) the Director determines that the expenses to conserve and maintain the property will greatly reduce the net proceeds receivable.

(10) In addition to the above limitations, non-perishable items that have been seized for a jeopardy assessment under IRC 6867 will not be sold except as provided in (8) above until the expiration of the following:

- a) if no claim is filed, until the end of the 12 month period for filing a claim for wrongful seizure as provided in IRM 56(15)6(1);
- b) if a claim is filed, until the end of the 12 month period as provided in IRM 56(15)6(8),
- c) if litigation is involved, until the court has rendered a final decision.

25 (11-15-85)

Issuance of Statutory Notices of Deficiency Cases—Termination of Taxable Period

Except as provided in this text, no further collection action will be taken on cases where the taxpayer's taxable period had been terminated prior to the Supreme Court decision in

Loring v. U.S. (January 13, 1976) when either of the following situations exists:

(a) where a notice of deficiency was issued more than 60 days from the making of the assessment but no assessment has been made based upon the notice of deficiency under the provisions of IRC 6861 or any other provisions of law, and

(b) where no notice of deficiency has been issued to date (except cases in which the mailing of a notice of deficiency is not required, such as when a petition in bankruptcy is filed within 60 days of the making of the assessment, or the taxpayer waives the issuance of a notice of deficiency).

(2) Where collection action has already been initiated in either of the situations described in (1) above, no collection follow-up action should be taken.

(3) The instructions in (1) above, to withhold further collection action in specific cases, do not require the abating of any assessment, the refunding of any amount collected, the releasing of any seizure made, or the releasing of liens or levies. Necessary action to be taken must be determined based on the facts in the particular case and should be coordinated with district counsel when appropriate.

(4) In those cases described in (1)(a) above, consideration should be given as to whether a jeopardy assessment under IRC 6861 is warranted.

5313.26 (11-15-85)

Liaison

(1) Effective administration of jeopardy and termination assessment procedures requires the close cooperation of all involved Service personnel.

(2) The Special Procedures function (SPF) should have overall responsibility for liaison between the Examination, Collection and Criminal Investigation Divisions, the Appeals office and district counsel. Responsible Service employees must keep the Chief, SPF informed of the status of the case.

(3) If the taxpayer commences a proceeding in the district court to review the action taken by the Service, SPF will transmit to the district counsel the administrative file and advise appropriate personnel that such an action has been commenced.

(4) The entire file will be transmitted by SPt to district counsel within one workday. Administrative hearings will be suspended pending court action but, a copy of the file will be retained to issue a statutory notice within the required period for issuance, 60 days after the later of the date the taxpayer files a return for the full taxable year, or the due date of the return as extended. The 60 days does not begin to run until a return for the taxpayer's annual accounting period is filed. In the case of a jeopardy assessment, the notice of deficiency must be issued within 60 days after the assessment unless notice has previously been sent.

(5) If the taxpayer files a civil suit at any time prior to conclusion of the administrative appeals, SPt will request the entire file. Administrative hearings will be suspended. However, a copy of the file will be retained to issue a statutory notice within the required period for issuance. A copy of any report written by Appeals office will be sent to district counsel promptly.

5313.27 (11-15-85)

Processing Abatements

(1) Collection personnel will prepare Form 3870, Request for Adjustment, to decrease tax, penalty and interest as determined in Appeals office or district court.

(2) Regulations providing requests for abatements of jeopardy assessments are considered to refer to taxpayers' requests for administrative review of jeopardy assessments. However, some jeopardy assessments may be abated in whole or in part by the director if he/she finds, without taxpayer's written request for review, an error in fact, judgment or computation.

(3) District court orders to abate all or a part of the tax should be related by district counsel to SPt, who will return any files to the initiating office, for immediate processing of the abatement.

(4) When the district court order is based on a determination that the collection of the tax was not in jeopardy, the Examination Division will reestablish the taxpayer's filing requirement and ensure examination of the taxpayer's current year return.

5313.3 (11-15-85)

Quick Assessments

5313.31 (11-15-85)

General

(1) Quick assessment procedures will be limited to the following situations:

(a) additional taxes and agreed deficiencies when the statutory period for assessment will expire before assessment action can be completed under regular procedures.

(b) deficiencies or current additional and delinquent taxes where receivership proceedings are involved or imminent (per IRC 6871).

(2) A quick assessment does not provide authority to make immediate demand for payment of the tax liability assessed. The taxpayer will be allowed the statutory ten-day period in which to pay, however, if the taxpayer is in a receivership or probate proceeding, an immediate proof of claim may be filed.

5313.32 (11-15-85)

Quick Assessments on 100-Percent Penalty and IRC 6020(b) Cases

(1) A quick assessment of a proposed 100-percent penalty assessment or an employment, excise or partnership tax return prepared and signed under authority of IRC 6020(b) may be made if expiration of the statutory assessment period is imminent and a waiver extending the assessment period cannot be obtained, or if a proof of claim covering the liability is to be filed in a receivership or probate proceeding.

(2) When a quick assessment is made on an unagreed liability, the taxpayer shall be afforded the same appeal rights, without prior payment and claim for refund, that are available to a protesting taxpayer prior to assessment.

(3) All collection action should be withheld until the administrative appeal rights have been exhausted.

5313.33 (11-15-85)

Recommending and Processing Quick Assessments

(1) If a quick assessment is required, the investigating employee will:

(a) prepare Form 2859, Request for Quick or Prompt Assessment, in quadruplicate.

(b) transmit a copy of Form 2859 to the Chief, Special Procedures function if receivership proceedings are involved. Also see IRM 5313.32.

(c) forward the original and two copies of Form 2859 together with the related returns to the Service Center Collection Branch under separate cover identified as "Quick Assessment." Upon assessment, the Service Center Accounting Branch will note on a copy of Form 2859 the reference number and 23-C date of the quick assessment and will return this copy to the initiator to be placed in the case file.

3.4 (11-15-85)
Prompt Assessments

313.41 (11-15-85)
General

Taxpayers who voluntarily file tax returns or who have exhausted their pre-assessment appeal rights on proposed 100 percent penalty or Section 6020(b) assessments, are not legally entitled to any delay in the assessment of the amount of tax indicated on the return. For purposes of administrative efficiency, tax returns are not normally assessed immediately upon receipt. Under the prompt assessment procedure, if collection of the tax is believed to be in jeopardy, the return is immediately processed and assessed. Then, collection of the tax is determined to be in jeopardy under the authority of Section 6331(a) and collection action may be taken without regard to the ten-day notice and demand period.

3.42 (11-15-85)
Criteria for Recommending Prompt Assessments

- (1) Prompt assessments should be limited to the following situations, and will be based upon facts and circumstances of each case:
- (a) taxpayers who are consistently suffering financial losses;
 - (b) taxpayers against whom large damage suits are pending, or against whom such suits are threatened;
 - (c) taxpayers who have a past record of resisting or avoiding payment of their taxes;
 - (d) taxpayers suspected of having plans for leaving the United States without making provision for payment of their taxes, with particular attention being given to aliens;
 - (e) other taxpayers, where the facts and circumstances indicate that the taxpayer's present or future financial condition will make collection of the tax doubtful.

District directors should consider issuing delegation orders authorizing revenue officers, GS-9 and above, to enforce collection without regard to the ten-day notice period on

any case where it is determined that collection of the tax may be in jeopardy.

(3) The case history file should be fully documented to support the determination that collection is in jeopardy. In addition, the revenue officer should include a list of leviable assets upon which enforcement action may be taken when assessment is received.

5313.43 (11-15-85)
Procedures for Recommending Prompt Assessments

(1) Form 2859, Request for Quick or Prompt Assessment, will be prepared in quadruplicate.

(2) If the initiator does not have delegated authority to determine when collection is in jeopardy, Form 2859 should also be signed by a revenue officer who has been delegated such authority.

(3) The original and two copies of Form 2859 should be attached to the tax return and will be forwarded to the Service Center Collection Branch under separate cover identified as "Prompt Assessment." Upon assessment, the Service Center Accounting Branch will note on a copy of Form 2859 the reference number and 23-C date of the prompt assessment and return this copy to the initiator to be placed in the case file.

5313.44 (11-15-85)
Telephone Request for Prompt Assessments

(1) The telephone request should be made to the Service Center Accounting Branch and will include the following information:

- (a) name, address and identification number of taxpayer;
- (b) type of tax;
- (c) taxable period;
- (d) amount of tax, penalty and interest to be assessed;
- (e) amount of payment, if any, and balance due; and
- (f) revenue officer TDA/TDI Assignment Code.

(2) Upon receipt of the telephone request, the Service Center Accounting Branch will assign a Document Location Number (DLN), journalize, prepare a separate Form 23-C, Assessment Certificate, and notify the group manager by telephone of the appropriate DLN and Form 23-C date. The Service Center will then prepare Form 3552, Prompt Assessment Billing Assembly, mark Part 5 "Per Telephone Request" and send it with Parts 3 and 4 on the same date to the group manager, or directly to a revenue officer if so requested.

(3) After notification of the appropriate DLN and Form 23-C date, the group manager will ascertain that Form 2859, confirming the telephone request, is prepared promptly. Form 2859 will be prepared in quadruplicate and noted "Telephone Request." The original and two copies of Form 2859 with related tax return will be sent to the Service Center Collection Branch. The quadruplicate copy will be attached to Form 795. The copy returned by the Service Center Accounting Branch will be associated with the case file.

(4) Any payment received with the tax return will be deposited per normal procedure as Internal Revenue Collections.

(5) To expedite enforcement action, the group manager may authorize preparation of an interim Form 3552 for use by the revenue officer. Parts 1, 2 and 6 of the interim Form 3552 will be destroyed and Parts 3, 4 and 5 will be assigned to the revenue officer. Upon receipt of Parts 3, 4 and 5 of Form 3552 from the Service Center, they will be matched with the interim form for verification of amounts and other information. After verification, the Service Center Form 3552 will be destroyed.

5313.45 (11-15-85)

100-Percent Penalty and IRC 6020(b) Cases

(1) A prompt assessment of the 100-percent penalty may be requested, provided:

(a) the taxpayer has executed Form 2751, Proposed Assessment of 100-Percent Penalty, or

(b) Letter 1153(DO), 30-Day Letter (No Response) has been sent to the taxpayer, and the appeal period has lapsed.

(2) A prompt assessment of employment, excise, and partnership tax returns prepared and signed under authority of IRC 6020(b) may be requested provided that Letter 1085(DO), 30-Day Letter, Proposed IRC 6020(b) Assessment, or Letter 1616(DO), 30-Day Letter, Proposed IRC 6020(b) Assessment (Partnership Return) has been sent to the taxpayer and the appeal period has lapsed.

(3) On both 100-percent penalty and IRC 6020(b) cases, the prompt assessment procedures set forth in IRM 5313.43 should be followed. On 100-percent penalty cases the Form 2859 should be attached to Form 2749, Request for 100-Percent Penalty Assessment.

5313.46 (11-15-85)

Mathematical Errors

When a Service Center discovers a math error on a return submitted for a prompt assessment, they will prepare the Form 3552 and indicate the math error amount. The math error will be isolated and shown in the Reference and T.C. sections as "Additional Assessment (M.E.)-290." When the taxpayer is given notice of the liability, parts 3 and 4 of the Form 3552, i.e., the math error assessment, must be explained and the taxpayer advised of the appeal rights. If the assessment is contested, collection action will not be pursued on the math error amount and the taxpayer will be advised to address the request for abatement to the service center.

5320 (11-15-85)

Collection Information Statements, Financial Analysis and Verification

5321 (11-15-85)

Forms Used

(1) The forms for recording collection information are:

(a) Form 433, Statement of Financial Condition and Other Information. This is a comprehensive financial statement. It is required only for offers in compromise when the basis for the offer is inability to pay. However, Form 433 may be required whenever a more comprehensive statement seems advisable.

(b) Form 433-A, Collection Information Statement for Individuals. This form provides information needed to determine how individual taxpayers can satisfy their tax liabilities. It should be used in addition to Form 433-B (see (c) below) when the taxpayer is an in-business sole proprietor, or in the event partnership assets are insufficient to satisfy a partnership liability.

(c) Form 433-B, Collection Information Statement for Businesses. This form provides information needed to determine how a business taxpayer can satisfy the tax liability. Sections II and/or III need not be completed if the taxpayer provides current information such as a profit and loss statement or balance sheet.

(d) Form 433-D Installment Agreement
This form is used to establish an extension of
to pay or an installment agreement with a
taxpayer, and it includes such collection infor-
mation as the taxpayer's employer, bank, etc.

(e) Form 433-F Collection Information
statement: This is the form the Automated Col-
lection System (ACS) Branch and the Service
Center Collection Branch (SCCB) use to deter-
mine how individual taxpayers can satisfy their
liabilities.

(f) Form 2159 Payroll Deduction Agree-
ment, is used to establish a payroll deduction
agreement between the taxpayer, employer,
and the Service. Collection information is se-
lected similar to the Form 433-D.

(g) On certain cases in ACS, the Financial
Information Screen can be used instead of a
Collection Information Statement (CIS).

(h) In addition to these forms, any similar
form furnished by taxpayers that adequately
reflects their true and complete financial condi-
tions will be acceptable except to replace Form
433-D submitted with an offer in compromise
note. Whenever IRM text refers to Forms 433-
D or CIS, an acceptable substitute is also
permitted. The form should contain the state-
ment, "Under penalties of perjury, I declare that
to the best of my knowledge and belief this
statement of assets, liabilities, and other infor-
mation is true, correct, and complete." The tax-
payer should sign and date the statement, also
indicating a title if applicable. Agreements must
contain wording as reflected on Forms 433-D
2159.

1 "This agreement is based on your cur-
rent financial circumstances and is subject to
revision or cancellation if subsequent financial
developments required by IRS reflect a change in
our ability to pay."

2 "This agreement may require mana-
gerial approval. If it is approved, you will be
notified."

3 Agreements which do not reflect this
condition may not be revised unless the taxpayer
does not meet the conditions of the agreement,
the taxpayer voluntarily changes the agree-
ment, or collection is in jeopardy.

5322

Preparation of Collection
Information Statements (CIS)

(1) Personnel receiving taxpayer prepared
CISs will review them and correct errors, if any.
If there are critical errors or omissions, the tax-
payer must be contacted so that the CIS can be
perfected.

(2) Once it is determined that the taxpayer
has sufficient income and/or assets to satisfy
the tax liability and levy sources have been
identified, discontinue completion or perfection
of the CIS.

(3) Carefully go over the critical information
provided by the taxpayer (e.g., assets, liabilities,
income, and expenses). Ensure that items ded-
ucted from salary, as described in, are added
back in to arrive at a net salary figure and are
reflected as expenses if appropriate.

(a) secure information not specifically re-
quested by the CIS which may be helpful during
subsequent investigation (e.g., name of trade
union, if appropriate).

(b) where estimates are provided by the
taxpayer, accept reasonable figures, but, when
necessary, require substantiation.

(c) for joint income tax liabilities, have both
taxpayers sign the statement. If one spouse is
unavailable, the signature of the spouse who
earns most of the income and owns most of the
assets will be acceptable. (This does not apply
to Form 433 which must have both signatures. If
a CIS received without necessary signature(s),
keep a copy, and return the original to the tax-
payer. Unless the employee is suspicious about
the taxpayer's failure to sign the CIS, the ab-
sence of a signature does not prevent approval
of an agreement or currently not collectible de-
termination, and

(d) when only one spouse is the taxpayer
but both parties have income and expenses,
use the total household income/expenses to
determine maximum ability to pay. However, if
the taxpayer claims that family financial matters
are handled separately, that fact should be not-
ed on the Form 433-A and the taxpayer's indi-
vidual income and expenses used.

5323 (11-15-85)

Analysis of Taxpayer's Financial
Condition

(1) The analysis of the taxpayer's financial
condition provides the interviewer with a basis
to make one or more of the following decisions:

(a) require payment from available assets;

(b) secure a short-term extension of time to pay or a longer installment agreement.

(c) report the account currently not collectible.

(d) recommend or initiate enforcement action (this would also be based on the results of the interview).

(e) file a Notice of Federal Tax Lien, and/or

(f) explain the offer in compromise provisions of the Code to the taxpayer.

(2) In all steps that follow, information on the collection information statement will be compared with other financial information provided by the taxpayer, particularly the copy of the taxpayer's latest Form 1040. If there are significant discrepancies, they should be discussed with the taxpayer. In the event further documentation is needed, it will be the taxpayer's responsibility to provide it. Discrepancies and their resolution will be noted in the case file history and necessary corrections made to the CIS.

(3) Analyze assets to determine ways of liquidating the account.

(a) if the taxpayer has cash equal to the tax liability, demand immediate payment.

(b) otherwise, consider other assets which may be pledged or readily converted to cash.

(c) consider unencumbered assets, equity in encumbered assets, interests in estates and trusts, lines of credit from which money may be borrowed to make payment. In addition, consider the taxpayer's ability to get an unsecured loan.

(d) if there appears to be no borrowing ability, attempt to get the taxpayer to defer payment of other debts if that would permit the taxpayer to pay the tax due.

(4) When analysis of the taxpayer's assets has given no obvious solution for liquidating the liability, the income and expenses should be analyzed.

(a) When deciding what constitutes an allowable expense item, the employee may allow:

1 expenses which are necessary for the taxpayer's production of income (for example, dues for a trade union or professional organization, child care payments which allow a taxpayer to be gainfully employed);

2 expenses for basic necessities which provide for the health and welfare of the taxpayer and family. The expense must be reasonable for the size of the family and the geographic location, as well as any unique individual cir-

cumstances. Expenses allowable under this category are:

a rent or mortgage for place of residence.

b food.

c clothing.

d necessary transportation expense (auto insurance, car payment, bus fare, etc.)

e home maintenance expense (utilities, home-owner insurance, home owner dues, etc.).

f medical expenses, health insurance.

g current tax payments (including federal, state and local).

h life insurance, but not if it is excessive to the point of being construed as an investment;

i alimony, child support or other court-ordered payment.

3 Minimum payments on secured or legally perfected debts will normally be allowed.

4 Payments on unsecured debts may not be allowed if omitting them would permit the taxpayer to pay in full within 90 days. However, if the taxpayer cannot full pay within that time frame, minimum payments may be allowed if failure to make them would ultimately impair the taxpayer's ability to pay the tax. The taxpayer should be advised that since all necessary living expenses have been allowed, no additional charge debts should be incurred. Generally, payments to friends or relatives will not be allowed. Dates for final payments on loans or installment purchases, as well as final payments on revolving credit arrangements after allowing minimum required payments, will be noted so the additional funds will be applied to the liability when they become available. If permitting the taxpayer to pay unsecured debts results in inability to pay or in only having a small amount left for payment of the tax, the taxpayer should be advised that a portion of the money available for payment of debts will be used for payment of the taxes and that arrangements must be made with other creditors accordingly.

(b) As a general rule, expenses not specified in (a) above will be disallowed. However, an otherwise disallowable expense may be included if the interviewing employee believes an exception should be made based on the circumstances of the individual case. For instance, if the taxpayer advises that an education expense or church contribution is a necessity, the individual circumstances must be considered. If

If an exception is made, the case history will be documented to explain the basis for the exception.

(c) In some cases, expense items or payments will not be due in even monthly increments. Expense items with varying monthly payments should be averaged over a twelve-month period unless the variation will be excessive. In such instances, use the remarks section of the CIS to explain the expected increase or decrease in expenses, and adjust the installment payment amount accordingly during the affected months.

(d) In arriving at available net income, the reviewer should analyze the taxpayer's deductions to ensure that they are reasonable and allowable. The only automatically allowable deductions from gross pay or income are federal, state and local taxes (including FICA or other mandatory retirement program). If the exemptions on the W-4 are going to be decreased, make the appropriate adjustments in the net income figures.

(e) The amount to be paid monthly on an installment agreement payment will be at least the difference between the taxpayer's net income and allowable expenses. However, see 323 of LEM V for an exception.

(5) When an analysis of the taxpayer's financial condition shows that liquidation of assets or payments from present and future income will not result in full payment, the collection potential of an offer in compromise should be considered.

1. When the financial analysis indicates no means of payment within the foreseeable future, refer to IRM 5370 for actions required prior to reporting an account currently not collectible.

324 (11-15-85)

Verification of Taxpayer's Financial Condition

In some cases it will be necessary to obtain additional information about the taxpayer's financial condition. The extent of the information will depend upon the circumstances in each case. Letter 1040(DO), Financial Information Verification, may be used to verify items of interest in some cases. When verification is appropriate for an ACS walk-in taxpayer, process per (3)(a).

(2) If the aggregate tax liability cannot be paid within 12 months, the taxpayer's financial

condition must be verified in the following situations:

(a) the aggregate assessed tax liability is \$5,000 or more and an installment agreement is secured, or

(b) the aggregate assessed tax liability is \$2,000 or more and the account is being reported currently not collectible, or

(c) the balance due is above the deferral level in text 324 of LEM V and the determination (installment agreement or a hardship currently not collectible) is being made without benefit of a CIS.

(3) For purposes of (2) above, minimum verification is listed below. Other items on the CIS should be verified commensurate with the amount and type of tax due and other case factors using public and private sources.

(a) The latest income tax return will be reviewed. The taxpayer's retained copy is sufficient for review and a copy should be attached to the case history file. If the taxpayer's copy is not available or appears inaccurate, secure a photocopy of the original return unless it can be established that the most current return available is over two years old from the due date of the return or the latest return is a Form 1040A or 1040EZ. Advise the taxpayer to make payments as proposed under the terms of the agreement while verification is pending. When this situation arises on an ACS walk-in taxpayer, a designated CFI employee will perform the required verification no later than 20 calendar days after telephoning ACS regarding the disposition action. The major exception to this is when the verifications will be done by another POD or district. Under those circumstances document the file that verifications are required, telephone the call site regarding the interview results and forward the file to ACS for issuance of a collateral assignment. In addition, if the taxpayer's copy of the latest return has not been received within the 20-day verification period, document the file indicating that a photocopy of the income tax return should be requisitioned. Forward with the case file to the appropriate call site. Process the agreement upon completion of verification if no discrepancies are uncovered. For non-ACS cases if neither the taxpayer's copy nor a copy of the original return is secured after a reasonable effort is made to secure it, document the reason in the case history.

(b) Research local property records regarding real property, personal property and motor vehicle ownership whenever:

1. the account meets the provisions of (3) above; or
2. no CIS has been secured on accounts being reported CNC; or
3. on in-business BMF taxpayers an installment agreement will extend more than 2 years.

5330 (11-15-85)
Installment Agreements and Short-Term Extensions of Time to Pay

5331 (11-15-85)
Securing Agreements

5331.1 (11-15-85)
General Installment Agreement Guidelines

(1) When taxpayers state inability to pay the full amount of their taxes, consider installment agreements, except for those cases identified in (a) below (See policy statements P-5-14 and P-5-15). A Collection Information Statement will be completed unless circumstances in IRM 5331.2 apply. This section contains instructions that are common to all types of installment agreements.

(2) To deal with abuses of the tax system a \$500 W-4 civil penalty and a \$500 frivolous return civil penalty have been enacted. A frivolous return penalty TDA is assessed as non master file, NMFT 20, and is identified by a TC 240 in the amount of \$500. Illegal tax protester and W-4 civil penalty TDAs should be transferred to a revenue officer when full payment cannot be secured.

(3) Future compliance with the tax laws will be addressed and any returns and/or tax due within the period of the agreement must be filed and paid timely.

(a) If the taxpayer's withholding is insufficient, an amended Form W-4 will be completed by the taxpayer and mailed along with Letter 1181(DO), Transmittal Letter for Form W-4, to the employer.

(b) Taxpayers who are required to make estimated tax payments should be advised that failure to make them could default the agreement. When an estimated tax payment is allowed as an expense item on the Collection Information Statement and the anticipated annual liability is above \$5,000, systemic monitoring of current compliance will be performed by SCCB as part of the installment agreement

process. Prominently annotate the agreement with "1040ES monitoring, \$ _____ due per installment."

(4) Levy source information, including complete addresses and ZIP codes, will be secured.

(5) Equal monthly installment payments should be required since these can be readily monitored on IDRS. Payment amounts may be increased or decreased as necessary. (See IRM 5323 (4)(c)).

(6) Once the determination is made that the taxpayer has the capability to make a regular installment payment, that agreement will be monitored through routine provisions unless the payment amount is less than \$25.

(7) After analysis of the CIS as described in IRM 5323, there may be instances where the interviewer believes a hardship exists and that no enforcement action should be taken, although the taxpayer insists on making a monthly payment. If the payment amount offered by the taxpayer is \$25 or more, prepare Form 53, Report of Currently Not Collectible Taxes, as described in IRM 5370 and submit the account for installment agreement monitoring, annotated for processing of Form 53 in the event of default. Since modules previously declared uncollectible will systematically be converted to installment agreement status, all currently not collectible accounts must be listed on Form 53. This will prevent erroneous reissuance in the event of default.

(8) The taxpayer should be allowed to select the payment due date(s).

(9) Secure the taxpayer's signature on Form 433-D, or 2159 if the agreement is secured during an office interview, and give the taxpayer a copy.

(10) On agreements granted to a taxpayer after analyzing and perfecting a CIS received through the mail or over the telephone, "Telephone Agreement" or "Mail Agreement" should be annotated in the signature block of the agreement form and a copy mailed to the taxpayer with Letter 1798(DO).

(11) An installment agreement which lasts more than two years must be reviewed at the mid-point of the agreement, but in no event less than every two years. Document the installment agreement review date in the "Additional Conditions" block of Forms 433-D or 2159 as follows: "Agreement Reevaluation Date: MM/DD/YY."

MT 5300-1

5331.1

IR Manual

(12) If the projected date of full payment is within one year of the Collection Statute Expiration Date (CSED), Form 900 extending the statute to December 31 of the year following the year in which the account will be satisfied will be used before the agreement is accepted.

(3) Agreements specified in IRM 5335 are subject to managerial approval. If approval cannot be secured while the taxpayer is present, advise the taxpayer that the agreement should be honored pending approval.

(14) The interviewer should ensure that the interests of the government will be protected during the extended payment period. This should include filing or refiling a notice of lien, if determined necessary. A lien determination must be made if the unpaid aggregate assessed balance is \$5000 or more or when the aggregate assessed balance is \$2000 or more and the period of the agreement exceeds 12 months.

(5) Telephone contact must be made with call site on installment agreements secured on an ACS account no later than two workdays after the interview is concluded. If it is determined by the interviewer that a lien should be filed, telephone the call site to initiate the lien and document the case file.

1.2 (11-15-85)
Installment Agreements on Below Referral Level Notice Status Taxpayers

(1) Notice status taxpayers who request additional time to pay in person, by mail or telephone will be granted an installment agreement for an indeterminate period of time provided the taxpayer is able to make payments of at least \$100 per month and the total amount outstanding, including accruals and currently not collectible accounts, is less than the amount specified in 1.4 of LEM V. Equal monthly installments are required.

(2) The agreement specified in paragraph (1) shall not be taken if either of the following conditions exist:

- (a) there is a TDA outstanding; or
- (b) there is a trust fund liability on an in-business taxpayer.

(3) Prepare Form 433-D (do not include levy source information).

(4) Process the agreement per IRM 5336.

5331.3 (11-15-85)
Special Provisions for IMF Wage Earners and Other Short-Term Extensions of Time to Pay

5331.31 (11-15-85)
Installment Agreements on IMF and Out-of-Business BMF Sole Proprietors

(1) IMF and out-of-business BMF sole proprietor taxpayers with an outstanding balance, including accounts previously reported currently not collectible and accruals, meeting the criteria specified in text 331 of LEM V, may be granted an installment agreement of up to 12 months to full pay without securing a CIS if 433-D is prepared and:

- (a) the interviewer determines that the taxpayer cannot pay in full sooner, and
- (b) the taxpayer agrees to make equal monthly payments.

(2) These agreements may be secured in person, by telephone or by correspondence.

(3) If secured by telephone or correspondence, the taxpayer's signature is not required. Note the signature block "agreement by phone" or "agreement by mail on required Forms 433-D."

5331.32 (11-15-85)
Short-Term Extensions of Time to Pay

(1) Short-term extensions of time to pay may be granted to taxpayers whose accounts are in notice or TDA status regardless of the amount due.

(2) BMF X-coded taxpayers may be granted extensions of time to pay of up to 30 days, all other taxpayers may be granted extensions up to 60 days.

(3) These extensions may be taken in person, by telephone or by correspondence, a Form 433-D or 2159 is not required on extensions for 44 days or less unless the taxpayer insists upon a written agreement. If so, give or mail the taxpayer a copy of the appropriate form. If the extension is for 45-60 days on a non-ACS account a Form 433-D or 2159 must be prepared. Note Form 433-D that reminder notices should be suppressed.

(4) When an extension is granted on a TDA account, document the case history with the terms of the extension and levy source information. On ACS cases telephone the ACS call site providing extension and levy source information so they can update the account's status.

(5) Request input of command code STAUP via Form 4844 for the payment due date plus four cycles on notice status accounts below the deferral level in text 324 of LEM V.

(6) Request input of command code STAUP via Form 4844 for the payment due date plus four cycles on notice status accounts above the deferral level in text 324 of LEM V. Specify next status 58 except when the current status is 58, then specify next status 22. In addition, request via Form 4844 input of levy sources.

(7) Notice status taxpayers should be advised to send payment to the service center with a copy of the latest notice received. On ACS cases, taxpayers will be advised to send payment to the designated ACS address at the service center.

5331.4 (11-15-85)

Other Installment Agreements

(1) Agreements may be given to IMF, NMF or out-of-business BMF sole proprietor or partnership taxpayers who do not meet the criteria outlined in IRM 5331.2 and 5331.3 and who cannot pay in full through available assets and borrowing potential.

(2) The amount of the payments should be based on the information secured from a CIS.

5331.5 (11-15-85)

BMF Installment Agreements

5331.51 (11-15-85)

Application and Definitions

(1) These procedures apply to TDAs, unassessed liabilities on returns secured, and liabilities in notice status.

(2) The terms "delinquent taxes", "accrued taxes", and "current taxes" are used throughout these procedures. To avoid confusion as to their meaning, they are defined as follows:

(a) delinquent taxes are TDAs, ACS balance due accounts and/or notice status accounts;

(b) accrued taxes are unassessed amounts due on returns or undeposited FTDs as of the date of contact; and

(c) current taxes are FTDs and amounts which become due after the date of contact.

5331.52 (11-15-85)

Interview Techniques and Financial Analysis

(1) Determine the cause of the delinquency and request full payment of all delinquent and/or accrued tax liabilities. Normal lien determinations should be made and the taxpayer so advised. In addition, the need to make Federal Tax Deposits should be stressed. If full payment is secured and the taxpayer has had prior delinquencies, consider issuing Letter 903(DO).

(2) The 100 percent penalty provisions should be fully discussed with responsible corporate officer(s).

(3) A Collection Information Statement need not be secured in notice status cases where the aggregate account balance due including accruals is below the deferral level cited in text 324 of LEM V or for short-term extensions of time to pay as described in IRM 5331.32.

(4) When inability to pay all delinquent and accrued taxes is determined, the following considerations are necessary in deciding the proper action:

(a) if it is determined that the taxpayer cannot pay operating expenses and current taxes, deferring action on delinquent and accrued taxes would serve no useful purpose. Appropriate collection actions such as levy, seizure or 100 percent penalty should be taken immediately to protect the interest of the government.

(b) if it appears that the taxpayer can pay current taxes and, given a reasonable period of time, pay both accrued and delinquent taxes, the installment agreement procedures in IRM 5331.53 should be followed with available funds being applied in the following priority order:

- 1 current taxes.
- 2 payment of accrued taxes to prevent, if possible, the issuance of any future TDA(s); and
- 3 delinquent taxes.

5331.53 (11-15-85)

Installment Agreements

(1) Taxpayers described in IRM 5331.52:(4)(b) must pay current taxes to qualify for an installment agreement on accrued and delinquent taxes. Taxpayers should be advised that collection actions may be immediately resumed if there is a default in any terms of the agreement, including current compliance. However, enforcement actions will not be taken

MT 5300-1

5331.53

IR Manual

while the installment agreement is being kept, unless a jeopardy situation develops

(2) In certain cases contact personnel and revenue officers performing contact duties can grant short-term extensions of time to pay and installment agreements on BMF notice or TDA status accounts without securing a CIS or preparing a Form 433-D or 2159 as described in IRM 5331.2 and 5331.32. Installment agreements in excess of 30 days on a BMF X-coded account and 60 days on an in-business trust fund account may be granted only by a revenue officer.

(3) Prior to transferring a BMF installment agreement for input, the revenue officer will monitor the agreement (payments and current compliance) and ensure compliance for 60 days or until the next withholding tax return is due, whichever is longer.

(4) If it is necessary for the revenue officer to retain an agreement in inventory beyond the time specified in (3) above, group manager approval will be obtained.

(5) The 100-percent penalty assessment statute must be protected on corporate taxpayers. Therefore, district management must ensure that a waiver to extend the statute is secured from the responsible officers when the delinquent taxes will not be fully paid at least 12 months prior to the statute expiration date.

5331.6 (11-15-85)

Special Provisions Relating to Installment Agreements on Exempt Organizations

(1) If an IRC 501(c)(3) organization, which owes FICA taxes for periods from the third quarter of 1973 through the first quarter of 1978, expresses a desire to pay in installments, arrange a quarterly installment agreement as stipulated by the Temporary Employment Tax Regulations Under the Act of October 19, 1976. Secure a Form 433-B, Collection Information Statement for Businesses, as an aid in establishing mutually agreed upon installment amounts. Refer disputed cases to an immediate manager for resolution.

(2) Prepare a Form 433-D. After furnishing the taxpayer a copy, forward the Form 433-D for normal processing.

331.53

MT 5300-1

IR Manual

5332 (11-15-85)

IDRS Monitoring of Installment Agreements

(1) Use IDRS to monitor installment agreements of more than 44 days for BMF or IMF modules in either notice or TDA status meeting these criteria:

(a) the payment must be for a fixed amount;

(b) the agreement must be monthly because even though payments may be submitted more often, IDRS monitors monthly; and

(c) all payment due dates are limited to calendar days 1 through 28.

5333 (11-15-85)

Non-IDRS Monitoring

(1) Certain characteristics of assessments and agreements are not compatible to IDRS programming. The types of agreements listed below must be manually monitored to ensure compliance with the terms of the agreement.

(a) NMF assessments in either notice or TDA status;

(b) agreements calling for variable or percentage amounts;

(c) agreements of irregular intervals;

(d) pre-assessment agreements (e.g., examination deficiencies or unassessed returns);

(e) agreements secured from two or more parties at different addresses on the same liability; and

(f) short-term extensions of time to pay.

(2) The agreements specified in (1)(a)-(e) above will be manually monitored by Service Center Collection Branch. See IRM 5336 for disposition procedures.

(3) Short-term extensions of time to pay TDA installment agreements will be monitored by the revenue officer (see IRM 5334).

5334 (11-15-85)

Monitoring by Revenue Officers

(1) A revenue officer may retain an installment agreement in inventory if, due to the nature of the agreement, it is necessary to personally monitor the agreement or if the lack of monitoring would jeopardize collection.

(2) A revenue officer must secure the group manager's approval to retain any installment agreement in inventory except as described in IRM 5331.53.(3). The group manager will note the approval on the agreement form.

(3) Revenue officers should hold short-term extension of time to pay TDAs in inventory until the payment due date.

5335 (11-15-85)**Managerial Review**

(1) Installment agreements initiated by Revenue Officers must be reviewed by the immediate manager when:

- (a) the unpaid liability exceeds \$2,000, or
- (b) the agreement extends for more than one year, or
- (c) an in-business trust fund taxpayer is involved, or
- (d) the taxpayer defaulted on a previous installment agreement on this account, or
- (e) the taxpayer is allowed to skip more than 2 payments in a 12-month period (including systemic skip);

(2) All installment agreements initiated by tax examiners in the Collection Field function, (e.g., in the Field Support Units or by Revenue Officer Aid-type personnel or contact employees) will be reviewed by the immediate manager.

(3) The agreement will be submitted for management review without delay. If the installment agreement is disapproved by the reviewing official, the following actions will be taken:

(a) the file will be returned to the originator to make telephone contact with the taxpayer. If unsuccessful, a quick note should be mailed. Notification to the taxpayer should take place promptly;

(b) the taxpayer should be informed regarding the reason for disapproval and be requested to furnish additional information, adjust the installment amount, full pay the account, etc., as appropriate.

(c) on telephone contacts and in correspondence cases where taxpayers request time to assemble the requested information, to attempt to borrow, etc., taxpayers will be requested to respond within ten days; otherwise, enforced collection action may be taken;

(d) the ACS call site should be called immediately when the agreement is on an ACS taxpayer and the taxpayer is given additional time to respond or contact is via a quick note; and

(e) no collection action or change to the agreement will be made without first giving the taxpayer an opportunity to discuss the situation.

5336 (11-15-85)**Disposition of Installment Agreement and Extension of Time to Pay Documents**

(1) Installment agreements with the associated TDA and/or notice and case file after review by the group manager (if required by IRM 5335), will be attached to Form 795 for routing. The exceptions are TDA agreements for 44 days or less which will remain in open inventory, and ACS agreements for 44 days or less will be processed per IRM 5331.32 (4). Before routing, the file should be arranged for easy reference and input by SCCB in the following order:

(a) the Form 433-D or 2159, and CIS will be stapled together in that order and forwarded to the Service Center Collection Branch via Form 3210, Document Transmittal, along with the TDA file; and

(b) annotate the "agreement locator number" on all installment agreements (See Exhibit 5300-19 agreement locator number designations)

(2) On pre-assessed installment agreements, forward the entire case file, including Form 433-D or 2159, the CIS, and Form 668 (or a lien request form in districts with an automated lien filing system) to SCCB on a separate Form 3210. Both the agreement and 3210 should be noted "Pre-Assessed IA."

(3) If the agreement is to be reported currently not collectible in the event of default, forward the entire case file including the Form 53 to SCCB.

(4) Installment agreements requiring manual monitoring will be forwarded to SCCB. The entire case file including Form 433-D or 2159 and CIS will be forwarded on a separate Form 3210 noted "Manually Monitored IA." Attach a Form 4844 requesting T-Sign change to the case file. Use one of the following TDA/TDI assignment codes depending on the payment date: 1st-8th: DOAO 8601, 9th-11th: DOAO 8502, 16th-23rd: DOAO 8603, 24th-end: DOAO 8604. For special or sporadic payments use DOAO 8605.

(5) Where possible, continuous levy accounts will be monitored by IDRS and input by SCCB. See IRM 5338 for processing procedures.

(6) Short-term installment agreements lasting 45-60 days will be routed to SCCB for IDRS monitoring. Levy sources will be input from the Form 433-D on these accounts. Quality review will not be required.

MT 5300-1

5336

IR Manual

(7) If an installment agreement is granted while processing a courtesy investigation, forward the installment agreement (Form 433-D or 2159 and CIS per (4) above) to the SCCB of the district accepting transfer of the TDA.

5337 (11-15-85) Payroll Deduction Agreements

5337.1 (11-15-85) General

(1) Since there is no requirement upon private employers, States or political subdivisions to withhold and pay over amounts under a payroll deduction agreement, the employer must accept the assignment executed by the employee before an agreement is finalized.

(2) Allow a reasonable period for the employer to complete the necessary bookkeeping and submit the first payment.

(3) On TDA and ACS accounts, encourage the taxpayer to hand deliver the agreement to the employer; otherwise mail the agreement to the employer. On ACS accounts, direct the employer response to the ACS call site, document the case file and forward to the call site after completing telephone contact with ACS per IRM 5331.1.(15).

(4) The Comptroller General in Decision B-45105, dated January 21, 1955, as amended April 18, 1955, ruled that Federal agencies, upon receipt of executed Forms 2159, are authorized to accept such agreements and shall cause the amounts agreed upon to be deducted from each salary payment until the liability is paid in full. The effect of this ruling is that the employing agency receiving Form 2159 must deduct and pay over until the liability covered by the agreement has been liquidated.

5337.2 (11-15-85) IDRS Monitoring

Advise the employer to forward the payments to the service center. Preferably, the taxpayer should give the employer each payment reminder notice, with the related preaddressed service center envelope, to facilitate the payment processing. Otherwise, to send payments to the service center, the employer must indicate on the check: the tax form (usually Form 1040), the tax period; and the taxpayer's name and Taxpayer Identification Number (TIN). The payment will be mailed to the service center

P.O. Box Number prescribed for the Accelerated Payment Processing System

5337.3 (11-15-85) Preparation and Distribution of Form 2159, Payroll Deduction Agreement

(1) Form 2159 is designed so that it may be mailed to the employer in window envelope E-5R. The amount shown should include the total additions that will accrue if payments are made in such amounts and at such times as contemplated by the plan. The taxpayer should be advised of possible adjustments due to the semi-annual adjustment of the interest rate. Enter the appropriate P.O. Box number for payments as described in IRM 5337.2 into the space provided on the form.

(2) Mail Parts 1 and 2 of the Form 2159 (see (3) below in cases involving members of the Armed Forces overseas) to the employer, together with two business reply mail envelopes bearing the payment and originator addresses. One envelope will be used by the employer to return the acknowledged Part 2 of the assembly to the originator and the other will be used to forward the first payment. Furnish Part 4 of the assembly to the taxpayer, and attach Part 3 to the TDA file. Upon receipt of the acknowledged Part 2, attach to the TDA file.

(3) If the payroll deduction agreement is made with a member of the Armed Forces overseas, forward the complete assembly to the Commanding Officer of the taxpayer's unit. Prepare Letter 943(DO) as a transmittal for Form 2159. In these cases, Part 4 of the assembly will be furnished the taxpayer by the military establishment. Since Part 3 will not be retained with the TDA file, note the TDA history that a payroll deduction agreement has been executed. Upon receipt of the acknowledged Part 2, attach to the TDA file.

5338 (11-15-85) Continuous Levy on Wages, Salary and Other Income

(1) When two consecutive remittances have been received as a result of the service of a Notice of Levy, and it has been determined to allow the liability to be satisfied this way, forward the account, with management concurrence, to SCCB for input to IDRS.

(a) At local management option these accounts may be transferred after one remittance if the payments are due monthly or less frequently. Ensure the levy source understands the continuing effect of the levy before the transfer.

(b) A "1" should be entered in the "Suppress Review Notice" block of Form 4955 to stop notices for a periodic review of the account and an asterisk entered in the "Suppress Reminder Notice" block to stop reminder notices.

now (d) (c) Installment agreement locator number 0010 should be used to identify these accounts on the IAAAL.

(2) Forward the entire case file, including the TDA to SCCB via Form 3210. Both the TDA and Form 3210 will be noted "Continuous Levy IA." Revenue Officers should ensure that Form 4844, Request for Terminal Action is prepared to change the TDA/TDI Assignment Code to DOAO 8609 when TDA's are NMF, sporadic payments will be made, or the levy pertains to the spouse whose SSN is not the TDA TIN. No TDI/TGN change is required for all other continuous levies. Attach Form 4844 to the top of the case file.

(3) SCCB will send a Form 668-R one month prior to the account being full paid advising the employer the amount to submit to satisfy the levy.

5339 (11-15-85)

Taxpayer Responses on IDRS Monitored Installment Agreements

(1) In the event of default of an IDRS monitored installment agreement, the taxpayer will be notified by the computer-generated Past Due Installment Payments Final Notice (Form 4873), or 1036(C). The notice or letter is sent by certified mail about two weeks after failure to pay an installment or after failure to comply with an Agreement Review Notice. Notices and letters bearing foreign addresses must be sent by registered mail.

(2) The notice or letter directs the taxpayer's reply to the appropriate Service Center.

(3) If the taxpayer appears in person, appropriate action should be taken based on the reason for the interview. Considered:

(a) reevaluation of the taxpayer's ability to pay;

(b) statute expiration date (Form 900 or 2750).

(c) necessity for lien filing or refund if statute extended.

(d) updating of levy sources, address, and telephone numbers.

(e) if a taxpayer is in default, a payroll deduction agreement should be encouraged and

(f) compliance with estimated tax requirements or adequacy of withholding.

(4) Normally, the taxpayer will be given a systemic skipped payment before receiving a Past Due Installment Payments—Final Notice. Subsequent skipped payments may be permitted for causes of emergency (however, see managerial approval requirements of IRM 5335).

(5) If a taxpayer skips more than two payments in a twelve-month period, including the systemic skip, the agreement will be defaulted by SCCB unless the taxpayer personally appears in the district office for re-evaluation of the financial condition or advises the Service Center through the mail. Personal appearance may be waived when it is impossible for the taxpayer to appear.

(6) If routine IDRS research in the field office reveals that the taxpayer has moved out of the district, Form 2650, TDA/TDA Transfer, will be prepared and forwarded to SCCB on Form 1725, Routing Slip. While conducting a personal interview with the taxpayer with regard to the transfer of the case, attempt to secure the telephone number and new levy sources in addition to the new address. If the taxpayer indicates that his financial condition is significantly different, note the file before forwarding to SCCB. Advise the taxpayer to appear at the new office for financial review. If the installment agreement has less than twelve months remaining, it should not be transferred unless the taxpayer has requested transfer or the agreement is in default status.

(7) Since prompt input action is frequently necessary to keep an installment agreement in effect, the district office may be required to input a STAUP for two cycles and indicate next status as 64 or 22 if an agreement will default or go to TDA status at the end of the week. Do this when the taxpayer interview is concluded.

(8) In the event an agreement or other IDRS action is required, except as noted in (7) above, prepare Form 4844, Request for Terminal Action. The reason for the revision and managerial approval, as required by IRM 5335, will be noted in the Remarks Section of Form 4844. Attach

new Forms 433-D, 2159 and CIS to the Form, if appropriate.

(9) If the taxpayer contacts the district office and the interviewer determines that a hardship exists, prepare Form 53 and file a Notice of Federal Tax Lien, if appropriate. Secure necessary approval of Form 53 and forward the entire assembly and Part 7 of the lien to SCCB. Explain the required SCCB action in the Remarks Section of Form 4844.

(10) Correspondence responses received in the district office and requiring SCCB action on the installment agreement will be forwarded expeditiously to SCCB on Form 1725.

5340 (11-15-85)

**Adjustments, Payment Tracers,
Credit Transfers, Entity Changes,
TDA/TDI Assignment Code
Changes, Manual Refunds and
Offsets**

5341 (11-15-85)

**Adjustment and Payment Tracer
Action on TDAs**

(1) When an adjustment or payment tracer action on a TDA or ACS account is appropriate, including those based on court orders, the responsible employee will prepare Form 3870, Request for Adjustment or Form 4159, Payment Tracer. Field offices should not attempt to adjust FICA tax liabilities for exempt organizations through the district terminals. Instead, these cases should be forwarded to the Service Center Collection Branch (SCCB) for action. Child Support Obligation (CSO) TDAs may not be adjusted by the IRS (see IRM 53(10)16.3).

(2) If a case involves numerous further actions (e.g., claims, amended returns, computer offset of overpayments or FTD credits, subsequent returns filed, etc.) which would best be resolved through NCC transcript research, prepare a Form 4159 with a closing code 99. These documents will be reviewed by the employee's immediate manager to verify that this is the appropriate action. No further local research as detailed in IRM 5123.6 will be done. Route to Centralized Services for input of TC 470, CC-99 and routing to SCCB.

(3) All adjustment and payment tracer documents prepared by contact employees assigned to Collection Field function (CFf) will be reviewed by the immediate manager.

(4) The reviewer will initial the document to indicate approval. Ensure that required documentation is attached and all items on Forms 3870 or 4159 are completed including closing codes, when appropriate.

(5) Requests for abatement of 100 percent penalty assessments must be approved by the Special Procedures function (SPf).

(6) Form 1040X, Amended U.S. Individual Income Tax Return, Form 1120X, Amended U.S. Corporation Income Tax Return, and Form 843, Claim also may be used to initiate an adjustment to a tax module. Note Part 2 of the TDA with TC 470, CC-90, attach to the amended return and route for input by Centralized Services and forwarding to the Service Center. (See IRM 5348 for refund offset procedures when the taxpayer submits an IMF return showing an overpayment.)

(7) Instructions for preparation of Form 3870 appear on the reverse of Part 6.

(a) complete Items 1, 4, 7, 9, 11, 14, 15, 18 and 20 in every cases. Complete other items as circumstances indicate except on ACS accounts which will not be fully satisfied within 20 calendar days (see (9) below).

(b) have the taxpayer sign the form (Item 19) or attach the taxpayer's letter.

(c) telephone the call site within 2 days on ACS accounts which will be fully satisfied.

(8) The instruction for the preparation of a payment tracer are in IRM 5342.

(9) When an adjustment or payment tracer action is required on an ACS account, which will only partially satisfy the tax liability:

(a) secure copies of relevant information to substantiate the action;

(b) ensure that the taxpayer signs the Form 3870 (Item 19); or

(c) attach a signed letter from the taxpayer requesting the adjustment;

(d) document the case history with additional information, if necessary, to enable the ACS call site to adjust the account or trace the payment; and

(e) forward the data to the call site expeditiously for further processing. It will not be necessary to prepare Form 3870 or 4159.

(10) When an adjustment or payment tracer action is expected to fully satisfy the tax liability on a BMF or IMF TDA or ACS account, enter TC 470, CC-90 on Form 3870 or TC 470, CC-93 in the appropriate block of Form 4159. If Part 2 of the TDA is used, enter "TC 470, CC 90 or 93" in the space below the taxpayer's name and address.

(11) When an adjustment or payment tracer will fully satisfy the liability on a NMF account, input of TC 470 CC90/93 will move the account to status 89.

(12) If a Federal Tax Lien is filed on an IMF or BMF account that is expected to be fully satisfied by an adjustment or payment tracer, note Part 7 of Form 668 "Pending Full Abatement" and forward to SPI for monitoring and release of the lien when appropriate. For NMF accounts, transmit the unsigned Part 7 of Form 668 to the SCCB with the adjustment or payment tracer for input and monitoring. When the balance is fully satisfied, Part 7 will be returned to SPI for release of the Notice of Lien.

(13) If less than six months remain in the statutory period for collection, do not indicate CC90/93 on the document. Instead, the document will be flagged for expedite action, and noted conspicuously in red, "Statute expiration date _____." The related TDA will not be closed based on this action. The TDA will be held in inventory and monitored at least every 30 days until the adjustment or payment tracer is completed.

(14) If from 6-12 months remain in the statutory collection period, the request for adjustment or payment tracer should be noted conspicuously on the document as in (13) above. In this instance, indicate CC90/93 in the appropriate space on Forms 3870 or 4159.

(15) After input of TC 470, subsequent actions on the account will be posted to IDRS. Unless resolution of the pending adjustment or tracer request fails to satisfy the tax liability, no further action is required except with respect to Notices of Lien (see (12) above). Should resolution of pending action not satisfy the tax liability the account returns to notice status. If the account is not resolved in notice status, it will appear on ACS for processing as a "REACTIVE" account.

(16) In some instances, the adjustment or payment tracer action is not initiated by Collection, but information concerning such action is secured from sources such as:

- (a) TDA account is issued with an unresolved TC 470;
- (b) an advice is received via the Daily Transaction Register indicating input of TC 470 after a TDA was issued; or
- (c) taxpayers contend that an amended return or Form 1040X was filed or that information for tracing a payment was initiated.

(17) If the preceding actions are reflected on IDRS and it is determined either from the tax-

payer or from other sources that the action will fully satisfy the tax liability, input TC 470 with the appropriate closing code and close the TDA.

(18) Information concerning cases controlled at the service center for adjustment should be transmitted to the SCCB by Form 5102, IDRS Expedite Routing Slip.

(19) Requests for adjustment and payment tracers for payments which partially satisfy the tax liability may be retained with the TDA pending collection of the unprotested amount if collection can be effected within 90 calendar days. After collection of this amount, the adjustment or tracer will be submitted requesting input of TC 470 CC-90 or 93 as applicable. However, if a longer period will be required for collection of the remaining balance, the adjustment or tracer will be submitted without a closing code indication. Should collection in these cases be effected before the action is completed, a closing code will be input and the TDA will be closed.

(20) Attach Forms 3870 or 4159 on IMF and BMF accounts to Form 795 for routing to Centralized Services for input to IDRS and/or forwarding to SCCB. Prior code and edit in Collection will not be required since the forms contain all the pertinent data necessary for research and input.

(21) For NMF cases being closed by an adjustment or payment tracer, attach a photocopy of the TDA and related data to Part 1 of the document for forwarding to SCCB. The original TDA will be closed on Form 795.

5342 (11-15-85)

Preparation of Form 4159

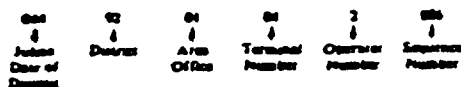
(1) Several notices and letters sent to the taxpayer provide space for entering information regarding payments for which credit has not been received. Form 4907, TDA all purpose attachment, provides space for such information, and is suitable for use as a payment tracer. When a suitable document is not available, prepare Form 4159, Payment Tracer Request.

(2) When contact is made with an ACS taxpayer and it is determined that a payment tracer or credit transfer will not fully satisfy the account within 20 calendar days, secure photocopies of the required data and forward to the call site for further processing. Telephone the call site within 2 days on ACS accounts which will be fully satisfied.

(3) In preparing payment tracers for re-search, furnish the following information, as applicable.

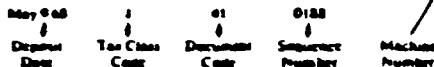
- (a) Taxpayer's name and address
- (b) Taxpayer's identification number.
- (c) Type of tax.
- (d) Taxable period.
- (e) Amount of remittance.
- (f) Type of remittance.
- (g) Endorsing Internal Revenue Service office if check, money order, etc.
- (h) Date of IRS endorsement and information necessary to identify the voucher or document the remittance was processed with:

1 if the remittance was processed through the IDRS, a thirteen digit remittance Sequence Number will be stamped on the face of the cancelled check or money order as follows:



2 if the remittance was processed manually by the service center, the endorsement will be by Encode Number, as follows:

PAY ANY F.B.I. BRANCH OR GEN. DEPOSITARY FOR CREDIT U.S. TREAS. THIS IS IN PAYMENT OF U.S. OBLIG. MUST BE PAID AT PAR N.P. DO NOT WIRE NON-PAYMENT 20-00-2700 DIE I.R.S. CTR OGDEN, UTAH



3 if the remittance was processed through the automated Remittance Processing System (RPS) the endorsement will be as shown in Exhibit 5300-23.

- (i) Issue date of check, money order, etc.
- (j) Date of receipt, receipt number and type of receipt.

(4) Be sure to furnish the DLN, if applicable, rather than the Accounting Station Symbol, bank identification number, or other numbers which may appear on the remittance.

(5) If the remittance was a cashier's check or money order, secure the serial number of the remittance, date of purchase, and name and address of the office issuing the remittance.

(6) When possible, attach a photocopy of the taxpayer's cancelled check or money order.

(7) The revised Federal Tax Deposit (FTD) form does not provide the taxpayer with a stub as a record of payment. In preparing a payment

tracer where the FTD stub is not available, furnish the following:

- (a) photocopies of both sides of the cancelled check or money order, and
- (b) whenever possible, photocopy of the bank's transmittal sheet listing the payment in question.

5343 (11-15-85)

Credit Transfers

(1) Payment tracer forms may also be used to request a transfer of credit. Preparation and routing instructions are similar to those for payment tracers. In such cases, however, include information identifying the module where the credit is currently applied as well as the module to which the credit should be transferred.

(2) Transfers of credit between IMF and BMF accounts may be accomplished via IDRS in Centralized Services function. Transfers of credit which involve NMF accounts must be processed by the service center.

(3) Route the forms to Centralized Services for input or forwarding to the Service Center.

5344 (11-15-85)

Requesting Entity Changes

5344.1 (11-15-85)

General

(1) Collection function employees will sometimes find entity-type changes that are not yet reflected on the IDRS, MF, or NMF files. The employee should initiate the appropriate changes to these Service files.

(2) It is important that data be updated timely as changes occur, since the information is used for mailing pre-addressed returns, IDRS notices, refund checks, and master file notices.

5344.2 (11-15-85)

Entity Change Documents

(1) When it is necessary to change the entity on a taxpayer account use Form 2363, Master File Entity Change or Form 4844, Request for Terminal Action, unless the circumstances in the case require completion of a different Form as discussed below. Completed Forms 2363 or equivalent documents should be routed to Centralized Services. For entity changes affecting exempt organizations, Forms 2363-A, Exempt Organization/BMF Entity Voucher, should be used if available.

(2) Any change which creates a new entity (e.g., change from a sole proprietorship to a partnership or corporation) will require establishment of the new entity rather than a change to the previous entity. In these cases, secure Form SS-4, Application for Employer Identification Number, and forward it to the Service Center through established channels. Such changes of the legal entity may not be accomplished by Collection personnel. Any change to a Taxpayer Identification Number (TIN) i.e., Social Security Number (SSN) or EIN, or the name control portion of the entity may not be made on IDRS field terminals.

(3) An output document bearing an asterisk (*) after the taxpayer's Social Security Number identifies an invalid SSN (reference registers will show "1" for this condition). Complete Form 4149, Information To Correct Invalid Social Security Number, in these cases. However, if invalid SSN's begin with the digit 9 they are temporary numbers used when the correct SSN is not known. Do not attempt to correct such SSN's. Form 4149 is not required if the taxpayer has previously replied to an inquiry (CP 53, 54, or Letter 239(SC)) from the service center. Forward completed Forms 4149 to the appropriate service center.

(4) An address or other change may be uncovered in connection with a taxpayer's inquiry concerning non-receipt of a refund. In such cases Form 3911, Taxpayer Statement Regarding Refund, will also serve to accomplish the entity changes. Route completed Forms 3911 to the service center for necessary action and input of the address change.

(5) Whenever an address change results in the transfer of a TDA or a TDI to another Area or district office, a Form 2650, TDA/TDI Transfer, is prepared in triplicate for each affected entity. TDA Form 4907, "All Purpose Form," may be used in lieu of Form 2650 only for intra-district transfer of BMF or IMF TDAs between Area offices. Forms 2363 or 4844, or the TDA all purpose form should be used to update the address when both the old and new addresses are within the same Area office, or to change an address outside of the Area office where no transfer is involved.

5345 (11-15-85) TDA/TDI Assignment Code Changes

(1) Intra-area office assignments and reassignments are made on Form 1976, Assign-

ment Slip, as provided in IRM 5813. Where necessary, however, one of the following forms may be prepared to request input of the new TDA/TDI assignment code for intra-Area office transfers:

(a) Form 4907, TDA all purpose form. This is a preferred form, since most of the necessary input data is preprinted.

(b) Form 4844, Request for Terminal Action. Use this form when the all purpose form is not available, or a TDI is being transferred, or

(c) Form 4845, TDA/TDI Reassignment Request. This form should be used when several cases are being reassigned.

(2) Before TSIGNING a TDA, take the following actions:

(a) Verify correct assessed balance. If balance is different, post to the TDA any items that have not been posted, or attach an IDRS print.

(b) If other accounts not included in the transfer show an assignment number different than the one to be input, the new assignment number should not be input. Instead, the cases should be forwarded to the other responsibility unit with a Form 1976. Indicate on Form 1976 that the responsibility unit has related TDA's and/or TDI.

5346 (11-15-85) Intra-Area Office TDA Address Changes

(1) When an address change occurs within the geographical boundaries of an Area office location code, the Form 4907, TDA All Purpose Form, should be used to request CSB terminal action to change the assignment and location on IDRS. However, Form 4844, Request for Terminal Action, or Form 4845, TDA/TDI Reassignment Request, may be used when appropriate. If the new address has not yet been entered on IDRS, Form 2363, Master File Entity Change, should also be prepared for the change of address.

(2) When the address change does not affect the assignment, only Form 2363 need be prepared to update the address.

5347 (11-15-85) Requests for Manual Refunds

(1) Manual refunds should be requested when the Service erroneously levies, (e.g., on a bank account other than the taxpayer's or sells property not clearly the taxpayer's) or upon

MT 5300-1

5347
IR Manual

original filing of a tax return when hardship exists. Similarly, if a levy action is correctly taken and without our knowledge, full payment is simultaneously mailed by the taxpayer, a manual refund will be initiated only for hardship cases. Hardship is defined as imminent bankruptcy, failure to meet payroll or other situations of similar magnitude. Hardship is not based on the importance of the taxpayer, the amount of the refund or the taxpayer's desire to avoid further interest payments.

(2) Once it is determined that a manual refund is appropriate, forward the request to your manager, including a copy of the portion of the case file justifying manual refund processing; (e.g. levy form, history sheet, taxpayer correspondence). Include all information specified in Exhibit 5300-24.

(3) Managers are responsible for ensuring proper judgment in this matter. If manual refund processing is being recommended, forward the file expeditiously to the district Problem Resolution Officer (PRO) for processing, including preparation of required forms. Call the PRO if further acceleration is warranted; the PRO can initiate the manual refund process at the service center via telephone contact.

(4) District PROs are the authorized preparers of Collection function requests for manual refund processing. District directors are the authorized approving officers.

5348 (11-15-85) IMF/BMF Refund Offset to Non- IMF/BMF Liabilities

5348.1 (11-15-85) General

Collection personnel request input of a freeze code (TC 130) to the IMF or BMF to ensure that taxpayers having outstanding liabilities, not subject to internal offset within the master file, do not receive a refund until these liabilities have been satisfied.

5348.2 (11-15-85) Variations of TC 130 Input

(1) Input to IMF

(a) BMF TDAs (individual or partnership entities, including input of TC 130 to a joint account when spouse's separate liability is involved)

(b) NMF TDAs (individual or partnership entities)

(c) IMF TDAs (on spouse's SSN in case spouse files a separate return or files with a spouse's SSN in control—if it is known that the spouse's account is not established on the master file, also request input of transaction code 000 with mail file requirement code of 3.)

(2) Input to BMF

(a) IMF TDAs (For taxpayers that have BMF filing requirements)

(b) IRAF (Individual Retirement Account) TDAs (for individual Entities having BMF filing requirements)

(c) NMF TDAs (For individual, partnership or corporate entities that have BMF filing requirements)

5348.3 (11-15-85) Selection Criteria for TC 130 Input

(1) Open TDAs should be screened periodically for consideration of input of TC 130. (See 348 of LEM V) A request for input of a TC 130 should be made only if an overpayment can reasonably be expected to be processed as a credit to the outstanding liability before the statute expires. Generally, the transaction should not be input if less than six months remains before the statute expires. Refunds will automatically offset within their own file; therefore, the input of TC 130s to the IMF on an IMF TDA is unnecessary unless there is a joint liability and the TC 130 is needed on the spouse's SSN. An entity must be established on the master file for the spouse before the TC 130 is requested.

(2) Inter-district transfer-in TDAs will have TC 130 input by SCCB at the time the new TDA is issued.

(3) At the time TDAs are being reported as currently not collectible or an installment agreement in excess of six months is taken, a determination for TC 130 input should be made.

(4) At the time 100 percent penalty assessments are being made, a TC 130 input will be made.

(5) When multiple returns involving refund and tax due modules are simultaneously submitted for processing, TC 130 input will be requested.

(6) When a refund return has been submitted for processing, the refund has not been issued, and a tax due return is secured, TC 130 input will be requested.

(7) In addition to the above conditions, these offset-procedures should be considered to protect the Government's interest.

(8) Enter "130 case" on the top left margin of each TDA on which TC 130 is requested.

5348.4 (11-15-85)

Preparing Document for Input of TC 130

(1) The request for input of a TC 130 will be made on any of the following documents:

(a) Form 3177, Notice of Action for Entry on Master File

(b) Form 4907, Taxpayer Delinquent Account

(c) Form 53, Report of Currently Not Collectible Taxes

(2) All TC 130 and 131 requests must be routed to the SCCB. This is to ensure the integrity of the service center file of the cross-reference documents.

(3) The following specific "identification" data will be entered on all TC 130 input documents:

(a) Form number, tax period and the Taxpayer Identification Number (TIN) of the cross-referenced liabilities, and

(b) The Social Security Number (SSN) and name of each taxpayer responsible for the cross-referenced liability in the case of a "100 percent penalty, partnership or any other joint liability". Ensure the TC 130 is input on the primary number if a joint return is filed.

(4) Ensure the legibility of the source documents. If necessary, the reverse of the form can be used for the cross-reference information.

5348.5 (11-15-85)

Receipt of CP 44 and CP 188 in Area Office

5348.51 (11-15-85)

General

(1) Master File entities that contain a TC 130 and subsequently go into a credit balance condition are frozen from refunding (after internal offset within its own file) and a notice of available frozen credit, CP 44 for IMF and CP 188 for BMF is generated.

(2) Non Master File Liability (NMFL) transcripts are generated as a result of a second credit posting to a module subsequent to the issuance of a CP 44 or CP 188 and the frozen credit condition is unreversed. In addition, the posting of a TC 740 will cause the transcript to

be generated and a CP 44 or CP 188 will not be issued

(3) The Service Center Collection Branch (SCCB) processes all CP 44 and CP 188 notices and NMFL transcripts.

(4) The notice indicates that a refund credit is available for offset against a "130 case" account and serves as a turnaround document informing the SCCB where the overpayment should be applied.

(5) Parts 2 and 3 of CP 44/188 and NMFL transcripts are sent to Special Procedures function each week under control of Form 3210, Document Transmittal. Use Part 2 of the CP 44/188, or annotate the NMFL transcript, to request transfer of the available credit or to notify the SCCB to release the frozen credit. Also, Part 2, or the NMFL transcript, may be annotated to request input of TC 131.

(6) Parts 2 and 3 of the CP 44/188 and the NMFL transcripts must be returned to the SCCB under cover of Form 3210.

5348.52 (11-15-85)

Input of Release on Entity Freeze

(1) Form 3177, Notice of Action for Entry on Master File, with TC 131 in the "Other" block should be prepared to release the TC 130 freeze when:

(a) Liability is paid or abated in full prior to receipt of CP 44, 188, or NMFL transcript, or

(b) BMF/IMF liability is closed as a payment tracer or adjustment case disposed of (Transaction Code 470, Closing Codes 90 or 93), or

(2) TC 131 will be input in any instance where a recommendation for 100 percent Penalty Assessment (Form 2749) is rejected.

(3) Document reason for input of TC 131 on the face of Form 3177 and record the date and reason for such action in the upper left corner of the "130 Case" TDA(s).

(4) Forward Forms 3177 with TC 131 to the SCCB under the cover of Form 3210.

5349 (11-15-85)

IMF Refund Offsets

If the taxpayer submits an individual tax return (1040, 1040A or 1040 EZ) showing an overpayment that will completely offset the TDA module(s) close the TDA by requesting input of TC 470, CC93. However, if it is obvious that the tax return is prepared incorrectly and sufficient re-

fund may not be due, advise the taxpayer that Collection of the TDA cannot be withheld.

5350 (11-15-85)

Lien for Taxes

5351 (11-15-85)

Creation and Duration of Lien

(1) The liability of a taxpayer for internal revenue taxes is personal in nature. A lien has been created by statute which attaches to a taxpayer's property and charges it with his personal liability for the tax assessment. This lien is the "statutory" lien or as the "general" lien. Certain requirements in establishing the lien are contained in IRC 6321:

- (a) An assessment must have been made;
- (b) A demand for payment must have been made; and
- (c) The taxpayer must have neglected or refused to pay.

(2) The lien arises on the date of assessment and after demand and nonpayment, attaches to all property and rights to property belonging to the taxpayer at any time during the period of the lien, including any property or rights to property acquired after the lien arises. See *Legal Reference Guide for Revenue Officers (hereinafter referred to as LRG)*.

(3) Such lien shall continue until the liability for the amount so assessed (or a judgment against the taxpayer arising out of such liability) is satisfied or becomes unenforceable by reason of lapse of time.

5352 (11-15-85)

Estate and Gift Tax Liens

5352.1 (11-15-85)

General Lien Under IRC 6324(a) and 6324(b)

(1) The estate and gift tax liens provided for by IRC 6324(a) and (b) are special liens, similar in character to the lien imposed by IRC 6321. The general lien imposed by IRC 6321 and the special lien for estate or gift tax are not exclusive of each other, but are cumulative.

(2) There is no provision of law which requires that notice of the estate tax lien or the gift tax lien be filed to ensure validity of such lien. However, such lien is not valid as against a mechanic lienor and against the superpriority categories described in LRG 252 if the condi-

tions specified are satisfied even though a notice of Federal tax lien has been filed. If the lien or security interest has priority over the estate or gift tax lien, such priority extends to interests and expenses to the extent such items have priority.

(3) The special estate tax lien imposed by IRC 6324(a) attaches at the date of the decedent's death to every part of the gross estate, whether or not the property comes into the possession of the duly qualified executor or administrator. It attaches to the extent of the estate tax shown due by the return, and of any deficiency in estate tax found due upon review and audit. The estate tax lien continues for a maximum period of ten years after the decedent's death or until the tax is paid, or becomes unenforceable by reason of the running of the statute of limitations on collection.

(4) The special gift tax lien imposed by IRC 6324(b) attaches to all gifts made during the calendar year for the amount of the gift tax imposed upon the gifts made during such year. If the gift tax is not paid by the donor when due, the donee of any gift becomes personally liable for the tax to the extent of the value of the gift. The gift tax lien extends for a period of ten years from the time the gifts were made or until the tax is paid, or becomes unenforceable by reason of the running of the statute of limitations on collection.

(5) These special estate and gift tax liens are terminated before expiration of the ten-year period by reasons of the running of statute of limitations on collection (normally six years after assessment).

(6) IRC 6324(a)(2) provides, with certain exceptions, that if the estate tax is not paid when due, the spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary of the estate shall be liable for the payment of the estate tax to the extent of the value of the estate's property held by, or passing to such person. A further provision of the same statute renders the property of the individual, who may become liable for the estate as a transferee, subject to the same lien, if the property received from the estate or which was includible in the gross estate is transferred by the individual in such a manner as to divest the property of the estate tax lien.

(7) Although the estate tax lien does attach to the assets in the gross estate, it should be noted that election of the IRC 6166 installment privilege can remove qualifying property from its effects.

5352.2 (11-15-85)
Specific Estate Tax Lien Under
IRC 6324A and 6324B

5352.21 (11-15-85)
Specific Lien Under IRC 6324A

(1) If payment of the estate tax is deferred under IRC 6166 or 6166A, the executor may elect a lien in favor of the United States in lieu of the bond required under IRC 2204 or 6165. The lien attaches specifically to IRC 6166 property for a period of up to 15 years.

(2) If the executor does elect the special estate tax lien and has secured the required signed agreements from all parties having any interest in any of the property to which the lien attaches, Form 668J, Notice of Federal Estate Tax Lien, will be filed by the Special Procedures function.

(3) Form 668J, will be filed in the name of the estate and the name of the current owner(s) of record of the property described on the lien, if other than the estate.

(4) A complete and accurate description of the property the lien attaches to will be made on Form 668J. The following disclaimer will be added after the description: "*This notice of lien is filed for the purpose of giving notice that the United States has lien rights against any rights, title or interest that the above named may have in the above described property. This notice of lien does not attach to any other real or personal property in which the above named may have an interest except the property described herein.*"

(5) Even though the notice of this lien has been filed, such lien shall not be valid:

(a) against real property tax and special assessment liens (to the extent provided in IRC 6323(b)(6)),

(b) in the case real property subject to a mechanic's lien for repairs or improvement,

(c) as against any security interest set forth in IRC 6323(c)(3) (whether such security interest came into existence before or after tax lien filing).

(6) However, (b) and (c) above will not apply to any security interest which came into existence after the date on which the Secretary filed notice (in a manner similar to notice filed under IRC 6323(f) that payment of the deferred amount has been accelerated under IRC 6166(g) or 6166A(h).

5352.22 (11-15-85)
Specific Lien Under IRC 6324B

(1) IRC 2032A provides for a special valuation for certain farms and closely held family business real property which will result in a lower estate tax. In the event that the criteria for the IRC 2032A valuation do not continue during the required period, then the tax attributable to the special valuation is recaptured. Section 6324B imposes a lien attaching to the specific property valued under Section 2032A for a period not to exceed 15 years (10 years for taxpayers dying after 1981).

(2) If the executor properly elects the special valuation under 2032A and secures the required signed agreements by all parties having interest in the specially valued property, the Examination function will complete and forward Form 6111 Notice of Special-Use Valuation Election (IRC 2032A), to SPI via Form 3210, Document Transmittal. The transmittal shall show the total number of Forms 6111 it covers. SPI will verify the number of Forms 6111, acknowledge receipt of Form 3210 and return Part 1 to the originator. SPI will also verify that each Form 6111 includes a copy of the agreement signed by all "qualified heirs" and all other parties having an interest in the property covered by the Special-Use Election (IRC 2032A). The agreement must designate an agent for dealings with the Internal Revenue Service. Also a complete legal description of the real property to be covered by the lien must be included on the Form 6111 or attached so that a lien can be prepared.

(3) Upon receipt of Form 6111, Notice of Special-Use Valuation Election (IRC 2032A), SPI will prepare and file Form 668-H, Notice of Federal Estate Tax Lien Under Internal Revenue Laws, in the name of the estate and all "qualified heirs" as shown on Form 6111. Only one Form 668-H will be used unless a local jurisdiction requests separate forms.

5353 (11-15-85)
Notice of Lien

5353.1 (11-15-85)
Validity and Priority of Lien

(1) IRC 6323(a) modifies IRC 6321 by providing that the Federal tax lien is not valid against purchasers, holders of security interests, mechanic's liens, and judgment lien creditors

MT 5300-1

5353.1
 IR Manual

until a notice of lien has been filed. The filing of the notice of lien is notice to these creditors that the lien, provided for by IRC 6321, exists. The tax lien becomes valid, with certain exceptions, as against the creditors therein named at the time notice of lien is filed.

(2) The determination as to whether a person is one of the class entitled to the protection of IRC 6323(a) is to be made by reference to the facts in a given case and in accordance with the definitions and special rules provided by the Code. See Exhibits 5300-2 and 5300-3. The various classes and their priority positions are more fully defined in LRG.

5353.2 (11-15-85)
Protection for Certain Interests Even Though Notice of Lien Filed

(1) The ten "superpriorities" are:

- (a) Securities
- (b) Motor Vehicles
- (c) Retail Purchasers
- (d) Casual Sales
- (e) Possessory Liens
- (f) Real Property and Special Assessment Liens
- (g) Small Repairs and Improvements of Residential Real Property
- (h) Attorneys Liens
- (i) Certain Insurance Contracts
- (j) Passbook Loans

5354 (11-15-85)
Priority of Certain Other Interests

5354.1 (11-15-85)
General

(1) The priority over a filed notice of tax lien for advances made after, or with respect to, property coming into existence after the filing of a notice of tax lien is to occur only if local law gives such priority. In such cases the protection under local law must be the same as that provided against a judgment lien creditor as of the time the notice of lien is filed.

(2) In view of certain statutory provisions which rely on local law to determine when an instrument becomes protected under such local law, the priority position of unrecorded instruments, particularly mortgages, should be governed by the local law. See LRG 242.

5353.1

MT 5300-1

RI Manual

5354.2 (11-15-85)
45-Day Period for Making Disbursements

The law also provides priority generally with respect to security interests in property held by the taxpayer before the notice of tax lien filing which arose as a result of disbursements made prior to the 46th day after the filing of a tax lien, unless actual notice or knowledge of the filing is sooner obtained. However, for the priority to exist in such cases, certain conditions must be met. See LRG 258.5.

5354.3 (11-15-85)
Priority of Interest and Expenses

Interest and certain expenses now enjoy the same priority as the lien or security interest to which they relate. The types of interest referred to are included in IRC 6323(e). See LRG 259.

5355 (11-15-85)
Filing Notice of Lien

5355.1 (11-15-85)
Considerations Before Filing

5355.11 (11-15-85)
General

(1) The employee to whom a TDA is assigned is responsible for safeguarding the government's interest. The timely filing of a notice of lien is a basic tool to accomplish that end. Since there cannot be a definitive set of rules to meet all the situations in which a notice of lien should be filed, the person assigned the TDA must exercise judgment in deciding whether a notice of lien should in fact be filed.

(2) The responsible employee will make a reasonable effort to contact the taxpayer, in person, by telephone, or by a notice sent by certified mail, delivered in person, or left at the taxpayer's last known address, before filing a notice of lien. (See P-5-47.) The employee should afford the taxpayer the opportunity to make payment and should explain the effect that the filing of a notice of lien could have on normal business or credit operations. The taxpayer should also be advised that absent payment or other security arrangement of the need for filing such notice of lien. There is no need to contact the taxpayer prior to filing a lien if there is another lien already filed against the taxpayer on other accounts and a certified notice has been sent on the new account. See Exhibit 5300-4 for basic criteria.

(3) Lien filing (or refiling) determinations will also be made on reactivated TDAs.

5355.12 (11-15-85) Procedural Guidelines

(1) ACS must make a lien filing determination and file a lien, as appropriate, on cases of \$5,000 or more where a jeopardy situation exists or the taxpayer fails to perform agreed upon actions timely. A lien determination and lien filing, if appropriate, must also be made on all installment agreement cases where the aggregate assessed balance is \$5,000 or more or, where the aggregate assessed balance is \$2,000 or more and the period of the agreement exceeds 12 months. A lien filing determination need not be made on cases under \$5,000 unless:

- (a) a jeopardy situation exists;
- (b) an installment agreement is in default (or is for a period exceeding 12 months); or,
- (c) an amount is being reported currently not collectible and the total outstanding liability is \$2,000 (\$500 where the taxpayer is known to own real property) or more.

(2) A lien filing determination and lien filing, as appropriate, must be made by a revenue officer on all cases of \$500 or more as soon as possible after taxpayer contact by telephone or attempted or actual field contact. If contact or attempted contact cannot be made within the time frame established by local management a lien determination and lien filing, if appropriate, must be made. A lien may be filed if a certified notice has been sent to the taxpayer. (See Policy Statement P-5-47.)

(3) The filing of a notice of lien is not mandatory prior to the service of a notice of levy on wages, salaries, commissions, or other compensation, bank accounts, accounts receivable, or other simple contract debts in the hands of third parties.

(4) No notice of lien need be filed against a nonpaying officer when an abatement of the 100-percent penalty is pending because the assessment was paid by one of the officers.

(5) If, upon receipt of a Daily Transaction Register (DTR), an additional assessment is to be posted to a TDA, determine the need for filing a notice of lien. If a filing is required, the date of the transaction code indicated, 290,300, etc., is the assessment date of the liability and should be so indicated on a notice of lien.

(6) The date of the transaction code establishing a penalty for a delinquency, dishonored check, failure to use depository receipts, etc., is the assessment date of the liability. Accrued interest and penalties added to tax should only be collected during the limitations period for collecting the tax from which they are derived. This limitation does not apply to the "bad check" or "fraud" penalty.

(7) In Federal Bankruptcy Act or state insolvency proceedings, exempt assets may be reached by the usual levy procedure. A notice of lien should be filed to protect and preserve the right of the Government in the exempt property.

(8) Section 362(a) of the Bankruptcy Code (for proceedings filed on or after October 1, 1979) imposes an automatic stay on actions of creditors, including the United States, as of the date of petition. A notice of lien cannot be filed until the automatic stay is lifted and, Special Procedures function (SPf) concurs with such filing.

(9) A notice of tax lien filed after a taxpayer's death hampers the liquidation and administration of the assets of the estate. Such notice should not be filed unless, SPf, has determined that such action is necessary.

(10) In cases where the taxpayer resides outside the United States, the contact requirements in (1) above are waived. If there are known assets in the United States, a notice should be sent advising the taxpayer of the necessity for filing a lien if payment is not forthcoming.

5355.2 (11-15-85) Form of Notice

The forms to be used for filing the notice of lien are Form 668, Notice of Federal Tax Lien Under Internal Revenue Laws, Form 668(C) for continuous preparation and Form 668(C)(ACS) for service center preparation of notices of lien on ACS accounts.

5355.3 (11-15-85) Preparation of Notice

5355.31 (11-15-85) General

(1) When it is determined that a notice of lien should be filed, Form 668 should be prepared as shown in Exhibit 5300-5. All further refer-

MT 5300-1

5355.31

IR Manual

ences to Form 668 also apply to Forms 668(C) and 668(C)(ACS).

(2) Form 668 may be prepared to cover several assessments against the same taxpayer.

(a) If the Form 668 is prepared by listing one or more TDA's, separate entries will be made in each column for each TDA.

(b) If the Form 668 is prepared from one TDA with multiple assessments shown, column (d) on the Form 668 should show all of the assessment (23C) dates, column (e) the last date for retreating the notice for each respective assessment (see IRM 535(11).3 for determining these dates) and column (f) the total outstanding assessed balance for that TDA at the time the notice of lien is filed.

(c) If the entire assessed amount has been paid but unassessed accrued amounts remain outstanding, a notice of lien may be filed without assessment of such accrued amounts, and the total amount thereof should be entered in column (f), with the heading of the column clearly changed to show "Amount Outstanding." Other assessment data shall be entered from the TDA's to which the accruals relate.

(3) The taxpayer's name as shown on the notice of lien should agree with that stated on the TDA. The use of initials only should be avoided. If the taxpayer's name on the TDA is incorrect, the notice of lien should state the name of the taxpayer correctly, and the necessary steps taken to correct the accounting records. When it is evident that the notice of lien to be filed is intended to reach the right, title, and interest of an individual or corporate taxpayer operating under a trade name, both the individual and trade name should appear as the taxpayer's name.

(4) Where a partnership is the taxpayer and employment taxes are involved, the notice of lien should be prepared showing the words "a partnership" after the partnership name AND list the names of all the known partners; e.g.,

- XYZ, a partnership,
- A, a partner
- B, a partner,
- C, a partner.

(5) Where a corporation is the taxpayer the notice of lien should be prepared showing the words "a corporation" after the corporate name, e.g., XYZ, Inc., a corporation.

(6) Errors of a minor nature appearing on the assessment list may be corrected after the assessment is made without following the statutory

procedure for making a supplemental assessment. However, if such an alteration would have the effect of imposing an assessment upon an additional or different person, the change should not be made except by a supplemental assessment.

(7) The form shall bear the signature of an employee with the delegated authority to execute Forms 668. The employee's name should be typed below in the lower portion of the space for his/her signature and his/her title inserted in the appropriate block. The signature may be performed manually or by facsimile methods. In the latter case, the employee whose signature appears on the form is responsible for its execution as if he/she had signed manually. Those parts of the form titled "Certificate of Release of Federal Tax Lien" will be executed only when the certificate of release of the lien is to be issued.

5355.32 (11-15-85) Use of Trade Names

(1) The abbreviation "d/b/a" for "doing business as" should be used only where an individual is actually doing business as a sole proprietor under a trade name, e.g., Edwin E. Kelly d/b/a Kelly's Garage. The abbreviation should never be used in a partnership situation.

(2) The same degree of care should be exercised when using the abbreviation "t/a" for "trading as." As a general rule, this is used where a corporate entity operates under a trade name other than the corporate name, e.g., Werk Hard, Inc., t/a The Diggers.

5355.33 (11-15-85) Consideration of "Transferee and Nominee" Cases

(1) Revenue officers may encounter situations in which the taxpayer has transferred property where the circumstances indicate either actual or constructive fraud was involved in the transfer. In other cases, property may have been acquired in the name of another person or entity but the taxpayer exercises dominion and control over the property to such an extent that it is clear the title holder is possessed of nothing more than the "color of title." Such situations may give rise to an administrative transferee assessment, a suit to assert a transferee liability or a suit to set aside a fraudulent conveyance.

5355.31

MT 5300-1

(2) In cases where property has been transferred or acquired in the name of a third party with the taxpayer's funds, a notice of transferee lien may be used to subject the property to the government's lien. In some jurisdictions, state law may not recognize a transferee lien without judicial process or it may not be possible to show that title to the property was derived from or through the taxpayer. Where a transferee lien is not feasible but a combination of facts and circumstances support a conclusion that the taxpayer clearly treats the property as his/her own, a notice of nominee lien may be filed. Circumstances to be considered in developing such cases include, for example, the taxpayer's paying maintenance expenses, using the property as collateral for loans and paying state and local taxes on the property. District Counsel will advise as to which type of lien notice is appropriate in a given case.

(3) Extreme caution must be exercised by all Service personnel in the use of notices of lien and levy predicated on transferee or nominee theory. Such action should not be initiated without written approval or confirmation from District Counsel in each case. However, once District Counsel has approved application of transferee or nominee theory in a case, subsequent levy, seizure and administrative sale of the property is within the district's discretion.

(4) In determining what additional enforcement measures to pursue after filing a notice of transferee or nominee lien, consideration should be given to the likelihood that confusion in the chain of title and potential redemption rights may depress the sale of property seized and sold administratively under either transferee or nominee theory. A judicial lien foreclosure or seizure followed by suit to foreclose the lien will generally bring a greater sale price particularly for real property. However, the relatively quicker administrative seizure and sale may be desirable if there is a need for prompt action to protect and preserve the government's interest in the property in a given case. When in doubt as to the merits of judicial or administrative enforcement of a nominee or transferee lien, the revenue officer should seek the advice of District Counsel. In addition, the advice of Counsel should be sought where the administrative sale would be subject to attack by the taxpayer based on First Amendment arguments.

(5) Cases must be thoroughly developed to withstand court challenge. The focus should be on the conveyance of the title—not the nature of the title-holder.

(6) The revenue officer's request for approval of transferee or nominee lien filing should be forwarded through channels to District Coun-

sel. The request should be for advice as to the need for a supplemental assessment, a new notice and demand and the language to be incorporated in the notices of lien and levy. The request must be accompanied by a report setting out all the facts in the case.

5355.34 (11-15-85) Corporations—"Alter Ego" Doctrine

(1) The so called "alter ego" (other self) doctrine has been summarized as follows: The obligation of a corporation will be recognized as those of another person, and vice versa, where it appears that the corporation is not only influenced and governed by that person, but there is such a unity of interest and ownership that the individuality, or separateness, of the person and of the corporation has ceased. Also the facts are such that an adherence to the fiction of the separate existence of the corporation would, under the particular circumstances, sanction a fraud or promote an injustice.

(2) In general, there are two elements of the "alter ego" doctrine:

- (a) unity of ownership and interest, and
- (b) fraud or inequity would result from the failure to disregard the corporate entity.

(3) While there is no exact formula as to when the doctrine can be applied, some of the factors pertinent to a determination to disregard the corporate entity are:

- (a) commingling of funds and other assets.
- (b) failure to segregate funds of the separate entities.
- (c) unauthorized diversion of corporate funds or assets to other than corporate uses.
- (d) treatment by an individual of the assets of the corporation as his own.
- (e) failure to obtain authority to issue stock or to subscribe to or issue the same.
- (f) holding out by an individual that he or she is personally liable for the debts of the corporation.
- (g) failure to maintain minutes or adequate corporate records, and the confusion of records of separate entities.
- (h) the identical equitable ownership in two entities.

(i) the failure to adequately capitalize a corporation, the total absence of corporate assets, and undercapitalization.

(4) The feasibility of using the administrative process of a jeopardy transferee assessment, emergency lien foreclosure action or emergency transferee or fraudulent conveyance suit should be explored before filing a notice of lien

in the name of an alter ego. Even though the foregoing actions may not be feasible, a lien in the name of an alter ego should not be filed without legal review, advice and written direction from District Counsel as to the need for a supplemental assessment, a new notice and demand, and the language to be incorporated in the notice of lien and levy.

5355.35 (11-15-85)
Partnerships

(1) As a matter of general law, partners are individually liable for partnership debts, and separate assessments against them are not essential to ultimately sustain their individual liability at law. The separate liability of the partners is not an issue unless the partnership neglects or fails to pay the liability assessed against it.

(2) The Service takes the position that a demand on the partnership is a demand upon all the partners and is sufficient compliance with the terms of both IRC 6321 and 6303 for the purpose of making the taxes assessed a lien on the property of the individual partners.

(3) Where a single partnership (one entity) has multiple outlets or businesses, only one E.I. Number should be assigned to that partnership.

(4) When the same persons (partners) have established several partnerships (multiple entities), each separate partnership should be assigned a different E.I. Number.

(5) Although a change in name due to a change in membership of a partnership resulting from death, withdrawal, substitution or addition of a partner does not, in itself, effect a termination of a partnership for FICA or FUTA purposes, it does have an effect on the composition of the entity at law insofar as the collection of debts from the separate partners is concerned. If there is any doubt that a change of name will effect a change in entity, a request for an advisory opinion from District Counsel should be made through appropriate channels. See IRM 5340 for entity change procedure.

(6) Although a change in name due to a change in membership of a partnership resulting from death, withdrawal, substitution or addition of a partner does not in itself effect a termination of a partnership for FICA purposes, changes in name must be reflected in the BMF.

(7) Upon advice of District Counsel, either a new Form SS-4, Application for Employer Identifi-

cation Number, will be secured or Form 2363, Master File Entity Change, will be submitted.

(8) When adding to or changing a partnership entity, list all partners. In all instances, add the abbreviation "PTR" following the name of the last partner.

(9) Generally, a supplemental assessment will not be requested upon the addition of an individual partner's name to the partnership assessment. Instead the Service will rely on the proposition that an assessment (and notice and demand) against the partnership creates a lien against each individual partner.

5355.4 (11-15-85)
Place for Filing of Notice

(1) Under state laws

(a) Real property—In the case of real property, in one office within the State (or the county, or other Governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated; and

(b) Personal property—In the case of personal property, whether tangible or intangible, in one office within the State (or in the county, or other Governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated; or

(2) *With clerk of district court*—In the office of the clerk of the United States district court for the judicial district in which the property subject to the lien is situated, whenever the State has not by law designated one office which meets the requirements of (1) above; or

(3) *With recorder of deeds of the District of Columbia*—In the office of the Recorder of Deeds of the District of Columbia, if the property subject to the lien is situated in the District of Columbia.

(4) Notice of Federal Tax Lien will not be filed with the Department of Motor Vehicles, or its equivalent. Since a motor vehicle is personal property, the Notice should be filed with the proper recording official at the residence of taxpayer.

(5) A Notice of Federal Tax Lien, which is filed in the recording office designated by state law as appropriate for the residence of the taxpayer to whose property the lien attaches, encumbers motor vehicles, airplanes, and vessels in the same manner as other personal property. See IRM 5355.51. Form 668 will not be filed with Departments of Motor Vehicles, FAA or the U.S. Coast Guard or other similar agencies.

5355.5 (11-15-85)**Location of Property Subject to Lien****5355.51** (11-15-85)**General**

(1) For purposes of notice of lien filing, property shall be deemed to be located in the State as shown below:

(a) Real property at its physical location.

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

1 For the purpose of (b) above, the residence of a corporation or partnership shall be deemed to be the place (State) at which the principal executive office of the business is located. In determining the principal executive office of a corporation, care must be exercised to differentiate between *principal executive office* and *principal place of business*.

2 The residence of a taxpayer whose residence is without the United States shall be deemed to be in the District of Columbia.

3 The place of business of an individual taxpayer is not to be construed as the residence. e.g., a taxpayer has a place of business in X county but resides in Y county, the required place for filing notice of lien is in Y county.

5355.52 (11-15-85)**Filing of Notice by Mail**

(1) Every effort should be made with local officials to arrange for the acceptance (for filing) of notices of lien by mail. If it is necessary to have a transmittal accompany Parts 1 and 2 of the notices of lien, Form 3915, Processing Notices and Releases of Federal Tax Lien and Other Related Certificates, will be used. A self-addressed postage paid envelope, E-25C, will also be enclosed for use by the recording office to return Part 2.

(2) If arrangements cannot be made with local officials to accept notices of lien for filing by mail or circumstances dictate immediate action, the notices of lien should be delivered personally to the proper recording official.

(3) After the receipted copy, Part 1 or Part 2, has been returned, it will be forwarded to the Special Procedures function (SPf) with Parts 3 and 4. Districts may elect to have the recording office return the receipted copy directly to SPf. If this optional procedure is followed, Parts 3 and 4 will be forwarded to SPf to be held in a

suspense file when Parts 1 and 2 are furnished to the recording office for filing.

(4) Part 5 will be sent to the taxpayer as notification of filing.

(5) Part 6 will be retained with the related TDA file pending the need, if any, to input lien-filed indicators.

(6) Part 7 will be associated with the related TDA file until TDAs covered by the lien are satisfied or become legally unenforceable. The date the lien was filed, or forwarded for filing, and the amount of any lien fees will be noted on the TDA.

(7) Part 8 will be attached to Parts 1 and 2 when forwarding notices of lien for filing to recorders who have agreed to periodic billing of lien fees. If the recorder prefers, Parts 8 for all liens in a single mailing may be attached to a locally prepared transmittal indicating the total of fees to be charged and to be used by the recorder as a turn-around document for returning the Parts 8 and requesting payment.

5355.6 (11-15-85)**Filing of Notice in Another District**

(1) A notice of lien may be filed in any Internal Revenue district, regardless of the district in which the assessment is outstanding. Where the district in which the assessment is outstanding is unable to accomplish filing of a notice of lien in another district, Form 668 should be prepared, (unless because of time, arrangements by telephone or teletype are necessary). The receiving district will determine what disposition will be made of Part 8. Part 6 will be retained with the TDA.

(a) The properly executed Form 668 assembly should be forwarded with Form 2209, Courtesy Investigation, to the district in which the notice is to be filed.

(b) If the taxpayer is a corporation or partnership, the Form 2209 should indicate whether the notice of lien is to reach real or personal property or both. This is necessary because the recording official may be different in certain jurisdictions.

(2) The receiving district filing the notice of lien shall insert the proper place of filing on the form if it is not filled in by the originating office.

(3) After filing, the information on the receipted copy (Part 1 or Part 2) will be noted in the appropriate block on Part 7. Also include any fee to be collected for the release of the lien.

MT 5300-1

5355.6

IR Manual

After Part 7 is noted and Part 5 has been sent to the taxpayer, Parts 2, 3 and 4 will be sent to SPI for the district where the notice is filed. Part 7 will be attached to Part 1 of Form 2209 to be transmitted to the originating office.

(4) The Form 2209 and Part 7 of Form 668 will be associated with the related TDA file.

5355.7 (11-15-85)

Filing of Notice Generated by ACS

(1) Notices of lien on modules in the Automated Collection System (ACS) are generated in the service centers on Form 668(C)(ACS) and forwarded to the SCCB. SCCB perfects and executes the notices of lien and after input of lien-filing indicators forwards them to the Special Procedures function (SPI) in the district where they are to be filed.

(2) On receiving Form 668(C)(ACS), SPI will promptly determine the place of filing, enter this information and serial number in the appropriate blocks, and forward the notice for filing.

5356 (11-15-85)

Lien Recording Fees

5356.1 (11-15-85)

General

(1) A number of districts have arranged with local officials for the periodic billing of any recording fees.

(2) Part 8, Billing Support for Lien Fees, of Form 668 is provided for the convenience of the recording office when arrangements have been made for a periodic billing. The billing support should be attached to the face of Part 1 when it is mailed to the recording office. The form will be submitted as an attachment to their statement requesting payment.

(3) If the notices of lien are mailed or personal delivery is made and payment is required at the time of filing, the Special Procedures function (SPI) will prepare Form 1334, Requisition for Equipment, Supplies, or Services, to obtain a money order for payment to the appropriate officer of an applicable jurisdiction, of fees for the filing and/or release of one or more tax liens. The amount of the money order fee will be shown as well as the amount of the filing fee(s). The Form 1334 original will be manually signed by an SPI official authorized to request the payment of such fees and will be submitted to the

5355.6

IR Manual

MT 5300-1

impres fund cashier for an advance of funds to purchase the money order, including its fee.

(a) The money order may be purchased by an SPI employee. Under no circumstances will the impres fund cashier procure the money order.

(b) The certified carbon copy or stub of the money order must be returned to the cashier within 5 working days of obtaining the advance of funds. The carbon copy or stub will be certified by an authorized SPI official.

(c) The Form 1334 and certified carbon copy or stub will become the cashier's sub-voucher to support the claim for reimbursement to the impres fund.

(4) Actual receipts will not be submitted to the impres fund cashier for filing fees paid by money orders.

(5) Actual receipts will be submitted to the impres fund cashier for reimbursement of lien filing and similar fees paid for in cash. These receipts must be stamped and initiated by the clerk of court or other appropriate officer of the jurisdiction concerned. The receipts will be accompanied by an appropriate obligating document certified by an SPI official authorized to request payment of such fees.

(6) If impres funds are not available, reimbursement should be claimed on a monthly basis on SF1012, Travel Voucher. Receipts for all lien fees claimed must be submitted with the SF1012.

(7) Lien recording (and release) fees should be input immediately after filing the notice.

5356.2 (11-15-85)

Input of Lien Fees to IDRS

5356.21 (11-15-85)

General

(1) The lien fee is defined as the total of notice of lien filing fees and/or lien release fees chargeable against the taxpayer at the time of input.

(2) Where multiple notices are filed for one or more modules, the total of those charges will be the lien fee for input purposes.

(3) If more than one module is included in one notice of Lien, the lien fee will be input to the module with the oldest assessment date.

5356.22 (11-15-85)**Fee Input Procedure**

(1) If there are fees to file or release a lien, have them input when the notice of lien is forwarded for filing. Forward Form 4907, TDA Notice, or Form 4844, Request for Terminal Action, to Centralized Services for input.

(2) If there is no remittance to be posted to IDRS at the same time as this assessment, the primary transaction code (TC 670) should show "00" as the amount, and the secondary transaction code (TC 360) should show the amount of the lien fees being assessed. If a remittance is being posted as part of this terminal input, the amount of the remittance should be shown with the primary transaction code (TC 670) with the secondary transaction code (TC 360) to debit amount.

(3) A debit should be posted to the TDA to reflect the increased assessed balance. This is necessary because the TC 360 debit posting to IDRS will be suppressed from the Daily Transaction Register.

5356.3 (11-15-85)**Input of Lien-filed Indicators to IDRS****5356.31** (11-15-85)**General**

(1) The lien-filed indicator (LFI) is input through IDRS to assist in identifying, for release, notices of Federal tax lien (FTL) that include certain modules in a suspense status at the time they are satisfied or become unenforceable.

(2) Generally, LFIs must be input when modules (TDAs) included on FTLs are transferred outside the district or placed in suspended status other than by reason of a report of currently not collectible taxes. LFIs are also input by SCCB prior to forwarding FTLs for ACS modules to district offices for filing. Any LFI that is input must be removed from IDRS/Master File when the related FTL is released.

(3) The district to which the TDA is assigned when it is placed in one of the suspense statuses listed in IRM 5356.32 is always responsible for inputting the LFI regardless of where the FTL is filed. The district issuing a certificate of release will ensure that the LFIs are removed.

5356.32 (11-15-85)**Criteria for Input of Lien-filed Indicators**

(1) Generally, the person or function working the account is responsible for requesting input of an LFI to each affected module when the following circumstances arise:

(a) an FTL has been filed or forwarded for filing, and,

(b) at least one module on the FTL does not already contain an LFI; and,

(c) one or more modules on the FTL (which does not already contain an LFI) is being transferred outside the district or being placed in any of the following IDRS suspense statuses:

- 1 pending adjustment: TC 470 with CC 90
- 2 payment tracer: TC 470 with CC 93
- 3 litigation pending: TC 520 with CC 70, 73, 74, 80 or 81
- 4 criminal investigation: TC 914
- 5 stay of collection—collateral: TC 524 with CC 40, 41 or 42
- 6 stay of collection—military/combat: TC 500 with CC 50 or 51
- 7 collection suspended (NMF only): TC 470 (with CC 90 or 93), 500, 520 or 524.
- 8 installment agreement: CC IAORG or IAREV.

(2) LFIs will be input by SCCB to all ACS modules on FTLs prior to forwarding them to district offices for filing. This will generate a CP528 to SPI when an ACS account is full paid, so the FTL will be released within the required thirty days.

(3) The input of LFI's should not be requested on accounts that have invalid Taxpayer Identification Numbers.

5356.33 (11-15-85)**Preliminary Editing of Lien-filed Indicator Input Document**

(1) Ordinarily, Part 6 of Form 668 (or Part 5 of Form 668-F if appropriate) should be used as the document for inputting and removing lien filed indicators (LFI).

(2) The person responsible for requesting input of the LFI will indicate, on Part 6, each module for which an LFI is to be input by placing TC 582 in front of the "Kind of Tax" in column (a) of Form 668. Part 6 will be forwarded directly to Centralized Services from CFI.

5356.34 (11-15-85)

Removing Lien-filed Indicators

(1) Whenever an FTL is released, the related LFI's must be removed from IDRS/Master File. However, if the TDA is non-Master File and no LFI is present for that module on IDRS, no action is necessary.

(2) Centralized Services will return Part 5 to SPI after TC 582 is input (Part 6 if the revision date on the lien is 12-82 or later). Part 5 (or 6) will be associated with Parts 2, 3, and 4 to be used to request input of TC 583 to remove the LFI when the lien is released.

(3) When preparing a Certificate of Release of the FTL, the responsible employee in SPI will line through any previous references to the input of TC 582 and underline all the modules in the "unpaid balance of assessment" column on Part 5 (or 6 as described in (2) above). If not available, use a photocopy of Part 7 (Part 6 of Form 668F). Adjacent to each underlined module, enter TC 583 following the unpaid balance amount in column (f).

(4) the documents in (3) above may be forwarded directly to Centralized Services to remove LFI's on liens not generated by ACS.

(5) on liens generated by ACS, photocopies of Part 2 of Form 668(C)(ACS) may be used for this, or if SPI has the original Part 1, the original Part 2 may be used.

5357 (11-15-85)

Nonfiling of Notice of Lien

(1) If the person with the TDA determines that the filing of a notice of lien would hamper collection, a written explanation of the reasons for such determination should be made a part of the TDA file. No documentation is required if the TDA is on a Federal governmental agency regardless of amount.

(a) When the outstanding liability is between \$500 and \$5,000, a statement will be made on the TDA history sheet regarding the reason for not filing the notice of lien. No managerial approval is required.

(b) If the outstanding liability is \$5000 or more, Form 3991, Recommendation for Nonfiling of Notice of Federal Tax Lien, will be used and made part of the TDA file. Managerial approval is required.

(2) In those cases where the recommendation for nonfiling is made because a substantial doubt exists concerning the correctness of the

liability shown on the TDA, the collection statute has expired, or the taxpayer is deceased, a bankrupt or dormant corporation, or resides abroad with no known assets in the United States; the use of Form 3991 or documentation of the TDA history is optional but should be consistent within a district. Both options require a statement of the reason for the recommendation. Doubt as to correctness of the TDA liability may be raised when the taxpayer produces prima facie evidence that:

- (a) the liability has been paid;
- (b) the assessment is not correct;
- (c) available credits have not been associated.

(3) Doubt as to the correctness of the TDA liability may also be raised when the service center has furnished information by memorandum or status change that reflects:

- (a) an amended return has been filed;
- (b) an adjustment is pending;
- (c) posting of an available credit is pending;
- (d) any other action resulting in satisfaction of the liability.

(4) The above rules are not applicable to estate and gift taxes since the priority of such liens does not depend upon the filing of a notice of lien.

(5) The acceptance of a surety bond for the forbearance by the district director from the filing of notice of lien should be fully considered.

(6) A recommendation for nonfiling should be reevaluated upon receipt of:

- (a) another TDA on the same taxpayer increasing liability so that the aggregate is in excess of \$2,000.
- (b) an additional assessment or debit that increases liability so that the aggregate is in excess of \$2,000.

5358 (11-15-85)

Special Rules in Re Notice of Lien

5358.1 (11-15-85)

Actual Notice or Knowledge of Lien Requirement

(1) IRC 6323(i) defines actual notice of knowledge of a Federal tax lien. The burden is on the Internal Revenue Service to show the existence of actual notice or knowledge whether such notice is material in determining the priority of a Federal tax lien as against a competing lien or interest.

5356.34

MT 5300-1

IR Manual

(2) Section 1-201 of the Uniform Commercial Code is cited in part for your guidance as to when a person has knowledge or received notice

"(25) A person has 'notice' of a fact when

"(a) he has actual knowledge of it, or

"(b) he has received a notice or notification of it; or

"(c) from all the facts and circumstances known to him at the time in question he has reason to know that it exists.

"A person 'knows' or has 'knowledge' of a fact when he has actual knowledge of it. 'Discover' or 'learn' or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this subtitle.

"(26) A person 'notifies' or 'gives' a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person 'receives' a notice or notification when

"(a) it comes to his attention; or

"(b) it is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications."

5358.2 (11-15-85)

Copies of Notices of Lien to Third Parties

5358.21 (11-15-85)

General

(1) The Federal tax lien provided for by IRC 6321 attaches to "all property and rights to property" of the person or entity liable for the tax. This very broad statutory language has been interpreted as including all real, personal, and intangible property of greatly varying natures, as well as future interests, and property acquired by the taxpayer after the lien has come into existence.

(2) Since the tax lien attaches to after-acquired property such lien may be enforced administratively by levy; that is, use of a levy to collect taxes is not limited to property or rights to property of the taxpayer in existence at the time the assessment is made.

*** (3) The effect of a levy on other than wages, salary or other income is not prospective; that is, service of a levy or notice of levy upon the taxpayer or a third person, respectively, results

in a seizure of property or rights to property in possession of either party at the time of service of levy. Should property come into possession of the taxpayer or third party following such service, another levy should be made to seize the property, notwithstanding the fact that the Federal tax lien attaches itself automatically to such after-acquired property.

(4) In order to establish uniformity in giving the required actual notice or knowledge, a copy of the appropriate notice of lien shall be delivered to the person(s) requiring such notice.

5358.22 (11-15-85)

Insurance Companies

A copy of the filed notice of lien should be furnished an insurance company to meet the actual notice requirement described in IRM 5358.1.

5358.23 (11-15-85)

Department of Agriculture

When notices of levy are prepared for service upon State or local offices of the Agricultural Stabilization and Conservation Service, a copy of the notice of Federal tax lien, if one has been filed, should be attached to the notice of levy in situations where it is known that an assignment was made of the funds due the taxpayer from ASCS.

5359 (11-15-85)

Disclosure of Amount of Outstanding Lien

(1) District directors are authorized to disclose information as to the amount of the outstanding obligation secured by the lien to any person who demonstrates that he/she possesses a right or intends to obtain a right in the property. See (11)(13)0:(2) of IRM 1272, *Disclosure of Official Information Handbook*.

(2) Any person, other than the taxpayer, desiring information as to the amount of the obligation outstanding in order to decide whether to acquire the property covered by the lien (when a notice of lien has been filed) must submit a written request for such information to the district director, setting forth the reasons such information is desired. In order to properly identify the lien in question, the request should contain the taxpayer's name and address, a description of the property, a description of the Federal tax lien, and reference to the registry and the page

MT 5300-1

5359

IR Manual

and volume of the book in which the notice of tax lien is filed, indexed, or recorded. If it is determined that the applicant is entitled to the information requested, he or she should be furnished the total amount of the outstanding obligation secured by the lien. All replies should be expedited. See (4) for exception.

(3) The information requested will be furnished by means of Letter 1038(DO), Response to Inquiries About Release of Federal Tax Lien.

(4) The Chief, SPI and employees delegated the authority to execute Forms 668 may disclose information as to the amount of the outstanding obligation secured by the lien to title companies, lending institutions, etc. If such inquiry is for the purpose of satisfying the outstanding lien, a written request is not required. See (11)(13)0:(1) of IRM 1272, *Disclosure of Official Information Handbook*.

(5) The above-mentioned employees may also disclose information contained on the notice of lien and available to the public to any person, except the mass news media, desiring such information. Inquiries made by the mass news media should be referred to the district Public Affairs Officer.

535(10) (11-15-85) **Maintenance of Notice of Lien File**

535(10).1 (11-15-85) **General File Maintained by the Special Procedures function**

(1) The Chief, Special Procedures function, shall have primary responsibility for maintaining a file of recorded notices of lien (Form 668) and related certificates.

(2) The general file shall be kept in alphabetical sequence and consist of active (open) notices of lien.

535(10).2 (11-15-85) **Suspense File Maintenance**

(1) A suspense file consisting of Parts 3 and 4 of Form 668 shall be kept by the Special Procedures function in alpha sequence pending return of acknowledged Part 2 from the recording official.

(2) Suspense files may be maintained at the group level when liens are filed at that level to avoid inordinate delay in routine filings were they to be routed through SPI.

535(10).3 (11-15-85) **Processing Notice of Lien File**

(1) When the receipted copy of Form 668 is received, it will be associated with Parts 3 and 4 and placed in the general file.

(2) If the suspense file is maintained at the group level, the receipted copy of Form 668 will be associated with Parts 3 and 4 and forwarded to the Special Procedures function.

(3) Retain Parts 3, 4 and the receipted copy in the general file until the lien is satisfied or becomes unenforceable.

535(10).4 (11-15-85) **Files Maintenance**

535(10).41 (11-15-85) **General**

(1) IRC 6325(a) requires that all Federal tax liens must be released within 30 days of the date that the Secretary finds they are satisfied or are legally unenforceable. Therefore, the district offices will maintain their lien files in a current condition. Released liens should be transferred to the closed file and eventually disposed of in accordance with IRM 1(15)59.24, Records Control Schedule 204 for Collection, Taxpayer Service and Problem Resolution Program—District Offices.

(2) To assist the Special Procedures function in identifying FTL's for release, the service centers will issue to the districts IDRS Notice CP 528, Satisfied Module With Lien Filed, and a Master File Listing of Satisfied TC 530 Accounts. Special Procedures function will update the FTL files with the aid of the CP 528 Notice and the Listing.

535(10).42 (11-15-85) **Processing of CP 528 Notices**

(1) Service centers issue CP 528 notices weekly to the district offices for those IMF or BMF tax modules which have a lien-filed indicator and are updated to full paid status on IDRS from a previous suspense status (codes 41-48, 50, 53, 60, 61, 63, 64, 71-73, and 91) or from status 58. Each notice identifies the taxpayer, tax module, IDRS TDA assignment code, prior IDRS status, module balance, and any accrued statutory additions due as of the date the module was full paid.

(2) CP 528 notices received in the district office will be forwarded to the Special Procedures function for association with the related liens. Generally, when a CP 528 is received, a certificate of release for the related notice of lien must be issued within 30 days of the date of the CP528 notice unless the lien contains other modules that do not meet the release criteria in IRM 535(12).2 The only exception to this guideline occurs when the module balance and accrued penalty and/or interest shown on the CP 528 are zero, or where there is a credit balance and the accruals are zero. When either of these conditions arises, the module should be researched before releasing the lien because restricted penalty or interest may be due. Such research is important when the module shows a credit balance because the credit will ordinarily be refunded to the taxpayer unless the restricted accruals are computed and manually assessed. Additionally, action should be initiated to remove the LFI. See IRM 5356.34.

(3) When the module that the CP 528 notice identifies involves unpaid restricted interest or penalty or other unpaid modules are covered by the same lien, the CP 528 notices should be associated with the appropriate lien copy in SPI. This will permit prompt action when CP 528 notices are received with respect to other modules covered by that lien or in the event of taxpayer inquiry.

(4) CP 528 notices are not issued for NMF accounts since they must be manually updated to full paid status. However, when Delinquent Account Inventory Profiles are received on NMF accounts and exhibit a lien-filed indicator, a No Activity indicator and a zero module balance, determine whether the lien should be released.

535(10).43 (11-15-85) Processing Master File "SAT 53 MOD" Transcripts and Listings of Satisfied TC 530 Accounts

(1) Weekly, the service centers will issue to the districts master file transcripts of all accounts containing an unreversed TC 530 which went to status 12 in the prior cycle. These transcripts will be identified by a literal "SAT 53 MOD". Each transcript will contain the entry and tax modules for one account.

(2) Special Procedures function (SPI) will immediately screen the SAT 53 MOD transcripts against the general lien file. If a notice of lien was filed, and meets the criteria for release, the

transcript should be reviewed to determine when release is necessary (See IRM 535(12) 22. If the account was satisfied by offset or adjustment, release of lien should be issued immediately.

(3) Whether or not a notice of lien is found in the open lien file, the SAT 53 MOD transcripts will be reviewed for indications of lien filing in the receiving district or others. These indications include unreversed TC 582s with "LIEN FILED" literals, TC 360s, and TDA issuance or other collection activity where the outstanding balance met lien filing criteria. If such indications are present and the DLNs of the transactions indicate possible lien filing in another district, a copy of the transcript should be immediately sent to the SPI in that district.

(4) Quarterly, service centers issue to the districts a Master File Listing of Satisfied TC 530 Accounts. The listing identifies all IMF and BMF tax modules which were previously in currently not collectible status and which:

(a) were satisfied through full payment, abatement, etc. (Status "FP") during the previous quarter, or

(b) became legally unenforceable through expiration of the statutory period for collection (Status "CSED") during the previous quarter. In case of multiple assessments, only expiration of the latest CSED will cause a module to be included in the listing.

(5) Each listing contains the taxpayer's name and address, taxpayer identification number, MFT, tax period, TC 530 date, TC 530 transaction Document Locator Number and status (FP or CSED).

(6) For listings through the fourth quarter of CY82, SPI will immediately screen each of the satisfied taxpayer entities in the listing against the alpha FTL file. If an FTL was filed and meets the criteria for release, a certificate of release of lien will be issued to the appropriate recording office. Any lien filed indicators on the satisfied FTLs should be released. See IRM 5356.34.

(7) Beginning with listings for the first quarter of CY83, SPI may dispense with researching the satisfied entities since these will be identified earlier by the SAT 53 MOD transcripts.

(8) After taking any necessary action on satisfied liens, SPI may use the listings to identify unenforceable liens for removal to the closed lien file. For this purpose, listings may be accumulated for use during the periodic reviews of the general lien file. Unenforceable liens, when

identified, will be removed from the general lien file and placed in the closed lien file. Certificates of release will be issued on these cases only on request.

535(10).44 (11-15-85)

Annual Review of Lien Files

(1) The general lien file will be reviewed at least annually to identify notices of lien which have become unenforceable due to statute expiration for removal to the closed lien file or, for "self-releasing" notices filed after 12/31/82 and subsequently relied, on which the collection statute will expire prior to the next review.

(2) Notices of lien, other than those filed after 12/31/82 and subsequently refiled, should be selected for review if the statutory period for collection of the most recently assessed module on the notice appears to have expired. Notices of lien may be pre-identified in such a manner as to indicate the tentative statute expiration date, e.g., by the use of color-coded tabs, markers, etc., so that they may be extracted for action. A separate chronological file is not recommended because of the additional storage and staffing requirements.

(3) Notices of lien reviewed according to the procedure in (2) may be placed in the closed lien file without issuance of a certificate of release. Local management should establish procedures to spotcheck these liens prior to transfer to the closed file to ensure compliance with the refiling guidelines in IRM 535(11). Certificates of release will be issued for these liens only on the taxpayer's request.

(4) Notices of lien will also be selected for review if the initial filing was after 12/31/82, the notice has since been refiled and the collection statute will expire on the most recently assessed module prior to the next review of the lien file.

(5) Certificates of release must be issued for notices of lien reviewed according to the procedure in (4) must be issued within 30 calendar days after expiration of the collection statute. After verification of the date by which a release must be issued, these notices may be placed in the release suspense file described in IRM 535(12).22:(7). If deemed necessary, local management may establish procedures to spot-check these notices for compliance with the refiling guidelines in IRM 535(11) prior to their being set aside for release.

535(10).43

IR Manual

MT 5300-1

(6) For disposal instructions, see IRM 1(15)59.24, Records Control Schedule 204 for Collection, Taxpayer Service and Problem Resolution Program—District Offices.

535(11) (11-15-85)

Refiling Notice of Lien

535(11).1 (11-15-85)

General

(1) When the collection period has been extended, it may be necessary to refile the notice of lien to maintain the continuity of priority established by the original filing. Where the original filing was made on a revision to Form 668 or 668(C) earlier than 12/82, failure to refile at the appropriate time does not affect the validity of the lien itself but it does nullify the effect of the prior filing. The timely refiling of a notice of lien, in effect, represents a continuation of the prior filing, but any late filing constitutes a new filing.

(2) Notices of lien filed on 12/82 or later revisions to Form 668 or 668(C) are "self-releasing" unless refiled timely. Since release of a notice of lien is conclusive that the underlying, statutory lien is extinguished, the revocation and reinstatement procedures in IRM 535(15) and 535(16) must be followed before making a late refiling. It is therefore essential that those responsible for refiling notices of lien do so when and where appropriate, particularly if the original filing is on a "self-releasing" notice.

535(11).2 (11-15-85)

Criteria for Refiling

(1) Before any notice of lien is refiled, each account should be examined to determine that the statutory period for collection has been suspended or extended beyond the normal six-year period beginning with the assessment date.

(2) The normal collection statute may be suspended or extended by:

(a) Execution of Form 900, Tax Collection Waiver.

(b) Offer in compromise.

(c) Assets of taxpayer in custody of a court in certain types of proceedings.

(d) Judgment for the United States.

(e) Absence of taxpayer from United States.

(f) Military deferments.

(g) Any other appropriate action suspending or extending the collection statute.

535(11).3 (11-15-85)**Required Refiling Period**

(1) In the case of any notice of lien, the term "Required Refiling Period" means:

(a) The one-year period ending 30 days after the expiration of six years after the date of the assessment of the tax, and

(b) The one-year period ending with the expiration of six years after the close of the first required refiling for such notice of lien.

(2) As a general rule refiling should occur between July 1 and November 30 each year in order to allow sufficient time for processing a notice of change of address at the Service Center. For calculation of the required refiling period, see Exhibit 5300-28.

(3) The following is an example of the "Required Refiling Period"—On March 1, 1965, an assessment of tax was made against A, a delinquent taxpayer, and a Federal tax lien for the amount of the assessment arose on that date. On July 1, 1965, a notice of the lien was properly filed. The notice of lien filed on July 1, 1965, is effective up to and including March 31, 1971. The first required refiling period for the notice of lien begins on April 1, 1970, and ends on March 31, 1971. A refiling of notice of the lien during that period will extend the effectiveness of the notice of lien filed on July 1, 1965, up to and including March 31, 1977. The second required refiling period for the notice of lien begins on April 1, 1976, and ends on March 31, 1977.

535(11).4 (11-15-85)**Place for Refiling**

(1) During the required refiling period, the notice of lien is to be refiled:

(a) in all cases in every office in which a prior notice of lien (including a refiled notice) was filed, and

(b) in the proper office in the State in which a new residence is located, if, 90 days or more prior to the date of the refiling, the Service receives written information concerning a change in the taxpayer's residence. If such new residence is located without the United States, the refiling will be made in the District of Columbia. This filing is extremely important. If it is not accomplished as and when required, all other refilings of the notice of lien are ineffective. If more than one written notice of change of address is received on or before the 90th day mentioned, the most recent one will be used for purposes of required refiling, whether or not the taxpayer resides there on the date of refiling.

(c) in addition to the required refiling, a notice will also be refiled in the proper office in each jurisdiction in which the taxpayer has resided or presently resides, to the extent known at the time of refiling.

535(11).5 (11-15-85)**Address Change Procedures Affecting Notice of Lien Refiling**

(1) Except as provided below, a notice of change of a taxpayer's residence will be effective only if it is received in writing from the taxpayer or his/her representative, relates to an unpaid tax liability of the taxpayer, and states the taxpayer's name and the address of the new residence.

(2) In the case of a notice of lien which relates to an assessment of tax made after December 31, 1966, a notice of change of a taxpayer's residence will also be effective if it is contained in a return or amended return of the same type of tax filed with the Internal Revenue Service by the taxpayer. The return or amended return must indicate that it is a change of address and correctly state the taxpayer's name, address of present residence and identification number required by IRC 6109.

(3) Other than the means specified above, no communication, either written or oral, will be considered as effective as notice of a change of a taxpayer's residence.

535(11).6 (11-15-85)**Processing DTR or Form 4356 (Notice of Overpayment Applied to Unpaid Tax) in District Offices**

(1) Entry changes will be received on the DTR or on Form 4356.

(2) Upon receipt of the DTR or Form 4356, the Revenue Officer with the TDA, should attach it to the file with the notation on the history sheet "Note New Address When Reviewing for Refiling Notice of Lien."

(3) Since computer paragraph 44 is a "turn-around" notice, the new address should be noted on the TDA history as well as a reference to the source of the changed address, i.e., CP 44.

535(11).7 (11-15-85)**Procedures and Responsibilities for Refiling**

MT 5300-1

535(11).7

IR Manual

535(11).71 (11-15-85)

General Guidelines

(1) Form 668-F, Notice of Federal Tax Lien under Internal Revenue Laws, will be used to refile notice of lien in all cases where a refiling is required. See Exhibit 5300-6.

(2) Form 668-F shall be processed in the same manner as Form 668.

(3) If an original Notice of Lien, Form 668, lists more than one period of liability and the assessment dates are different, the refiled notice should list only the lien(s), notice of which meets the criteria for refiling.

(4) If an account shown on Form 668 has been paid in full prior to refiling, it should not be shown on Form 668-F.

(5) The TDA balance does not affect the amount to be shown on Form 668-F. The amount shown on the 668-F should be the same as on the original Form 668.

(6) If a Form 668 was filed in a given jurisdiction, but because of a change of residence a notice of lien is to be refiled during the refiling period in another jurisdiction, use Form 668-F for refiling, even though Form 668 was never filed in that jurisdiction.

535(11).72 (11-15-85)

Collection Field Function Inventory

(1) Each revenue officer shall examine TDA inventory for any account on which the collection statute date has been extended or which has reached the "waiver determination date."

(2) If the statute date has been extended or suspended by any action and the account is within the required refiling period (beginning five years and 30 days from the assessment date on a first refiling), Form 668-F should be filed.

(3) If the "waiver determination date" has been reached and there are no transactions extending or suspending the statute date, and it is determined that:

(a) Form 900, Tax Collection Waiver, is to be secured. The TDA history should be noted "REFILE NOTICE OF TAX LIEN."

(b) Upon receipt of acknowledged Part 4 of Form 900 from the Special Procedures function (SPF), Form 668-F should be filed.

(4) In lieu of the procedure in IRM 535(11).72:(3) above, when Form 900 is secured during the refiling period, districts may

535(11).71

IR Manual

MT 5300-1

elect to have revenue officers prepare and execute Form 668-F to be sent to SPf with Parts 1 and 4 of Form 900, in which case.

(a) The TDA history should be noted "Form 668-F forwarded to SPf."

(b) SPf will forward Form 668-F for filing immediately after Form 900 has been reviewed and acknowledged. Part 6 of Form 668-F will be returned to the originator with the acknowledged Part 4 of Form 900.

(5) Contact personnel in CFS are responsible for interviewing taxpayers who appear for installment agreement reviews. The initiator of an installment agreement should consider and document the need for lien refiling when establishing a review date. During the review, the contact employee will initiate lien refiling, if needed.

(6) If the projected date of final payment on an installment agreement is within one year of the collection statute expiration date, the initiator of the agreement is required to secure Form 900 extending the statute to December 31 of the year following the year in which the account will be satisfied, before the agreement is accepted. This requirement is waived if a financial review is scheduled at least 12 months prior to statute expiration. When contact employees review installment agreements they must consider the need for a waiver and secure one if the final payment established in the review meets the above criterion.

535(11).73 (11-15-85)

Special Procedures Function

(1) The Special Procedures function (SPf) will be responsible for waiver and notice of lien refiling determinations on the following suspended cases:

- (a) Proof of claim
- (b) Judgment or other legal action
- (c) Installment offers

(2) SPf is responsible for waiver and lien refiling determinations on mandatory followups for currently not collectible accounts when the followup states these are needed. The SPf is also responsible for lien refiling determinations on military deferments. A military deferment extends the collection statute for the period of the taxpayer's military service plus nine months beginning the date following military service.

535(11).74 (11-15-85)**Automated Collection System Branch**

The Automated Collection System Branch is responsible for waiver and lien refiling on active cases in the Automated Collection System

535(11).8 (11-15-85)**Preparation of Form 668-F**

(1) When it has been determined that a notice of lien should be refiled, Form 668-F should be prepared as shown in Exhibit 5300-6.

(2) Form 668-F should list only those assessments meeting the refiling criteria regardless of how many assessments are listed on the Form 668.

(3) The form shall be manually signed by an employee who has been delegated the authority to execute Form 668 and the title of such person shall be inserted in the appropriate block. Parts 3 and 4 will not be signed at this time but will be executed when the certificate of release of the lien is to be issued.

535(11).9 (11-15-85)**Processing Executed Form 668-F**

(1) Upon receipt of Part 2, Form 668-F, the Special Procedure function shall:

(a) Associate Parts 3 and 4, Form 668-F, with Part 2 of the related Form 668 in the alpha file.

(b) In appropriate situations, annotate Part 6 and return to originator.

- (c) Retain in open alpha file until:
- 1 Release is requested.
 - 2 Collection statute expires.

535(11).(10) (11-15-85)**Release of Refiled Notice of Lien**

(1) Form 668-F shall be released in the same manner as prescribed for Form 668.

(2) The filing of a Certificate of Release (Part 3 of Form 668-F) shall extinguish the lien and remove all notices thereof from the records, i.e., a certificate of release issued on Form 668-F will also release the same assessment shown on the Form 668. Only the one document is required.

(3) When executed, the Part 4 of Form 668-F shall be associated with the receipted copies of Forms 668 and 668-F. If the receipted copy of Form 668 has no other assessments listed than are on the Form 668-F, both should be filed in the closed file.

(4) If the receipted copy of Form 668 had other assessments listed than shown on Part 4 of Form 668-F, both shall be retained in the alpha file until such time as all assessments are satisfied.

(5) If the receipted copy of Form 668 lists multiple assessments, any of which may have had notices refiled, and the entire liability reflected on the Form 668 is satisfied, the certificate of release should be prepared and issued on Parts 3 and 4 of Form 668. This will effect the release of the liens arising out of the assessments shown on both the Form 668 and Form 668-F.

535(12) (11-15-85)**Certificate of Release of Lien****535(12).1** (11-15-85)**Authority To Execute Release of Lien**

(1) Regulations under IRC 6325 delegate to the district director the authority to issue certificates of release of liens. It is suggested that district directors issue redelegation orders authorizing Chief, Collection Field function, group managers, Chief, Special Procedures function (SPF), or other designated employee in charge of the SPF, and unit or section chiefs in the SPF, Grade GS-12 and above, to issue certificates of release of liens in those cases where the outstanding obligation has been satisfied.

(2) District directors may also issue redelegation orders authorizing Chiefs, SPF, and unit or section chiefs in the SPF Grade GS-12 and above, to issue certificates of release of liens in those cases where the liability has become legally unenforceable. It would be appropriate for the delegation to further authorize the issuance of redelegation orders in writing to selected GS-11 SPF employees and above to sign releases in these instances.

(3) If warranted by the volume of releases, facsimile signature stamps may be used.

535(12).2 (11-15-85)**Conditions for Release****535(12).21** (11-15-85)**General**

(1) It is important to distinguish between the "release" of a Federal tax lien and the "discharge" of property from the effect of a tax lien.

The release of a tax lien operates to completely extinguish the lien, while a discharge operates only to discharge specific property from the lien.

(2) IRC 6325(a) requires issuance of a release of Federal tax lien within 30 days of the date on which

(a) the liability secured by any lien is found to be fully satisfied,

(b) the liability secured by a notice of lien filed after 12/31/82 is found to be legally unenforceable;

(c) a bond is accepted for release of any lien; or,

(d) a taxpayer's request for release on the grounds the liability is satisfied or legally unenforceable is received.

(3) The employee authorized to execute a certificate of release is responsible for making the finding that a liability is fully satisfied or legally unenforceable. Requests for release will be initiated immediately when full payment of the liability on a notice of lien is tendered or the account meets other criteria in this Manual section.

535(12).22 (11-15-85) Liability is Satisfied

(1) IRC 6325(a)(1) requires issuance of release of a Federal tax lien within 30 days after the taxpayer's outstanding obligation covered by the lien (including any interest, additional amount, addition to the tax, or assessable penalty, together with any costs that may have accrued in addition thereto) is found to be fully satisfied by payment or by abatement. See LRG 2(11)1.

(2) Generally, modules updated to status 12 on IDRS or the Master File may be considered satisfied for lien release purposes.

(3) Where payment is tendered by personal check (not certified) in an amount over \$1,000, 7 working days will be allowed to elapse to permit clearance of the check before the liability is considered satisfied and the 30 day release period commences. A release may be issued immediately without regard to the 7 or 30 day periods upon presentation of the canceled check.

(4) Accounts satisfied by cash, money order, certified check, cashier's check or guaranteed draft drawn on any organization that is authorized to do business under state or federal laws relating to financial institutions, including, with-

out limitation, banks and trust companies, savings banks, building and loan associations savings and loan companies or associations, and credit unions, may be released immediately upon payment.

(5) If the District Director has reasons to doubt the financial stability of an institution, he may reject the tender of the institution's guaranteed draft.

(6) If a guaranteed draft is not duly paid, the United States shall have a lien for the amount of such guaranteed draft upon all assets of the financial institution on which drawn.

(7) SPf will maintain a release suspense file for retaining Parts 7 and other documentation indicating the need for release where an immediate release is not issued. Parts 3 and 4 may be associated prior to placing the Part 7 or other document in the release suspense file. Periodic reviews of the file should be scheduled to ensure issuance of releases as close to, but no later than, the expiration of the statutory period for release.

(8) Checks dishonored by banks are returned to the service center Accounting Branch. To ensure that liens are not inappropriately released, the Accounting Branch will forward to the SPf a copy of any dishonored check and the related dishonored check worksheet where:

(a) the check is not to be redeposited,

(b) the check is for more than \$1,000,

(c) the check is encoded as a subsequent payment, and

(d) the module(s) credited went to zero balance.

(9) Notifications of dishonored checks received in SPf should be filed in a dishonored check file. Items from the release suspense file should be screened against the dishonored check file immediately before preparing the releases.

535(12).23 (11-15-85) Liability is Unenforceable

(1) The word "unenforceable" means unenforceable as a matter of law, and not merely uncollectible or unenforceable in fact for the time being, due to the temporary nonpossession by the taxpayer of discoverable property or property rights.

(2) The reporting of an account as currently not collectible does not constitute satisfaction of the assessment, and such action does not give rise to any basis for release of the tax lien.

(3) Notices of lien filed on Forms 668 or 668(c) revised 12/82 or later do not require issuance of a separate certificate of release after expiration of the statutory period for collection unless the notice of lien has been retiled or a request is made for a separate release

535(12).24 (11-15-85)**Acceptance of a Bond**

(1) IRC 6325(a)(2) requires the release of a Federal tax lien within 30 days of accepting a bond conditioned upon the payment of the amount assessed (including any interest, additional amount, addition to the tax, or assessable penalty, together with any costs that may have accrued in addition thereto) within the time agreed upon in the bond, but not later than six months before the expiration of the statutory period for collection.

(2) The bond must be executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal Bonds, or, in the discretion of the district director, collateral may be accepted within the limitations of IRM 5672. The acceptability of a surety, other than a Treasury approved surety, will be determined in each case in which a bond is executed.

535(12).3 (11-15-85)**Request for Release of Lien by Taxpayer****535(12).31 (11-15-85)****Requirement for Release**

IRC 6325(a) requires issuance of a certificate of release within 30 days of a taxpayer's request made after December 31, 1982 if the liability is satisfied or has become unenforceable.

535(12).32 (11-15-85)**Form of Request**

(1) To trigger the 30 day release requirement, a taxpayer's request must be submitted to the attention of the Chief, Special Procedures function in the district where the notice of lien is filed and:

- (a) be in writing,
- (b) provide the taxpayer's name and current address,
- (c) include a copy of the notice of lien as filed,

(d) state the grounds on which the request is made (i.e., satisfaction or unenforceability), and,

(e) if satisfaction is claimed, provide a copy of the canceled check or other evidence of payment.

535(12).33 (11-15-85)**Processing Taxpayer Requests for Lien Release**

A certificate of release will be issued if appropriate within 30 calendar days of receipt of a properly completed request in the district where the lien is filed. Any request which is incorrect or incomplete will not trigger the 30 day release period and, if the notice of lien cannot be readily identified for release, the taxpayer will be advised of what additional information is needed for release or why a certificate of release will not be issued.

535(12).4 (11-15-85)**Acceptance of an Offer in Compromise****535(12).41 (11-15-85)****General**

(1) When an offer in compromise, including a collateral agreement, is accepted, the lien will be released, provided that:

(a) it is a cash offer or all installments under the terms of the offer, including any accrued interest, have been paid;

(b) any assets required to be assigned or turned over to the Government under the terms of the offer have been so assigned or turned over by the offeror; and

(c) all other terms and conditions of the offer have been met with the exception that the collateral agreement is still in force and payments of future income may become due in the future. This will be done even though the necessary abatement procedure is not administratively completed. (See P-5-48).

535(12).42 (11-15-85)**Revocation of Certificate of Release of Lien**

In the event the taxpayer fails to pay any amount due under the collateral agreement, the offer may be declared in default under the provisions specified within the offer and the collateral agreement and a TDA reactivated or res-

sued. When a tax lien is released and subsequently there is a default under the terms of a collateral agreement.

535(12).5 (11-15-85)

Abatement of 100-Percent Penalty

A certificate of Release of Federal Tax Lien will be issued to the nonpaying officer(s) on a 100-percent penalty assessment when one officer has fully paid the liability. This will be done even though the liability has not been abated pending the expiration of the statutory period within which a claim for refund by the paying officer may be made.

535(13) (11-15-85)

Certificate of Release

535(13).1 (11-15-85)

General

(1) Although each assessment listed on a notice of lien is a separate lien and a certificate of release could legally be issued when each assessment is satisfied or becomes unenforceable, the general practice will be to issue a certificate of release only after all assessments covered by a notice of lien meet the criteria for release. However, if a specific request is made a certificate of release will be issued with respect to the assessment or assessments that have been satisfied or have become unenforceable.

(2) A multiple listing form for lien release purposes may be developed locally. The form must satisfy the needs of the Service as well as those of local recorders. The established local form may be used rather than separate certificates of release.

535(13).2 (11-15-85)

Request for Release

(1) When a certificate of release should be issued, the person with the related TDAs should promptly request the issuance of a certificate.

(2) If Part 7 of Form 668 or Part 6, Form 668-F is associated with the TDA file, the upper portion will be completed and furnished to the Chief, Special Procedures function (SPF). If neither of these parts are available, a request, by brief memorandum, will be made for the issuance of a certificate of release.

(3) The Chief, (SPF), under properly delegated authority, will be responsible for the execu-

tion of the certificate of release if the liability has become unenforceable. Upon receipt of a written request from a person with a direct interest, a lien that has become unenforceable by operation of law, shall be released.

535(13).3 (11-15-85)

Request for Release in Another District

(1) Whenever it is proper to release a lien that was filed in another district, the person assigned the TDA will request such district or districts to file a certificate of release. A brief transmittal memorandum in duplicate will accompany the request. The memorandum shall set forth the basis for the request: i.e., full paid, abatement, etc. In each case, the duplicate copy of the memorandum will be filed with the related TDA(s).

(2) If Part 7 of Form 668 or Part 6 of Form 668-F is associated with the TDA, the upper portion will be completed and transmitted by brief memorandum to the Chief, Special Procedures function (SPF) of the district in which the notice of lien was filed.

(3) If Part 7 of the filed Form 668 or Part 6 of Form 668-F is not associated with the TDA file but a copy of the filed notice of lien is available, a certificate of release should be prepared, in duplicate, and after execution transmitted by brief memorandum to the Chief, SPF of the district in which the notice of lien was filed.

(4) If neither Part 7 of Form 668 or Part 6 of Form 668-F nor a copy of the filed notice of lien is available, a memorandum should be prepared, furnishing sufficient information to identify the notice of lien so that a certificate of release may be issued. The memorandum will be approved by either the Chief, SPF; Chief, ACS or group manager in the originating district and the original forwarded to the Chief, SPF of the district in which the notice of lien was filed.

535(13).4 (11-15-85)

Issuance of Release

Parts 3 and 4 of Form 668, Parts 3 and 4 of Form 668-F will be used to release Federal tax liens.

535(13).5 (11-15-85)**Disposition of Certificate of Release**

(1) Part 3 of Form 668 or Part 3 of Form 668-F will be mailed or presented to the proper recording office. If the certificate is mailed to the recording office and it is necessary to have a transmittal accompany the certificate of release, Form 3915, Processing Notices and Releases of Federal Tax Lien and Other Related Certificates, will be used by checking the applicable blocks on the form. A self-addressed, indicia clause (postage and fees paid), envelope will also accompany the certificates of release if a receipt is requested.

(2) Under certain circumstances, it would be more advantageous to mail the taxpayer the certificate of release. In these cases, the fee for filing the certificate of release of lien will not be collected from the taxpayer. Notice 48 is provided for transmitting certificates to taxpayer.

(3) The retained part of the certificate of release and the request for release will be associated with the related receipted copy of the notice of lien, and will be filed by the Special Procedures function. Any memorandum requesting execution of the certificate of release should also be associated with the file.

(4) A copy of a multiple listing for lien release will be associated with each related notice of lien and filed by SPI. See IRM 535(13).1(2).

535(14) (11-15-85)**Other Certificates Relating to Liens****535(14).1** (11-15-85)**General**

The "discharge" of property from a Federal tax lien operates to remove certain specifically described realty or personalty subject to the lien from the effect of such lien. The lien continues in full force and effect upon all other property or rights to property to which it has legally attached. The distinction between the "release" of a tax lien, which operates to completely extinguish the lien, the "discharge" of property from the effect of a tax lien, the "subordination" of a tax lien, which relegates it to a lower priority position, and the "nonattachment" of a tax lien, which denotes that a person of like or similar name is not, in fact, the taxpayer, should be kept in mind in administering the provisions of the Internal Revenue Code relating to tax liens. See LRG 2(10)0.

535(14).2 (11-15-85)**Discharge of Property**

(1) The district director or those delegated may issue a Form 669-A, Certificate of Discharge of Property From Federal Tax Lien Under Section 6325(b)(1) of the Internal Revenue Code, if it is determined that the property remaining subject to the lien has a fair market value of at least double the sum of the amount of the unsatisfied tax liability secured by the lien, plus double the amount of all other liens and encumbrances having priority over the Government's lien. The amount necessary to issue a Certificate of Discharge under IRC 6325(b)(1) is computed as follows:

Example:

\$1,000	Federal Tax Lien
5,000	Prior Encumbrances (Senior to the Federal Tax Lien)
100	Real Estate Tax Lien
<hr/>	
\$6,100	Total
	× 2
<hr/>	
\$12,200	Fair Market Value Necessary for Discharge Under IRC 6325(b)(1).

(2) The delegated employee may issue a Form 669-B, Certificate of Discharge of Property From Federal Tax Lien Under Section 6325(b)(2)(A) of the Internal Revenue Code, covering any part of the property subject to the Federal tax lien if there is paid in part satisfaction of the liability secured by the lien an amount determined to be not less than the value of the interest of the United States in the property to be so discharged and the taxpayer is divested of all interest in the property. In determining the amount to be paid, consideration will be given to all the facts and circumstances of the case. In no case shall the amount to be paid be less than the value of the interest of the United States in the property to be discharged, as such value has been determined in the light of the value of the property and the amount of all other liens and encumbrances having priority over the Government's lien. IRC 6325(b)(2)(A)

(3) Foreclosing mortgagees may avail themselves of the administrative provisions of IRC 6325(b)(2)(A) or IRC 6325(b)(2)(B) rather than joining the United States as a party in a judicial foreclosure action. The administrative process

MT 5300-1

535(14).2

IR Manual

eliminates the right of redemption which the United States would have under 28 U.S.C. 2410(c) if the United States were joined as a party defendant. Further, the United States need not become involved in unnecessary litigation.

(4) IRC 6325(b)(2) provides that in determining the value of the interest of the United States in property sought to be discharged from a Federal tax lien, consideration shall be given to the "value," as distinguished from the "fair market value" of the property.

(5) IRC 6325(b)(3) makes available a procedure to facilitate the disposition of property whenever a dispute exists among competing lienors, including the United States, concerning their respective rights in such property. This section provides for the issuance of a certificate of discharge of any part of the property subject to a tax lien if such part of the property is sold and, pursuant to an agreement with the Internal Revenue Service, the proceeds of such sale are to be held, as a fund subject to the liens and claims of the United States, in the same manner and with the same priority as such liens and claims had with respect to the discharged property.

(6) Any reasonable and necessary expenses incurred in connection with the sale of the property, or administration of the sale proceeds shall be paid from the proceeds of the sale before satisfaction of any claims.

535(14).3 (11-15-85)

Subordination of Lien

(1) IRC 6325(d) (1) and (2) provides for the subordination of any lien upon any part of the property subject to such lien. This includes subordination of IRC 6324A liens. IRC 6325(d) (3) provides a much liberalized criteria for subordinating IRC 6324B liens only. These three criteria are as follows:

(a) Certificate of Subordination (Form 669-D) may be issued if there is paid over to the Service an amount, on a dollar for dollar basis, equal to the amount of the lien or interest to be subordinated. The typical situation would be the subordination of the lien to one who would furnish private financing on a part of the property.

(b) Certificate of Subordination of Federal Tax Lien (Form 669-E) may be issued if it is determined that the interest of the United States in that part or any other part of the prop-

erty covered by the lien will ultimately be increased by the subordination and ultimate collection of the outstanding liability will thereby be facilitated. It is intended that this authority will be used by the Service under conditions similar to those under which an ordinary, prudent businessman would subordinate rights in a debtor's property in order to secure additional long run benefits.

(c) Certificate of Subordination of Federal Estate Tax Lien (Form 669-F) may be issued in the case of any lien imposed by Section 6324B if it is determined that the United States will be adequately secured after subordination.

535(14).4 (11-15-85)

Nonattachment of Lien

Subsection (e) of IRC 6325 provides for the issuance of a certificate of nonattachment certifying that the property of an individual is not subject to a tax lien outstanding against a person with a similar name and provides that if because of a confusion of name or otherwise, any person (other than the person against whom the tax was assessed) is or may be injured by the appearance that a notice of tax lien filed under IRC 6323 refers to such person. There may be issued a certificate that the lien of which notice has been filed does not attach to the property of the person who is or may be so injured.

535(15) (11-15-85)

Revocation of Certificate of Release or Nonattachment

(1) The law provides, under IRC 6325(f)(2), for the revocation of a certificate of release or nonattachment and the reinstatement of the Federal tax lien to which the certificate relates. See Exhibit 5400-30.

(a) A certificate of revocation may be issued when it has been determined that either it was issued

- 1 Erroneously or improvidently, or
- 2 In connection with a collateral agreement entered into in connection with a compromise under IRC 7122 which has been breached, and if the period of limitation on collection after assessment has not expired.

535(16) (11-15-85)

Reinstatement of Lien

(1) When a certificate has been revoked (see IRM 535(15)), the tax lien may be reinstated by:

(a) Mailing notice of such revocation to the person against whom the tax was assessed at the last known address, and

(b) By filing notice of such revocation in the same office in which the notice of lien to which it relates was filed if such a notice was filed.

(2) The reinstated lien shall be effective on the date notice of revocation is mailed to the taxpayer but not before the date such notice is filed in accordance with (1)(b) above.

(3) A reinstated lien shall not be valid against any lien or interest described in IRC 6323(a) until a new notice has been filed subsequent to the time the reinstated lien became effective. This requires the filing of a new notice of lien. The date of the new filing is the date from which priorities will be determined as against the category of persons in the cited Code section.

(4) The amount to be shown on the "new" notice of lien should be the total balance due at the time of filing the "new" notice.

535(17) (11-15-85)

Filing of Certificates and Notices

(1) All certificates and notices referred to in IRM 535(14) will be filed in the same office in which the notice of lien to which it relates is filed.

(2) In the event that these certificates and notices may not be filed in the office designated by State law, they are to be filed in the office of the clerk of the United States district court for the judicial district in which the State office where the notice of lien is filed is situated.

535(18) (11-15-85)

Applications for Certificates of Discharge, Subordination or Nonattachment

535(18).1 (11-15-85)

General

(1) Any person desiring a certificate of discharge of property from a Federal tax lien shall submit to the District Director, in whose district the property is located, a written application in triplicate, executed under penalties of perjury, in form and content as set forth in Publication 783, Instructions on how to apply for Certificate of Discharge of Property From Federal Tax Lien, requesting that the certificate be issued.

(2) Any person desiring a certificate of subordination of a Federal tax lien shall submit an application in the same manner as in (1) above but in form and content as set forth in Publica-

tion 784, How to Prepare Application for Certificate of Subordination of Federal Tax Lien.

(3) Any person desiring a certificate of subordination of a Federal estate tax lien shall submit an application in the same manner as in (1) above but in form and content as set forth in Publication 1153, How to Prepare Application for Certificate of Subordination of Federal Estate Tax Lien under Section 6325(d)(3).

(4) Any person desiring a certificate of nonattachment of a Federal tax lien or Federal estate tax lien shall submit a written application under penalties of perjury. The application shall set forth the basis for the request and be in the form and content of Publication 1024, How to Prepare Application for Certificate of Nonattachment of Federal Tax Lien.

535(18).2 (11-15-85)

Submission of Applications

(1) Applications for certificates, together with all necessary evidence, will be submitted by applicants directly to the Special Procedures function. If an application is received in any other office, it should be immediately forwarded to the Special Procedures function (SPF).

(2) Upon receipt of applications for certificates by the SPF, each application should be examined for completeness and to make certain that the application is one which can properly be considered under one of the provisions of IRC 6325(b), IRC 6325(d) or IRC 6325(e).

(3) If the assessment was made in a foreign district, promptly notify the Chief, SPF for the district with the assessment and request the status of the lien(s) from which the discharge is sought.

(4) If the application is under IRC 6325(b)(2)(A) or IRC 6325(b)(2)(B) and relates to a foreclosure proceeding, the application should be flagged to indicate that the report must be completed *within 7 days*.

(5) Any request for discharge of property subject to the lien imposed by IRC 6324A or 6324B received by SPF will be forwarded immediately to the Estate and Gift tax group manager for review and approval. If the request is approved, the Estate and Gift tax manager will advise the SPF by memorandum. The memorandum shall contain sufficient information to enable preparation of the appropriate pattern letter shown at Exhibit 5300-17.

MT 5300-1

535(18).2

IR Manual

535(18).3 (11-15-85)
Investigation of Applications

535(18).31 (11-15-85)
General

(1) SPI will use all available resources to determine whether to issue a certificate of discharge or subordination. Verification of information submitted in the application may be made through contacts with the Service employee assigned the delinquent account or with the applicant, the applicant's representative, taxpayer, taxpayer's representative, real estate firms, title companies, holders of encumbrances or any other person or entity that might have relevant information.

(2) If it is determined that a Field investigation is required before a final decision can be made to discharge the property or to subordinate the lien, Form 2209, will be initiated. SPI will complete Form 3033, Investigation of Discharge or Subordination, on each investigation completed in SPI.

(3) Applications which require a field investigation shall be investigated promptly by a revenue officer. The revenue officer assigned the investigation of the application shall investigate and verify each item contained in the application, or which should have been contained in the application. However, if, during the course of the investigation, it is disclosed that the first encumbrance(s) exceeds the value of the property, it will not be necessary for the revenue officer to investigate and verify subsequent encumbrances, even though they were recorded prior to the filing of the notice of tax lien.

535(18).32 (11-15-85)
Report of Investigation

(1) All revenue officer reports of investigation shall be prepared on Form 3033, Investigation of Request for Certificate of Discharge or Subordination, promptly upon completion of the investigation. The application should be carefully examined to make certain that the property is adequately and properly described.

(2) The revenue officer shall submit the report, together with the copy of the application and all exhibits, to the Chief, Special Procedures function, for review and approval.

(3) All reports will be submitted promptly upon completion. In the case of an application relating to a foreclosure proceeding, the report

shall be completed within 7 days after receipt of the investigation and, in all other cases, within 30 days.

535(18).4 (11-15-85)
Issuance of Certificate of Discharge or Subordination

535(18).41 (11-15-85)
General

(1) The report will be reviewed by the Chief, SPI to determine the priority of the Federal tax lien and ensure that the information furnished is sufficient to issue a certificate of discharge.

(2) Upon approval of the reports by the Chief, SPI, certificates of discharge will be issued covering those applications under IRC 6325(b). See IRM 535(18).52 if the application relates to a foreclosure proceeding. A copy of the application, report, and other related documents will be retained by the SPI.

535(18).42 (11-15-85)
Preparation of Certificates

Forms 669-A, 669-B, and 669-C will be prepared in duplicate. The unused area in the description portion of the form should be blocked or lined out so as to prevent the insertion of description of other property which is not intended to be discharged from the tax lien. The original of executed Forms 669-A, 669-B, and 669-C will be delivered to applicants. Any expense incident to the filing or recording of such certificates of discharge will not be borne by the Government. The duplicates will be associated with the applications held by the Special Procedures function (SPF).

535(18).5 (11-15-85)
Certificates of Discharge in Special Cases

535(18).51 (11-15-85)
General

The bankruptcy court has inherent power to sell property within its jurisdiction free and clear of liens. Therefore, when a sale is made by a bankruptcy court, its purchaser takes the property unencumbered by the Federal tax lien, and the Federal tax lien should be considered transferred to the proceeds of the sale.

535(18).52 (11-15-85)**Foreclosure Proceedings**

(1) If an application is under IRC 6325(b)(2)(A) or IRC 6325(b)(2)(B) and relates to a judicial foreclosure proceeding, the District Counsel should be requested to furnish advice as to what form of evidence will constitute proof that the taxpayer has been divested of any interest in the property, unless information previously furnished is applicable to the case under consideration.

(2) If a foreclosure is involved and discharge is contemplated under IRC 6325(b)(2)(A) or IRC 6325(b)(2)(B), a commitment letter, identical with the specimen reproduced as *Exhibit 5300-8* or *5300-9*, as applicable, should be prepared and furnished the applicant. Upon conclusion of the foreclosure proceeding, payment of the amount of determined to be the lien interest, if any, and a proper showing that the taxpayer has been divested of right, title, and interest in the property, a properly executed Form 669-B or 669-C, as applicable, will be issued without further investigation.

535(18).6 (11-15-85)**Certain Government Agency Discharges****535(18).61** (11-15-85)**General**

(1) The Veterans Administration (VA), Small Business Administration (SBA) and Federal Housing Administration (FHA) have agreed to accept title to property subject to a junior Federal tax lien provided the payment (if any) required to secure a discharge of the property from the tax lien does not exceed the increased cost which would be incurred by them if a mortgagee elected to foreclose by a judicial, rather than by a nonjudicial, proceeding. (See P-5-49).

(2) The procedure prescribed in this subsection is designed to facilitate the discharge from junior Federal tax liens of property acquired or to be acquired by the SBA or FHA or the VA in connection with its Loan Guaranty or Direct Loan Salvage operations. (See P-5-49).

535(18).62 (11-15-85)**Applications for Discharge**

(1) Applications for certificates of discharge submitted by the VA, SBA or FHA will be submitted in triplicate, when the VA, SBA or FHA has been notified that the mortgagee has acquired

the property and has conveyed it or elected to convey it to the VA, SBA or FHA.

(2) Upon receipt by the Special Procedures function, the application should be reviewed for all information necessary to make a determination of the interest of the United States by reason of its Federal tax lien. The property will have been appraised by a designated or staff appraiser of the VA, SBA or FHA based on the market value of the property at the time of foreclosure, and such appraisal will be reviewed by authorized officials of the VA, SBA or FHA. This adjusted or confirmed appraisal shall be accepted as the fair market value of the property in determining the Government's interest under the Federal tax lien. Field investigation will not be required.

(3) The amount shown in the concluding paragraph of the application is determined by the VA, SBA or FHA and serves only to place a ceiling on the amount that agency may pay for the issuance of a discharge. In no event should this amount be construed to be the amount offered by the VA, SBA or FHA for the discharge, nor is this the amount to be considered in determining the Federal tax lien interest. If it is determined that the Federal tax lien interest has value in excess of the amount which the VA, SBA or FHA is legally permitted to pay (amount shown in concluding paragraph of application), the VA, SBA or FHA should be advised and the discharge application file closed.

(4) If after review by the Special Procedures function, it is determined that the application is in proper form, the appropriate certificate of discharge will be issued.

(5) In accordance with an agreement with VA and FHA, when it has been determined that a notice of lien had been filed more than 30 days prior to a nonjudicial sale, an application for the discharge of the property will be made. No notice will be given under IRC 7425 in these cases.

535(18).63 (11-15-85)**Issuance of Certificate of Discharge**

(1) The Chief, Special Procedures function (SPF), shall advise the VA, SBA or FHA of the decision reached.

(a) If it is found that the Federal tax lien interest is valueless, Form 669-C shall be prepared in duplicate and executed pursuant to the provisions of IRC 6325(b)(2)(B). The original

Form 669-C will be delivered to the VA, SBA or FHA and the duplicate associated with the application.

(b) If it is determined that the Federal tax lien interest has value, the SPI shall prepare in quadruplicate a statement setting forth the exact amount required for the requested discharge. The original and two copies of the statement should be sent to the VA, SBA or FHA and the quadruplicate copy associated with the application for discharge.

(2) Upon receipt of a statement signed by a responsible official of the VA, SBA or FHA Regional Office that the amount required for the issuance of a certificate of discharge is satisfactory, Form 669-B shall be prepared in duplicate and executed pursuant to IRC 6325(b)(2)(A). The original Form 669-B shall be delivered to the VA, SBA or FHA and the duplicate associated with the application. No payment will be made at the time of delivery, but will be deferred until the certificate of discharge is filed with the proper recording official.

(a) When the certificate is properly filed, the VA, SBA or FHA will forward payment, in the form of a U.S. Treasury Check, to the District Director. The full amount of the remittance will then be credited to the taxpayer's account and the payment processed in the usual manner.

(b) If payment is not received within sixty days after the date the certificate was delivered, the Chief, SPI, or other designated employee in charge of the SPI, should communicate with the office of the VA, SBA or FHA from which the application originated and request information as to the approximate time payment will be received.

(3) In the event the VA, SBA or FHA does not acquire the property or agree to accept it from the mortgagee, the certificate will be returned to the district director for cancellation. When a certificate is returned by the VA, SBA or FHA, the certificate shall be canceled by writing across its face the word "CANCELED," together with the date of such action. The canceled certificate will be associated with the application for discharge.

535(19) (11-15-85)
Applications for Certificates of Nonattachment

535(18).63

MT 5300-1

IR Manual

535(19).1 (11-15-85)

General

(1) Persons wishing to obtain a certificate of nonattachment should be furnished a copy of Publication 1024, How to Prepare Application for Certificate of Nonattachment of Federal Tax Lien. Applications will be referred directly to the Chief, Special Procedures function (SPI) for review and consideration.

(2) The Chief, SPI will determine from the information furnished and from data available in the district office whether a certificate should be issued.

535(19).2 (11-15-85)

Issuance of Certificate of Nonattachment

When it is determined that the Federal tax lien did not attach or does not now attach to the property, the Chief, Special Procedures function, will prepare, in duplicate, a certificate of nonattachment, similar to the specimen reproduced in 5300-10.

535(19).3 (11-15-85)

Disposition of Certificate of Nonattachment

(1) The original should be mailed or presented to the proper recording office.

(2) The original may be presented to the applicant providing there are no recording fees or the applicant prefers to deliver the certificate of nonattachment to the recording office and pay the cost of recording after being informed that the Service is willing to pay the cost.

535(20) (11-15-85)

Notice of Nonjudicial Sale (IRC 7425) and Redemption Rights

535(20).1 (11-15-85)

Notice of Nonjudicial Sale

(1) IRC 7425(b) deals with the effect on the Government's interest in property in which the United States has or claims a Federal tax lien, or a title derived from the enforcement of a Federal tax lien, when a sale of property (other than in judicial proceedings) is made pursuant to:

(a) an instrument creating a lien on the property sold,

(b) a confession of judgment on the obligation secured by an instrument creating a lien on the property sold, or

(c) a statutory lien on the property sold.

(2) Regulations under IRC 7425(c)(1) provide that, except for perishable goods, a notice of a sale described in IRC 7425(b) shall be given, in writing, by registered or certified mail or by personal service, not less than 25 days prior to such sale, to the District Director, Attention, Chief, Special Procedures function, in the district in which the sale is to be held. Persons seeking information on when or how to submit a notice of nonjudicial sale should be furnished a copy of Publication 786, Instructions for Preparing Notice of Non-judicial Sale of Property and Application for Consent to Sale.

(3) In any situation where a notice of Federal tax lien has not been filed with respect to a taxpayer or has been filed less than 31 days before the sale, it is not necessary to notify the District Director's office of a sale of the taxpayer's property under IRC 7425(c)(1). In these situations, the sale shall have the same effect with respect to the discharge of the Federal tax lien as may be provided by local law with respect to junior liens.

(4) In the event that notice of a sale is given with respect to a scheduled sale which is postponed to a later time or date, the seller of the property is required to give notice of the postponement to the District Director in the same manner as is required under local law with respect to other secured creditors.

(5) Notice of sale is required to be given even though such notice was not originally required to be given because no notice of lien had been filed less than 31 days before the scheduled date of sale, if

(a) more than 30 days elapse between the originally scheduled date of the sale and the actual date of the sale, and

(b) a notice of lien with respect to the property to be sold is filed more than 30 days before the date of the sale.

(6) In any case in which notice of sale is required to be given with respect to a scheduled sale, and the notice is not given, any postponement of the scheduled sale does not affect the rights of the United States under IRC 7425(b).

535(20).2 (11-15-85)

Adequacy of 7425 Notice

(1) With respect to a notice of sale described in IRM 535(20).1.(2), the notice will be considered adequate if it contains the information shown below.

(a) The name and address of person submitting the notice of sale.

(b) A copy of each Notice of Federal Tax Lien (Form 668) affecting the property to be sold, or the following information as shown on each such Notice of Federal Tax Lien:

1 the internal revenue district named thereon.

2 the name and addresses of the taxpayer, and

3 the date and place of filing of the notice.

(c) With respect to the property to be sold, the following information:

1 a detailed description, including location, of the property affected by the notice (in the case of real property, the street address, city, and State and the legal description contained in the title or deed to the property and, if available, a copy of the abstract of title);

2 the date, time, place, and terms of the proposed sale of the property, and

3 in the case of a sale of perishable property described in IRM 535(20).6, a statement of the reasons why the property is believed to be perishable.

(d) The approximate amount of the principal obligation, including interest, due the person selling the property and a description of the other expenses (such as legal expenses, selling costs, etc.) which may be charged against the sale proceeds.

535(20).3 (11-15-85)

Inadequate Notice

(1) A notice of sale which does not contain the information described in IRM 535(20).2 will not be considered adequate.

(2) If it is determined that the notice is inadequate, written notification of the items of information which are inadequate will be given to the person who submitted the notice.

(3) In such event a notice complying with the provisions of IRM 535(20).2 (including the requirement that the notice be given 25 days prior to the sale) must be given. [Letter 1840(DO) may be used as notice of inadequacy.]

(4) In case of an inadequate notice, the District Director may, in his or her discretion, consent to the sale of the property free of the lien or title of the United States even though notice of the sale is not given 25 days prior to the sale.

(5) In any case in which the person who submitted a timely notice does not receive, more than five days prior to the date of the sale,

written notification that the notice is inadequate, the notice shall be considered adequate

535(20).4 (11-15-85)

Acknowledgment of Notice

(1) A written request that the receipt of a notice of sale be acknowledged will be honored if the notice of sale is submitted in duplicate.

(2) The acknowledgment, on the duplicate copy, will indicate the date and time of the receipt of the notice.

(3) The authority to acknowledge IRC 7425 Notices, and to reject them because of inadequacies, is delegated to the District Director. It is suggested that this authority be redelegated to the Chiefs, Collection function, Special Procedures function, and Field function.

535(20).5 (11-15-85)

Disclosure of Adequacy of Notice

(1) The District Director for the internal revenue district in which the sale was held is authorized to disclose to any person who has a proper interest, whether an adequate notice of sale was given. Disclosure may be made either before or after the sale.

(2) Any person desiring this information should submit to the District Director a written request which clearly describes the property sold, identifies the applicable notice of lien, gives the reasons for requesting the information, and states the name and address of the person making the request.

535(20).6 (11-15-85)

Notice of Nonjudicial Sale of Property Liable to Perish

535(20).61 (11-15-85)

General

(1) IRC 7425(c)(3) provides that, notwithstanding the notice requirements discussed above, a sale described in IRC 7425(b) of property liable to perish or become greatly reduced in value by keeping, or which cannot be kept without great expense, shall discharge or divest such property of the lien or title of the United States if notice of the sale is given, in writing, by registered or certified mail, or by personal service to the District Director's office, Attention, Chief, Special Procedures function, before such sale. The proceeds (exclusion of costs) of the sale shall be held as a fund, for not less than

30 days after the date of the sale, subject to the liens and claims of the United States, in the same manner and with the same priority as the liens and claims of the United States had with respect to the property sold.

(2) The notice of sale of perishable goods shall contain the same information required in IRM 535(20).1.

(3) If the seller fails to hold the proceeds of the sale in accordance with the provisions of IRC 7425(c)(3), the seller shall be personally liable to the United States for an amount equal to the value of the interest of the United States in the fund. However, even if the proceeds of the sale are not so held by the seller, but all the other provisions are satisfied, the buyer of the property at the sale takes the property free of the liens and claims of the United States.

(4) In the event of a postponement of the scheduled sale of perishable goods, the seller is not required to notify the District Director of the postponement. For provisions relating to the authority of the District Director to discharge property subject to a tax lien in the case where the proceeds of the sale are held as a fund subject to the liens and claims of the United States, see IRM 535(14).2.(5).

535(20).62 (11-15-85)

Definition of Perishable Goods

For the purpose of this subsection, the term "perishable goods" means any personal property which, in the reasonable view of the person selling the property, is liable to perish or become greatly reduced in price or value by keeping, or cannot be kept without great expense.

535(20).7 (11-15-85)

Consent to Nonjudicial Sale of Property Free of Lien

535(20).71 (11-15-85)

General

(1) Despite the instructions in IRM 535(20).1 regarding the timeliness and adequacy of a notice of sale, a nonjudicial sale of property shall discharge or divest the property of the lien or title of the United States if the district in which the sale occurs consents to the sale of the property free of the lien or title.

(2) Consent to the sale may be given when adequate protection is afforded the lien or title. Protection is considered adequate if,

(a) taxpayer has no equity in the property,

535(20).3

MT 5300-1

(b) proceeds of sale are substituted as provided in IRM 535(14) (5).

(c) taxpayer's interest in property is assigned to the District Director.

(d) assignment of proceeds in excess of prior encumbrances is secured, or

(e) any other circumstances acceptable to the District.

(3) The consent shall be effective only if given in writing and shall be subject to such limitations and conditions as may be required by the district.

(4) A consent to the sale of property under this subsection may not be given after the date of the sale.

(5) The right to redeem remains even though a consent to the sale is given.

(6) The consent to a sale under IRC 7425 shall be approved by the District Director. It is suggested that this authority be redelegated to the Chiefs, Collection Division, Special Procedures function, and Field function in those cases that meet the criteria in IRM 535(20).73 and 535(20).71:(2).

535(20).72 (11-15-85)

Application for Consent

(1) Any person desiring the District Director's consent to sell property free of a tax lien or a title derived from the enforcement of a tax lien of the United States in the property shall send a written application in triplicate.

(2) The application should be referred to the internal revenue district in which the sale is to occur and must declare that it is made under penalties of perjury.

(3) The application shall contain the information required in the case of a notice of sale. See IRM 535(20).2.

(4) A statement of the reasons why the consent is desired shall be included in the application.

535(20).73 (11-15-85)

Processing Applications

(1) Upon receiving an application for consent by the Special Procedures function, an initial determination as to the kind of property, personal or real, should be made.

(2) As a general rule, consent may be given without a field investigation if the property is of nominal value or is consumer's goods.

(3) If the property is real in nature and the Government's interest is \$5,000 or less, as a general rule, consent to the sale should be

given. Assistant Regional Commissioners (Collection) are authorized to increase the minimum liability amount to \$7,500 in certain districts where local law, economic conditions, or other factors make formal investigations for lesser liabilities economically not feasible. Such increases will be authorized by the Assistant Regional Commissioner (Collection) in writing on a district-by-district basis.

(4) If the property is real in nature and the Government's interest is more than \$2,500 the application for consent should be investigated to determine the most feasible administrative action to be taken in accordance with the adequate protection requirements of IRM 535(20) 1:(2).

535(20).74 (11-15-85)

Form of Consent

(1) When it has been determined that consent to a nonjudicial foreclosure sale will be given, the consent letter, prepared in triplicate by the Special Procedures function, will contain the following:

(a) name and address of person requesting consent.

(b) restatement of Internal Revenue Code authority (7425(c)(2)).

(c) detailed description of property to be divested.

(d) description of lien(s) to be divested.

(e) unpaid balance of lien, including interest, lien fees, etc.

(f) place and date notice of lien filed.

(g) statement that surplus proceeds are subject to the lien of the United States.

(h) signature of District Director.

(2) The copies of the consent letter shall be disposed of as follows:

(a) original and duplicate to requestor.

(b) triplicate to be associated with related notice of lien.

(3) If it is determined that consent to the sale should not be given, Chief, Special Procedures function, shall prepare in triplicate a letter of nonconsent containing the following:

(a) name and address of person requesting account.

(b) restatement of IRC 7425(c)(2).

(c) recommended alternate procedure (discharge of property, substitution of proceeds of sale, etc.)

(d) signature of District Director.

535(20).8 (11-15-85)
**Determining the Date of
Nonjudicial Sale**

(1) In order to compute any period of time with reference to the date of sale, the date of the sale shall be determined in accordance with the following rules:

(a) In the case of divestment of junior liens on property resulting directly from a public sale, the date of sale is deemed to be the date the public sale is held, regardless of the date under local law on which junior liens on the property are divested or the title to the property is transferred.

(b) In the case of divestment of junior liens on property resulting directly from a private sale, the date of sale is deemed to be the date title to the property is transferred, regardless of the date junior liens on the property are divested under local law, and

(c) In the case of divestment of junior liens on property, not resulting directly from a public or private sale, the date of sale is deemed to be the date on which junior liens on the property are divested under local law.

535(20).9 (11-15-85)
**Processing Notices of Nonjudicial
Sales**

(1) To determine the time available for a revenue officer to conduct the investigation, Special Procedures function (SPf) should request District Counsel to provide the redemption periods applicable under local law.

(2) Screen "adequate" notices of sale against the notice of lien files to determine the balance due on the lien(s) which gave rise to the notice. If the unpaid balance is less than \$5,000, or the items to be sold are consumer goods (defined as goods used or bought primarily for personal, family or household purposes), as a general rule, no formal investigation should be required. However, a copy of the notice of sale should be given to the person charged with the Taxpayer Delinquent Account (TDA) to decide what further action should be taken. If the case does not appear on IDRS, has been reported currently not collectible or is assigned to ACS the SPf file will be so noted. Assistant Regional Commissioners (Collection) are authorized to increase the minimum liability amount to \$7,500 in certain districts where local law, economic conditions, or other factors make formal investigations for lesser liabilities

economically not feasible. Such increases will be authorized by the Assistant Regional Commissioners (Collection) in writing on a district-by-district basis.

(3) After acknowledgment of the receipt of an adequate notice of sale, as described in IRM 535(20) 4, SPf should determine the need for an investigation. This determination should be made on the basis of local circumstances. Such factors as indicated in (2) above, knowledge of the area, property values, etc., should be considered.

(4) The Chief, SPf, shall issue a courtesy investigation (Form 2209) no earlier than thirty days prior to the scheduled date of sale.

(5) The revenue officer need not attend the sale, unless specifically directed by SPf. Attendance should be requested only in unusual cases. The necessary information may generally be secured from the seller or seller's agent immediately after the sale.

(6) In the event the sale produces an amount in excess of prior encumbrances (surplus proceeds), a notice of levy, or other written notice of liability, may be used to reach this surplus.

(7) The Report of Investigation (IRC 7425 and 2410 USC) will be prepared to provide a basis for a recommendation to exercise the right of redemption. The redemption period may be as little as 120 days and would therefore require prompt completion of investigations and processing of recommendations.

535(20).(10) (11-15-85)
**Right to Redeem Property Sold at
Nonjudicial Sale**

IRC 7425(d) provides for the redemption by the Government of real property sold in a nonjudicial proceeding when such sale is made to satisfy a lien that is prior to the United States. The period for redemption is 120 days, or the period provided by State law, whichever is longer.

535(21) (11-15-85)
**Government as Party to Judicial
Sale Proceeding**

535(21).1 (11-15-85)
General

(1) Section 2410 of Title 28 of the United States Code is the authority under which the United States consents to be sued in actions affecting property in which it has a lien or interest.

(2) Section 2410 is a consent statute only and was expanded under Public Law 89-719 to permit the joinder of the United States in suits to quiet title, to foreclose a mortgage or other lien upon, to partition, to condemn, or interpleader suits, or suits in the nature of interpleader with respect to property on which the United States has or claims a mortgage or other lien.

535(21).2 (11-15-85)
Right to Redeem Property Sold at Judicial Sale

(1) When a foreclosure action, to which the United States has been made a party, involves an encumbrance which is prior in right to the Government's lien, the judicial sale has the same effect on the Government's lien as it would upon any other junior lien under the local law of the place where the property is situated, i.e., the junior tax lien is extinguished on that particular property. The law of the United States with respect to a lien arising under the internal revenue laws allows a period of not less than 120 days or the period allowable for redemption under State law, whichever is longer, to exercise its right of redemption in the case of real property.

(2) If the foreclosure action involves an encumbrance which is junior to the Government's lien, the sale of the property may be made without disturbing the lien of the United States unless the United States agrees that the property be sold free and clear of its liens, in which event the proceeds are distributed according to the priorities of the interests of the various parties involved.

(3) While the sale of property under 28 USC 2410 by the holder of a superior lien has the effect of discharging property involved from the Federal tax lien, the Government's rights have not ended at this point. In many cases the property will be sold for an amount more than sufficient to satisfy the mortgage or other liens which are prior to those of the United States. In such cases action should be taken to obtain the surplus proceeds for application to the taxpayer's account.

(4) This still does not terminate the Government's rights; 28 USC 2410(c) provides that where a sale of real estate is made to satisfy a lien prior to that of the United States, the United States shall have not less than 120 days from the date of sale within which to redeem. This provision gives the Service time to investigate and determine whether it would be to the ad-

vantage of the United States to redeem the property so that it might be resold for more than the cost of redemption with the resulting benefit to the Government. A principal consideration in such an investigation entails a determination as to whether the value of the property sold in the foreclosure proceeding is reasonably in excess of the amount required to effect the redemption.

535(21).3 (11-15-85)
Processing Joinders in Judicial Foreclosures

(1) Where the United States is joined in a Section 2410 (Title 28, USC) suit to foreclose a mortgage or other lien and the district director is served with a summons and complaint, the face of the summons and complaint will be stamped to show the date and exact hour of service. A copy of the summons and complaint should be transmitted by the Chief, Special Procedures function (SPf) to the U.S. Attorney for the judicial district in which the suit has been brought. To expedite the securing of data necessary for the U.S. Attorney to make an answer or other pleading within 60 days of service, the Chief, SPf should initiate the research and investigative action identified below before receipt of the request from the U.S. Attorney by retaining a copy of the summons and complaint.

(2) Where the U.S. Attorney is served with a summons and complaint, the U.S. Attorney will forward a copy of it, along with a request for the information needed to prepare an answer, to the district director, Attention: Chief, Special Procedures function. The request will be promptly screened against the notice of lien files to determine the balance due on the lien(s) which gave rise to the joinder of the United States in the proceedings. In cases where the records indicate no outstanding tax lien, the district director will advise the U.S. Attorney of that fact, and the U.S. Attorney will file a disclaimer on behalf of the United States.

(3) If the unpaid balance is less than \$5,000, as a general rule, no formal follow up investigation will be required. Assistant Regional Commissioners (Collection) are authorized to increase the minimum liability amount to \$7,500 in certain districts where local law, economic conditions, or other factors make formal investigations for lesser liabilities economically not feasible. Such increases will be authorized by

MT 5300-1

535(21).3

IR Manual

the Assistant Regional Commissioners (Collection) in writing on a district-by-district basis.

(4) In cases where the unpaid liability is not large enough to justify a formal follow up investigation, the district director will furnish any information requested by the U.S. Attorney. The U.S. Attorney will take the legal action deemed appropriate. The Chief, SPI will not maintain a follow-up for redemption determination purposes on these cases. The person charged with a Taxpayer Delinquent Account will be advised of the foreclosure action along with the response to decide what further action should be taken.

(5) In cases where the unpaid liability is large enough to justify a formal investigation, SPI will immediately establish a file. SPI will supply the U.S. Attorney with any information requested to prepare an answer to the summons and complaint.

(6) SPI will follow up every 30 days with the U.S. Attorney or the clerk of the court until a date of sale is established or the liability is reduced and is no longer large enough to justify a formal investigation. In those jurisdictions where the government is afforded at least 6 months to make a redemption, these follow ups may be conducted on a quarterly basis.

(7) SPI generally will not issue a Courtesy investigation, for the purpose of determining whether or not to exercise the right of redemption, more than 30 days prior to the scheduled date of sale. An effort should be made to issue the investigation no more than 30 days after the sale is completed, thus allowing the maximum amount of time to complete the redemption process.

(8) Revenue officers will provide a completed Form 4376, Report of Investigation (IRC 7425 or 2410 USC) and the original history sheet along with any other information requested by the U.S. Attorney to the Chief, SPI by the date specified in the Form 2209. In cases where it appears that redemption may be feasible, revenue officers will retain the Form 2209 along with the original Form 4376 and send a copy of the Form 4376, and any other information requested by the U.S. Attorney to the Chief, SPI by the due date of the Form 2209. The procedures in IRM 535(22):3 and (4) will then be followed after the sale is held.

535(21).3

IR Manual

MT 5300-1

535(22) (11-15-85)

Investigation Guidelines—Judicial and Nonjudicial Sales

(1) If the sale is of real property, the revenue officer will determine whether to recommend the exercise of the right of redemption. Form 4376, Report of Investigation (IRC 7425 or 2410 USC), will be used for this purpose. See Exhibit 5300-11. Upon completion, Form 4376 and the history sheet will be forwarded to the Special Procedures function (SPf).

(2) When considering whether to recommend redemption,

(a) determine by observation, independent appraisal (or both), the fair market value of the property, and

(b) search local records to determine what encumbrances are prior to the foreclosing instrument, and the amounts outstanding on such encumbrances.

(3) If the amount bid on the property, plus the amount of all encumbrances prior to the foreclosing interest equals or exceeds the fair market value of the property, the revenue officer should close the investigation and report his or her findings to SPI.

(4) When the fair market value reasonably exceeds the sum of the amount paid by the purchaser and the amount of all liens senior to the foreclosing encumbrance, redemption of the property should be considered. At any time while redemption is under consideration, Collection personnel should be alert to whether liens prior to the foreclosing encumbrance are outstanding and, if so, whether arrangements have been made to satisfy or make payments on them. The Service has no authority to use the Revolving Fund to make direct payments on such encumbrances.

(5) If the revenue officer decides tentatively to recommend redemption, he or she will:

(a) notify the purchaser of his or her rights; and,

(b) locate parties who may be interested in submitting agreements to bid for the property.

535(23) (11-15-85)

Reimbursement for Payments to a Senior Lienor

535(23).1 (11-15-85)**General**

(1) Regulations under IRC 7425(d) provide that whenever redemption is contemplated, the Service must notify the purchaser (or successor in interest) of property at a foreclosure sale that:

(a) the purchaser (or successor in interest) has the right to request reimbursement for certain payments made to a senior lienor, and,

(b) if the Government redeems the property and the purchaser (or successor in interest) has submitted a reimbursement request that meets the requirements of the regulations, he or she has the right to be reimbursed for such payments.

(2) The regulations governing reimbursement for payments to a senior lienor impose certain special requirements on both the Service and the purchaser and, therefore, must be viewed separately from those that govern other amounts to which the purchaser may be entitled if the property is redeemed.

(3) The Service's notice to the purchaser must be hand-delivered or sent by certified or registered mail. Pattern Letter P-597 should be used for this purpose. See Exhibit 5300-12.

535(23).2 (11-15-85)**Payments to Senior Lienor for Which Reimbursement May Be Requested**

(1) A purchaser (or successor in interest) of real property at a foreclosure sale may request reimbursement for:

(a) a payment of principal or interest to a holder of a lien that was, immediately before the foreclosure sale, senior to the lien foreclosed, and/or,

(b) a payment by an escrow agent of a real property tax or special assessment lien which was senior to the lien foreclosed.

(2) No later than 15 calendar days after the Service sends the notice described in IRM 535(23).1, the purchaser's request for reimbursement must be mailed or delivered to the IRS office specified in the notice. The request must consist of:

(a) a written, itemized statement, signed by the claimant, of the amount paid to the senior lienor for which reimbursement is claimed, together with supporting evidence; and,

(b) a waiver or other document that will be effective, upon redemption, to:

1 discharge the property from any interest in or lien on the property arising under local

law with respect to the payment made to the senior lienor, or

2 transfer to the United States any such interest or lien.

(3) The Service will not reimburse a purchaser for payment to a senior lienor if the request is not timely mailed or delivered. However, if the purchaser shows reasonable cause, and the District Director consents, the purchaser may request an extension for a reasonable period to submit, amend or supplement a request for reimbursement. Any such extension request must be submitted before expiration of the applicable period for redemption.

(4) If the right to redeem is not exercised or a request for reimbursement is withdrawn, the revenue officer will promptly return to the purchaser (or successor in interest) the waiver or other document referred to in (2)(b) above by certified or registered mail or by hand delivery.

535(23).3 (11-15-85)**Review of Requests for Reimbursement**

(1) The revenue officer will review the request for reimbursement for adequacy and will promptly request the purchaser to correct any obvious defects. The request will then be referred through SPf to District Counsel for review.

(2) In the event the Service exercises its right to redeem the property, the amount requested for reimbursement will be approved and paid from the Revolving Fund unless the District Director notifies the purchaser that the Service has denied the amount claimed. Any such notification of denial must:

(a) be sent by certified or registered mail or hand-delivered within 30 calendar days after receipt of the reimbursement request, or 15 calendar days before expiration of the applicable period for redemption, whichever is later; and

(b) state the reason for such denial.

(3) Requests for reimbursement generally will be denied only in cases where:

(a) the reimbursement request was not timely delivered and reasonable cause was not shown; or

(b) the waiver or other document required to be submitted with the reimbursement request was not submitted or was unsatisfactory; or

(c) evidence of payment to a bona fide senior lienor was not submitted or was unsatisfactory.

535(24) (11-15-85)
Soliciting Agreements to Bid

535(24).1 (11-15-85)
General

Before recommending redemption of real property, the revenue officer must obtain at least one offer to bid on the property. The revenue officer may mail the Pattern Letter P-1879 shown in Exhibit 5300-7 to each name shown on the public auction bidders list maintained in his/her district office to solicit these bids. The offer, which must be reduced to a written agreement to bid, should be for an amount that is sufficient to ensure that redemption will be in the Government's interest. The revenue officer should give the prospective bidder the opportunity to inspect the property and to inquire about its condition and title, and should ensure that the agreement is consistent with the method by which the Government intends to sell the property.

535(24).2 (11-15-85)
Commercial Advertising

(1) The judicious use of commercial advertising to solicit bids may broaden the field of potential bidders at the sale of redeemed property. Advertising should be considered before the property is redeemed and must be approved in advance by the group manager.

(2) The advertisement, regardless of size, should be limited to a statement such as, "Prospective Purchasers of Real Property . . . the Internal Revenue Service is considering the redemption of real property located at (given address) . . . Parties interested in purchasing the property after redemption should telephone (give number)."

(3) The expense of advertising for agreements to bid will be satisfied from the Program Costs Account, Sub-object Class 2504, Expenses of Seizure and Sale (Exhibit 5 of IRM 1623, Financial Management Code Handbook). The voucher should reflect "Direct Charge to Activity 42."

(4) The taxpayer's account will not be debited for these expenses even if the property is not sold.

535(23).3
IR Manual

MT 5300-1

535(24).3 (11-15-85)
Deposit Submitted With Agreement to Bid

(1) To secure performance under an agreement to bid, a minimum deposit of 20 percent of the agreed bid is required. The agreement itself should include a provision which allows the government to retain the deposit tendered pending the resolution of any default situation that may arise at the redemption sale.

(2) The deposit should be made by a certified, cashier's or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States or under the laws of any state, territory, or possession of the United States, or by a postal, bank, express, or telegraph money order.

(3) Certificates of Deposit and irrevocable letters of credit are also acceptable if approved in advance by district counsel. However, care should be exercised in accepting and monitoring such instruments because of the period of time in which they are negotiable is generally limited.

(4) Upon receipt of a bid deposit, prepare Form 2276, Collateral Deposit Record, identifying the remittance as an "agreement to bid deposit." The remittance and Form 2276 will be submitted to the cashier for safekeeping.

535(25) (11-15-85)
Processing Recommendations to Exercise Redemption Right

535(25).1 (11-15-85)
Special Procedures Function Activity

(1) Upon receipt of the revenue officer's report, which must indicate that a prospective purchaser(s) has been secured, the Chief, Special Procedures function, shall review it for sufficiency, sign Form 4376, Report of Investigation (IRC 7425 or 2410 USC), and:

(a) assign a serial number to the case. The serial number shall be prefixed by the region and district location code and the symbol "RED" followed by the next sequential four digit figure, e.g., 852RED0001. The sequential numbering shall be begun with 0001 in each district.

(b) prepare Case Index Card—Special Procedures function (Form 4208) by completing applicable sections. The assigned serial number shall be entered on Form 4208.

(c) the following information shall be included under Action Taken or Required section of Form 4208 part 2:

- 1 date of redemption.
- 2 amount redeemed for.
- 3 amount sold for by Government.
- 4 amount of tax liability satisfied.
- 5 date and place certificate recorded.

(d) the transactions entered in items (c) 1 through 5 above will be forwarded to Assistant Regional Commissioner (Collection) upon completion.

(2) When it is determined the redemption will be made, the Chief, SPf shall *immediately* forward an original and one copy (with enclosures) of the revenue officer's report to District Counsel for approval of the determination of the amount necessary to redeem and determination of the title the United States will acquire from purchaser if redemption is made. The transmittal to District Counsel should be made as soon as possible, but not later than 60 days from the date of the sale. Upon such determination by District Counsel, two copies of the revenue officer's report and District Counsel's determination will be forwarded to the Assistant Regional Commissioner (Collection) with cover memorandum prepared in duplicate by SPf for signature by the district director. The cover memorandum will request an advance from the revolving fund as authorized by IRC 7810 and will provide the following information extracted from the revenue officer's report:

- (a) serial number.
- (b) amount required to redeem.
- (c) date of sale and date redemption right expires.
- (d) forced sale value.
- (e) date funds required.
- (f) amount prospective purchaser will pay for property.
- (g) approximate repayment date.
- (h) name and address of taxpayer.

535(25).2 (11-15-85)

Advance From Revolving Fund

Upon receipt and approval of the request from the District Director, the ARC shall furnish a copy of the report to the appropriate Fiscal Management Office and request the funds to be made available to the employee to whom the check is to be delivered.

535(26) (11-15-85)

Tender of Amount to Redeem

535(26).1 (11-15-85)

Definition

Tender is defined as a proffer of money. There must be an actual proffer of money as distinguished from mere proposal or proposition to proffer it.

535(26).2 (11-15-85)

Proffer of Money

(1) The employee who has been designated to tender the amount required to redeem should be accompanied by at least one witness, preferably by a Special Procedures advisor or technician or an attorney from District Counsel.

(2) In the event that the tender to redeem is refused, a joint report of the transaction should be prepared and forwarded through the Special Procedures function to District Counsel for an advisory opinion and guidance as to the next action to be taken in contemplation of local law procedures.

(3) The report should include a request for instructions as to the immediate disposition of the check that had been tendered, i.e., deposit in Director's account, pay into Registry of a Court, etc.

(4) See IRM 535(27).2 for preparation and disposition of certificates.

535(26).3 (11-15-85)

Proper Person

It is essential that a timely tender of the amount required to redeem be made to the proper person. Even if the person who purchased the property at the foreclosure sale conveys it to another, the Service may still redeem the property from the subsequent purchaser. The advice of District Counsel should be solicited to ascertain the proper party and amount to be tendered.

535(26).4 (11-15-85)

Amount To Be Paid

(1) In any case in which the United States redeems real property under 28 USC 2410 or IRC 7425, the amount to be paid for such property shall be the sum of—

(a) the actual amount paid by the purchaser at such sale (which, in the case of a purchaser who is the holder of the lien being foreclosed, shall include the amount of the obligation secured by such lien to the extent satisfied by reason of such sale).

MT 5300-1.

535(26).4

IR Manual

(b) interest on the amount paid (as determined under (a) above) at 6 percent per annum from the date of such sale.

(c) the amount (if any) equal to the excess of the expenses necessarily incurred in connection with such property after the sale but before redemption, over the income from such property plus (to the extent such property is used or allowed to be used by the purchaser) a reasonable rental value of such property, and

(d) the amount, if any, of a payment made by the purchaser (or successor in interest) after the foreclosure sale to a holder of a lien senior to that foreclosed.

535(27) (11-15-85) Certificate of Redemption

535(27).1 (11-15-85) General

(1) If a district director exercises the right of redemption he or she shall apply to the officer designated by local law for the documents necessary to evidence the fact of redemption and to record title to the redeemed property in the name of the United States.

(2) If no such officer has been designated by local law, or if the office so designated fails to issue the necessary documents, the district director is authorized to issue the certificate of redemption.

535(27).2 (11-15-85) Preparation and Disposition of Certificate

(1) District Counsel should provide the Chief, Special Procedures function (SPF), or other designated employee in charge of the function, instructions as to the form and control of the certificate to be used in each jurisdiction.

(2) The Certificate of Redemption may be prepared either before the check is delivered to the payee or immediately afterwards provided sufficient time exists to permit filing the certificate before the redemption period expires.

(3) The certificate will be prepared in duplicate by SPF and disposed of as follows:

(a) original to be filed with recording official.

(b) duplicate to be retained by SPF.

(4) SPF will be responsible for periodic follow-up action until the redeemed property is disposed of.

535(26).4 IR Manual

MT 5300-1

535(27).3 (11-15-85) Filing Certificate

(1) The district should promptly cause the certificate to be recorded in the proper registry of deeds.

(2) If the State in which the real property is redeemed has not designated an office in which the certificate may be recorded, the certificate shall be filed in the office of the clerk of the United States District Court, for the judicial district in which the redeemed property is situated.

(3) District Counsel should be requested to indicate the proper place for recording the certificate in each jurisdiction.

535(28) (11-15-85) Taxpayer Rights

535(28).1 (11-15-85) Erroneously Filed Notice of Federal Tax Lien

(1) On rare occasions, Form 668 may have been erroneously filed and although the lien(s) is timely released the fact of filing impairs the availability of credit to the taxpayer. When such a situation is identified either by Service personnel or the taxpayer, Pattern Letter P-544 should be prepared and furnished to the taxpayer. See Exhibit 5300-13.

(2) The letter should be signed by the district director or persons authorized to sign on his/her behalf only after the underlying liability has been fully satisfied. It is recommended that the authority be delegated to the Chief, Collection function and Chief, Special Procedures function.

(3) These guidelines are to be applied immediately upon becoming aware that a Form 668 should not have been filed.

535(28).2 (11-15-85) Definition of Terms

(1) An improvident filing generally refers to a situation where the filing is proper under the provisions of the Code and regulations but procedural guidelines were not adhered to or good business practice was not applied. Some examples of improvident filing are:

(a) although no mention was made of filing a Notice of Lien when a taxpayer was granted 30 days to pay a liability, the Notice of Lien was inadvertently filed prior to the 30 days without contact or any indication of jeopardy.

(b) the responsibility unit has actual knowledge that the taxpayer has a credit available that would satisfy the liability. The credit could be from overpayment, adjustment, carryback, etc. Normal good business practice would not require a Notice of Lien to be filed.

(2) An erroneous filing generally refers to a situation where the filing is improper under the provisions of the Code and regulations and the Notice should never have been filed. Some examples of erroneous filing are:

(a) the taxpayer had fully satisfied the liability by payment but because of procedural difficulties that information was not available to the responsibility unit and a Notice of Lien was improperly filed.

(b) the taxpayer by either administrative or judicial adjudication has, prior to assessment, been found not liable for the tax.

(3) The examples cited are not intended to be all-inclusive. There will be instances where a clear-cut determination as to whether a filing is improvident or erroneous cannot be readily made. In such situations the Special Procedures function should be consulted for guidance.

535(28).3 (11-15-85)

Certificates of Release of Federal Tax Lien

(1) Pattern Letter P-544 does not have the legal effects provided in IRC 6325(f). It cannot be considered as a substitute or issued in lieu of a certificate of release or any other certificate authorized by IRC 6325.

(2) Parts 5 and 6 of Form 668, Certificate of Release of Federal Tax Lien, must be executed before Pattern Letter P-544 is furnished to the taxpayer. This should be accomplished immediately upon verification that the liability has been satisfied and that the filing was improvident.

(3) Even though it is determined that the filing was clearly erroneous, a certificate of release must be executed before Pattern Letter P-544 is furnished to the taxpayer.

(4) In either of the above situations, collection of the filing and/or release fee may be waived.

535(29) (11-15-85)

Notice of Lien on Automated Systems

535(29).1 (11-15-85)

General

(1) Some districts have converted to a system of automated lien files. These districts will use Form 668(Y), Notice of Federal Tax Lien Under Internal Revenue Laws, and Form 668(Z), Certificate of Release of Federal Tax Lien, in lieu of the snap set or pin-feed assemblies, Forms 668 and 668(C).

(2) This section explains the processing requirements for Forms 668(Y) and 668(Z). For the sake of simplicity and brevity, the instructions herein are limited to those that differ from those given in the prior sections for the Forms 668 and 668(C). For any lien processing instructions not explained in this section, relevant instructions in the prior sections are applicable.

535(29).2 (11-15-85)

Form 668(Y), Notice of Federal Tax Lien Under Internal Revenue Laws, and Form 668(Z), Certificate of Release of Federal Tax Lien

(1) Form 668(Y) is a three-part, continuous feed assembly.

(a) Part 1—to be furnished to and retained by the recording office.

(b) Part 2—To be furnished to the recording office which will annotate fact of filing data and return to the Special Procedures (SP) function. SP will enter the fact of filing data into the system and forward with part 2 to the responsibility unit for association with the related case file. If a release is subsequently needed, the responsibility unit will annotate the necessary release data in the appropriate blocks on the reverse of part 2 and forward it to the Special Procedures function.

(c) Part 3—To be furnished to the taxpayer.

(2) Form 668(Z) is a single page, marginally-punched continuous feed release document. SP will enter into the system the release data from the back of the Form 668(Y), part 2, received from the responsibility unit. The system will generate a Form 668(Z) to be furnished to the recording office.

535(29).3 (11-15-85)

Request for Notice of Lien

(1) When an employee who has been designated to make lien determinations wishes to file a lien, it can be done either by forwarding a

request to Special Procedures or by dictating the pertinent data via a central dictation system. The data will be transcribed onto the computer and a Form 668(Y) generated.

(2) Depending on the method settled upon, the generated Form 668(Y) can either be routed back to the responsibility unit for proofreading, signature and filing, or it can be proofed and signed in Special Procedures and parts 1 and 2 forwarded directly to the recording authority. Part 3 is furnished to the taxpayer. When part 2 is returned, the fact of filing confirmation data is entered into the system. Part 2 is then forwarded to the responsibility unit for association with the case file. Confirmation to the responsibility unit that the lien was generated and forwarded to the recording authority normally should not be necessary unless significant delays are experienced in obtaining the receipted parts 2 back.

(3) Serial number assignment can be done by the system at the time the data is input and the Form 668(Y) generated. Liens not created on the system (i.e., emergency liens prepared in the field and ACS prepared liens) will have to be input to the system to establish a file record. However, no lien form will be generated. The serial number can be applied to those liens at the time of input.

535(29).4 (11-15-85)

Request for Release of Lien

The responsibility unit can request generation of a Form 668(Z), Certificate of Release of Federal Tax Lien, by entering the release data in the space provided on the back of part 2 and forwarding it to Special Procedures. When that data is input to the computer, a single copy release document will be generated to be forwarded to the recording authority. Generation of the release document will establish a release indicator in the file record. The program will also cause establishment of an indicator for those modules that "self-expre".

535(29).5 (11-15-85)

Refiling Notice of Lien

(1) Due to low volume, there is not a pin-feed version of Form 668-F, Notice of Federal Tax Lien under Internal Revenue Laws.

(2) The procedures of IRM 535(11) apply except that in lieu of filing parts 2, 3 and 4, appropriate notational entries will be input to the sys-

535(29).3

IR Manual

tem in the same manner as for emergency liens prepared in the field. The system will establish a refile record on the file. In addition, the system will be programmed to periodically (monthly) analyze for approaching statute expiration dates and generate a listing of those modules for possible waiver and refiling determinations.

535(29).6 (11-15-85)

Notice of Lien Files

(1) To adequately guard against loss of data, the automated file must be suitably backed up. The backup file should be updated at least weekly. Backup media should be stored so it is protected from loss or destruction.

(2) Maintenance of a suspense file pending return of the receipted copy from the recording authority is no longer necessary. The file record on the system should have a fact of filing data element which will be input upon the return of the part 2 from the recording authority. As necessary, output can then be generated showing all the outstanding parts 2 at any time so that follow up can be made with the recording authority.

(3) With the capacity for accuracy and the housekeeping abilities inherent in an automated system, the annual purge should not be necessary. The system can generate a periodic (monthly) listing of those modules approaching statute expiration; and subsequently, as modules "self-expre," an expired or released indicator will be established on the file record.

535(29).7 (11-15-85)

Filing of Notice in Another District

When a Notice of Lien is to be filed in another district, the procedures at IRM 5355.6 apply and Form 668, Notice of Federal Tax Lien Under Internal Revenue Laws, or 668(C), Final Demand must be used. This means that if a lien is received to file for another district, the data will have to be entered into the automated system.

535(29).8 (11-15-85)

Facsimile Signatures

(1) Facsimile signature imprinting devices may be employed on Forms 668(C), 668(Y) and 668(Z) generated in Special Procedures provided the following precautions are observed.

MT 5300-1

(a) There must be a system in place for assuring that requests for filing of Notices of Lien are initiated (or approved) only by those employees who have been designated to make lien determinations.

(b) Management must be assured that a high level of document quality and accuracy is being maintained.

(c) Appropriate physical security must be maintained over the signature imprinting plates or stamps. Also, there must be adequate supervision over use of the plates and operation of the equipment to ensure against unauthorized use.

(2) The person whose signature is imprinted on the liens is, ultimately, accountable for those liens and ensuring that the precautions above are being observed.

535(29).9 (11-15-85)

Lien Fees

(1) It is recommended that offices having an automated lien file attempt to negotiate with the appropriate recording authorities to establish an automated, periodic (monthly) vouchering system.

(2) Input of lien fees to IDRS may be accomplished by having the system generate a periodic listing to be forwarded to Centralized Services for input.

535(29).(10) (11-15-85)

Lien Filed Indicators

(1) To expedite the processing of computer generated Notices of Lien, lien filed indicators should be input on all liens by having the system generate a periodic listing to be forwarded to Centralized Services for input.

(2) Reversal of Lien Filed Indicators can be accomplished in a similar manner.

535(29).(11) (11-15-85)

CP-528 Notices

(1) Generally, the procedures of IRM 539(10).42 for processing CP-528 notices apply to automated files. A Tax Account Representative (TAR), or other employee will work the notices by updating the satisfied modules on a system terminal. Once notices have been worked, there is no need to retain them.

(2) "SAT 53 MOD" transcripts should also be worked as described in (1) above.

535(29).(12) (11-15-85)

Security Considerations

(1) Those offices having a computerized lien file should assure appropriate levels of security in the following general areas.

(a) Limited access to work area where equipment is contained and to the equipment itself.

(b) Safeguards within the system to prevent unauthorized operation.

(c) Safeguards within the system to inhibit the intentional or unintentional modification of programs.

(d) Appropriate redundancy of both software and hardware to assure adequate backup in case of malfunction, destruction, etc.

(e) Assurance that system inputs and outputs are, in fact, requested by authorized persons.

(2) References are IRM 1(16)41, Physical and Document Security Handbook, IRM 1(16)13, Computer Systems Security Standards Handbook, IRM Exhibit 5400-2.

535(30) (11-15-85)

Delegation of Authority

See Exhibit 5300-18 for suggested delegation of authority applicable to IRM 5300.

5360 (11-15-85)

Levy on Third Parties

5361 (11-15-85)

Introduction and General Concepts

(1) Under the Internal Revenue Code, levy is defined as the power to collect taxes by distraint or seizure of the taxpayer's assets. Through levy, we can attach property in the possession of third parties or the taxpayer. Generally, a notice of levy is used to attach funds due the taxpayer from third parties. Levy on property in possession of the taxpayer is accomplished by seizure and public sale of the property. There is no statutory requirement as to the sequence to be followed in levying, but it is generally more effective to levy on funds in possession of third parties.

(2) Levy authority is far reaching. It permits a continuous attachment of the non-exempt portion of the wage or salary payments due the taxpayer, and the seizure and sale of all the taxpayer's assets except certain property that

MT 5300-1

5361
IR Manual

is specifically exempt by law. Prior to levying on any property belonging to a taxpayer, the Service must notify the taxpayer in writing of the Service's intention to levy. Letter 1058 (DO) may be used for this purpose. This notice is in addition to the notice and demand required by IRC section 6331(a) and must be: (a) given in person, (b) left at the dwelling or usual place of business of the taxpayer, or (c) sent by certified or registered mail to the taxpayer's last known address, no less than 10 days before the day of the levy, in all non-jeopardy situations. In most cases, prior to seizure of property on private premises, a consent to enter for the purpose of seizing or writ of entry from the local courts must be secured. See IRM 56(12).4.

(3) Procedures are designed (except in jeopardy cases) to give taxpayers a reasonable chance to settle their tax liabilities voluntarily before the more drastic enforcement actions are started.

(4) Publication 586A, The Collection Process (Income Tax Accounts), and Publication 594, The Collection Process (Employment Tax Accounts), are issued with the second notice to the taxpayer. The Collection employee who makes initial contact with the taxpayer will be responsible for presenting and explaining the appropriate publication if the above notices were not issued. The date the taxpayer is given the publication should be noted in the case history.

(5) Under the self-assessment system, a taxpayer is entitled to a reasonable opportunity to voluntarily comply with the revenue laws. This concept should also be followed in connection with levy action. This does not mean that there should be a reluctance to levy if the circumstances justify that action. However, before levy or seizure is taken on an account, the taxpayer must be informed, by one of the three methods listed in (2), except in jeopardy situations, that levy or seizure will be the next action taken and given a reasonable opportunity to pay voluntarily. Once the taxpayer has been advised and neglects to make satisfactory arrangements, levy action should be taken expeditiously, but not less than 10 days after notice.

(6) In joint liability cases where the spouses reside at different addresses and one of them did not receive the final notice, a final notice must be issued to that spouse before levying. If after levy on wages a spouse advises the Service that he/she was not residing at the joint

return address and did not receive the final notice, the levy should be released. A final notice should be issued to that spouse and no collection action taken until the 10-day response period expires.

(7) A notice of levy should be served only when there is evidence or reasonable expectation that the third party has property or rights to property of the taxpayer.

(8) When it is determined that levy action is required, consideration should also be given to the possible problems that might arise as a result of the levy. It may be that the action will directly affect innocent third parties. For example, the seizure of a going business will affect the taxpayer's employees, or the seizure of the proceeds of public exhibitions may cause entertainers not to perform and thereby directly affect the paying customers. See 56(12) 1 and Policy Statement P-5-34. Such circumstances should be discussed with the group manager in reaching a decision concerning seizure action.

5362 (11-15-85)

Statutory Authority to Levy

(1) IRC 6331 provides that if any person liable to pay any tax neglects or refuses to pay the tax within 10 days after notice and demand, the tax may be collected by levy upon any property or rights to property belonging to the taxpayer or on which there is a lien provided by IRC 6321 or IRC 6324.

(2) IRC 6331 also provides that if the Secretary determines that the collection of tax is in jeopardy, immediate notice and demand for payment may be made and, upon the taxpayer's failure to pay the tax, collection may be made by levy without regard to the 10-day period. However, if a sale is required, a public notice of sale may not be issued within the 10-day period unless IRC 6336 (relating to sale of perishable goods) is applicable.

(3) Under the IRC, the term "property" includes all property or rights to property, whether real or personal, tangible or intangible. The term "tax" includes any interest, additional amount, addition to tax, or assessable penalty, together with any cost that may accrue.

(4) Generally, property subject to a Federal tax lien which has been sold or otherwise transferred by the taxpayer, may be levied upon in the hands of the transferee or any subsequent transferee. However, there are exceptions for securities, motor vehicles and certain retail and casual sales. See IRM 5353.2.

5361

MT 5300-1

IR Manual

(6) If a taxpayer's disregard for payment responsibilities makes successive levies necessary, the Collection employee manager's concurrence should be secured and documented in the case file.

5363 (11-15-85)**Delegations of Authority**

Regulations under IRC 6331 delegate the levy authority to the district director. For efficient administration, levy authority should be delegated to the lowest practical operating level. See Exhibit 5300-18 for suggested delegations of authority.

5364 (11-15-85)**Limitations on Levy****5364.1** (11-15-85)**Property Exempt From Levy**

(1) IRC 6334 enumerates the categories of property exempt from levy. Additional references are in LRG 314.5, 314.6 and 320.

(2) In addition, Public Law 89-538 exempts deposits to the special Treasury fund made by servicemen and servicewomen (including officers) and Public Health Service employees on permanent duty assignment outside the United States or its possessions.

(3) Except for the exemptions in (1) and (2) above, no other property or rights to property are exempt from levy. No provision of state law can exempt property or rights to property from levy for the collection of federal taxes. The fact that property is exempt from execution under state personal or homestead exemption laws does not exempt the property from federal levy.

5364.2 (11-15-85)**Bankruptcy or State Insolvency Cases**

(1) It is the practice of the Internal Revenue Service not to levy upon assets which are subject to administration by any court. Any property which is exempt from a proceeding by statute may be levied upon but levy action should not be taken until the Special Procedures function, after consultation with district counsel (if necessary), determines that such assets are not subject to administration by the court.

(2) Sometimes a receiver, trustee in bankruptcy, or other fiduciary in a court proceeding will try to prevent the sale of property levied upon before the proceeding began. Such person may attempt to obtain a turnover of the

property or may get an injunction to prevent sale of the property. These cases should be reported to SPI for referral to district counsel for an advisory legal opinion. The property should not be turned over until the opinion has been received from district counsel. See LRG 333.3.

5364.3 (11-15-85)**Certified Child Support Obligations**

(1) IRC 6305 provides for the assessment and collection of certified child support obligations (CSO). Levy action may be taken to collect CSO in the same manner, with the same powers, and subject to the same limitations as employment tax liabilities. However, the following exemptions under IRC 6334(a) do not apply:

- (a) unemployment benefits;
- (b) certain annuity and pension payments;
- (c) and, judgment for support of minor children. (Salary, wages or other income of an individual actually being withheld by reason of a garnishment pursuant to a judgment for the support of minor children will not be subject to levy).

(2) No interest or penalties shall be assessed or collected in CSO cases, except the penalty for tendering a bad check.

(3) Letter 1696 (P) (Exhibit 5300-14) advises the levy recipient that the levy exemptions outlined in (1) above do not apply. The pattern letter should be served with any levy on a CSO TDA.

(4) See IRM 53(10)16 for general procedures pertaining to child support obligations.

5365 (11-15-85)**Pre-Levy Action**

(1) If the taxpayer fails to respond to requests for payment, levy on property or rights to property of the taxpayer in the hands of a third party should be considered.

(2) Form 668-W, Notice of Levy on Wages, Salary, and Other Income, is used to attach amounts payable to or receivable by an individual as wages or salary for personal services, or as income derived from other sources. Form 668-A, Notice of Levy, is used to attach any other property or rights to property, belonging to the taxpayer, in the hands of a third party and not subject to the exemptions of Code section 6334(a)(9).

MT 5300-1

5365
IR Manual

(3) IDRS must be checked prior to issuance of a notice of levy to verify the balance due.

(4) The notice of levy forms contain the information necessary to meet all statutory requirements. The filing of a notice of tax lien is not mandatory prior to the service of a notice of levy on wages, salaries, commissions, or other compensation, bank accounts, or other simple contract debts in the hands of third parties.

5366 (11-15-85)
Levy on Wages, Salary and Other Income

5366.1 (11-15-85)
Limitations

(1) Levy on wages, salary and other income is limited as follows:

(a) an amount of \$75 per week is exempted from levy on wages and salary for personal services and other income for the taxpayer.

(b) an additional \$25 weekly is exempted for the spouse and each dependent listed by the taxpayer on the statement of exemptions.

(c) the levy, served on salary or wages for personal services, continues in effect until the liability for which it was served is fully satisfied or becomes unenforceable because the statutory period for collection expires. The levy is not continuous with respect to other income.

(d) Form 668-R, Release of Levy on Wages, Salary, and Other Income, must be issued promptly when the liability is fully paid or the statutory period for collection expires. See 536(13).2.

(e) income not paid or received on a weekly basis will, for the purposes of computing exemptions, be apportioned so that individuals will receive the proper exemption from levy. Part 8 of Form 668-W advises employers how to determine the amount of exemptions in such cases.

5366.2 (11-15-85)
Procedures for Levy on Wages, Salary and Other Income

(1) Salary or wages, for purposes of Form 668-W, includes all amounts receivable as remuneration for personal services rendered in the context of a work relationship.

(2) All information must be inserted on the 668-W. In addition to signing, it is advisable to print or type the initiator's name in the signature block.

5365
IR Manual

MT 5300-1

(3) Part 8 of Form 668-W contains instructions to the employer for responding to the notice of levy. When contact is made with the employer, the following instructions should be highlighted:

(a) continuous effect of the notice of levy;

(b) need for taxpayer to complete statement of exemptions within 3 workdays;

(c) requirement to employer to furnish taxpayer with the appropriate copies of the form within 2 workdays; and

(d) requirement to include the taxpayer's name, social security number, and the words "Levy Proceeds" on subsequent remittances.

(4) Failure by the taxpayer to timely complete and return the statement of exemptions to the employer will result in the taxpayer only being allowed the \$75 personal exemption for that pay period. The taxpayer must, however, be allowed at least three work days in which to complete and return the form. A taxpayer is required to submit an amended statement of exemptions if the number of dependents changes during any pay period the levy is in effect.

(5) Since notices of levy on wages, salary and other income may result in relatively small amounts being received as payment on the taxpayer's liability, it is important to immediately review the effect that levy payments will have on the collection of the full liability. A determination should be made whether it is in the best interests of the Service to permit the liability to be satisfied by the wages/salary levy, or if it is more desirable to utilize other collection methods, such as levy on a bank account, or seizure of property in the possession of the taxpayer.

5366.3 (11-15-85)
Additional Provisions for Levy on Wages, Salary and Other Income

(1) Immediate action must be taken to refund any excess collection received from service of Form 668-W. If the account for which the levy was made is fully paid when the remittance creating the excess collection is received, the check should be returned to the employer with Form 668-R. If only a portion of a remittance will be in excess of the amount needed to fully pay the account, the employer should be contacted and a check for the appropriate amount requested. If the excess remittance is applied to the taxpayer's account, an immediate refund of the excess amount will be made in accordance with existing procedures.

(2) Exemptions claimed by the taxpayer may not be consistent with those claimed by him/her for income tax filing purposes. Care should be exercised in not limiting claimed exemptions to those recorded on Form W-4, Employee's Withholding Allowance Certificate, since the taxpayer may claim less than the entitled number authorized in order to have a sufficient amount of tax withheld from wages to meet a projected annual tax liability. Taxpayers submit the statement of exemptions under penalties of perjury. The number of dependents claimed should be accepted as valid unless there is evidence to believe that it is excessive. If a dependency exemption is disallowed, the taxpayer and employer must be promptly notified in writing. The taxpayer should be required to present information to support any questionable exemption. If an exemption is disallowed, the taxpayer has a right to a review by a manager.

(3) Care must be exercised to assure that taxpayers are allowed the exemption for support of minor children (Code section 6334(a)(8)). If an exemption is allowed under section 6334(a)(8), there will be no \$25 exemption for the same dependent.

(4) If the unpaid liability is the result of a joint return and both husband and wife are currently employed, generally, the levy should be served on the spouse receiving the larger income.

(a) Levy on both spouses' income should be made only in flagrant or aggravated instances of neglect or refusal to pay. Managerial review and concurrence is required before levying on the second spouse.

(b) Each spouse is entitled to the \$75 personal exemption. Neither spouse can claim the other working spouse as a dependent, and only one spouse can claim the remaining exemptions. The statement of exemptions should be thoroughly reviewed to ensure that duplicate exemptions are not claimed.

(5) When it is determined that a taxpayer has income in addition to salary or wages, or receives salary or wages from two jobs, income from all sources must be reviewed and considered prior to serving Form 668-W.

(a) If the taxpayer is receiving exemptions on one levied source of income, and another Form 668-W is to be served, Letter 1697(P) (Exhibit 5300-15) should be served with the notice of levy. Letter 1697(P) informs the recipient that the exemptions under IRC 6334(a)(9) do not apply and that the levy attaches to the

taxpayer's take home pay (see Policy Statement P-5-29).

(b) The TDA history sheet must be noted to record the basis on which this determination is made.

(6) When more than one levy payment will be required to satisfy the amount of the levy, it will be necessary to monitor the taxpayer's account, so that the employer, or other person levied on, can be apprised of the amount needed on the final payment to satisfy the levy. When receipt of a payment indicates that the next remittance will satisfy the terms of the levy, the person levied upon should be apprised of the final remittance amount needed (tax, penalty, interest, and lien fees, if applicable) to fully discharge the liability. Form 668-R should be used for this purpose. The form advises the employer that upon payment of the designated amount, the levy is released.

5366.4 (11-15-85)

Service on Employers with Centralized Payrolls

(1) When Form 668-W is served on an employer with a centralized payroll system, Notice 484, Instructions to Employer With Centralized Payroll System for Processing Statement of Exemptions, is to be served with parts 1, 2 and 8 of Form 668-W. At the same time, Notice 483, Instructions to Employee Paid through a Centralized Payroll System for Submitting Statement of Exemptions, is to be delivered in person or mailed to the taxpayer with the parts 3, 5, 6, and 7 of Form 668-W. This advises the taxpayer of the service of the notice of levy and the importance of completing and returning the statement of exemptions to the appropriate local payroll representative.

(2) The above procedures will be followed when levies are served on the wages or salaries of Federal employees. But, along with the Notice 484, include Notice 28, Service of Notice of Levy by Mail on Agencies and Instrumentalities of the United States. See IRM 5369 and 536(15) for additional instructions.

5366.5 (11-15-85)

Continuous Levy File

(1) When two consecutive remittances have been received and the liability will be satisfied by the levy, the account will be transferred to the continuous levy file in the Service Center

MT 5300-1.

5366.5
IR Manual

Collection Branch (SCCB), after management concurrence.

(2) At local management discretion these accounts may be transferred after one remittance, if payments to the taxpayer are due monthly or less frequently. The levy source should understand the continuing effect of the levy.

5367 (11-15-85)

Service of Notice of Levy

5367.1 (11-15-85)

General

Notices of levy may be:

- (a) personally served (See IRM 5368); or,
- (b) mailed to the third party. See IRM 5369.

5367.2 (11-15-85)

Examination of Books and Records

(1) Regulations under IRC 6333 provide authority to examine the books and records of any person upon whom a notice of levy has been or is about to be served. Some persons in possession of taxpayer's property or rights to property are reluctant to permit the examination of their books and records without some sort of written instrument to retain in their files as evidence of the service's right to require that books and records be exhibited. The formal summons procedures provide for enforced examination of books and records but are time consuming and are not required when dealing with a cooperative person who merely wants a written statement for his/her records.

(2) Form 2270, Notice to Exhibit Books and Records, should be used in these cases. This form is not a summons and therefore should not be represented as a summons. The form is to be used only when dealing with a person willing to permit examination of his/her records but who wants a written statement. After service, the time and date of service and the name and title of the person served should be noted on the TDA history.

(3) IRC 7605(c) and related regulations prohibit examination of books and records of a church or convention or association of churches to determine a tax liability unless the organization is so notified at least 30 days in advance of the examination. However, in cases where tax has already been assessed, and a

levy has been made or is about to be made, IRC 6333 authorizes the Service to examine books and records containing evidence relating to property or rights to property subject to levy, without the requirement to notify a church in advance.

5368 (11-15-85)

Personal Service

(1) If the party served is a corporation or a partnership, the notice should be served on an officer or employee of the corporation or a member or employee of the partnership who is under duty to surrender the property or rights to property or discharge the obligation due under the levy. See IRM 536(14) for service of notice of levy in special cases.

(2) The collection employee serving the levy will complete the "Certification of Service" at the bottom of the form and request the person served to acknowledge receipt by inserting on Part 1 above the name and address of the taxpayer, "Receipt Acknowledged," followed by his/her signature and title. An acknowledgment is not a statutory requirement and, therefore, is not essential to the validity of the document; however, it is desirable and should be requested. If the person served declines to acknowledge or refuses to accept service, the employee should nevertheless leave the appropriate parts of the levy with him/her.

(3) The person served should be requested to pay over or disclose the amount payable as a result of the levy. If immediate payment cannot be made (e.g., taxpayer must complete statement of exemptions), a postage paid self-addressed envelope should be furnished and the amount due noted on Part 1. If no funds are due to the taxpayer, the person served should be requested to note this on the face of the form, sign and place his/her title below the notation, and return the form.

(4) If the party served refuses to comply, the employee should discuss with the party the provisions of IRC 6332(a) (relating to requirement for surrender of property subject to levy); IRC 6332(c) (relating to the penalty for violation with emphasis on the extent of personal liability), and IRC 6333 (relating to production of books containing evidence or statement about the property subject to levy). See IRM 5367.2 for use of Form 2270, notice to exhibit books and records, under IRC 6333. These sections are contained on the reverse of parts 2 and 3 of the levy forms.

5366.5

MT 5300-1

IR Manual

(5) After a notice of levy has been served, the parts of the form should be distributed as noted on Forms 668-A and 668-W. Part 4 of Forms 668-A and 668-W will be accumulated (according to local instructions) for use in the preparation of Form 4872, Collection Activities Monthly Report.

5369 (11-15-85)**Service by Mail**

(1) The Internal Revenue Code does not specify the manner in which notices of levy must be served. However, amended Treasury Regulation 301.6331-1, paragraph (c), effective March 11, 1983, makes acceptance of the notice of levy by mail mandatory. Third parties should be informed of this provision. Whenever possible, notices of levy should be mailed to conserve resources.

(2) Parties having more than one office within an IRS district may designate an office address to which notices of levy may be mailed. Such designation must be a written notice to the district director. Notices of levy by mail will be sent to the designated office until a written notice withdrawing the request or re-designating a different address is received by the district director. District offices may wish to establish a central index file of these designated offices for ready reference.

536(10) (11-15-85)**Addresses for Notice of Levy**

(1) The use of proper addresses on notices of levy is beneficial to the Service and to the organization served. Some organizations have furnished specific addresses for Service use. These are contained in Document 6408, Notice of Levy Address Directory. Levy sources requiring special instructions are listed in IRM 536(14).

(2) If a notice of levy is to be served on a large organization having branch operations, the address shown on the notice and its place of service should be based on the establishment number. This number is the four digit number that will appear immediately to the left of the employer identification number on Form 2264, Request for Social Security Account Information, or Form 3242, Request for Information from Employer. However, the address of the establishment will not be shown on these forms. If not otherwise provided in these instructions, the address should be secured through local sources.

(3) If any of the following information is available it should be included on the notice of levy.

- (a) Contract Number;
- (b) Franchise Number or Operator;
- (c) Consignee;
- (d) Royalty owner;
- (e) Any other descriptive information;
- (f) Location of Branch Office where taxpayer works or does business.

536(11) (11-15-85)**Levy in Other Districts****536(11).1** (11-15-85)**General**

(1) Where investigation indicates that a taxpayer's assets, such as bank accounts, wages, salaries, or other sources of income are located in another district, a transfer of the account to the other district for the purpose of serving a notice of levy is not required. Three procedural approaches are available, depending upon the circumstances of the particular case.

(a) service of the notice of levy by mail as provided in IRM 5369;

(b) if the originating district is contiguous to the other district and the party to be served is within easy access, service by an employee from the originating district;

(c) if personal service is required and the originating office is not contiguous to the other district, transmittal of the levy via Form 2209, Courtesy Investigation. Show on the 2209 the date Letter 1058(DO) (final notice) was sent.

536(11).2 (11-15-85)**Receiving District Procedures**

A notice of levy served for another district will be handled in the same manner as if the levy originated in the receiving district. If other property or rights to property are located, another notice of levy may be prepared and served after consulting with the originator of the 2209.

536(12) (11-15-85)**Refusal of Compliance With Levy**

(1) If the person upon whom a notice of levy was served refuses to surrender the property levied upon, Form 668-C, Final Demand, will be prepared.

(2) The filing of a notice of Federal tax lien is not legally required in connection with the service of a final demand. However, a notice of lien

should be filed before the final demand is made in any case where there is reasonable probability that suit may be required.

(3) The final demand should be personally served, if possible, on the same individual on whom the notice of levy was served. The certificate of service on part 1 should be completed at the time of service. If possible, an acknowledgment should be secured in the lower margin.

(4) Although Form 668-C provides only five days for compliance with the final demand, a longer period may be allowed. If compliance is not secured within a reasonable time, the Collection employee will recommend suit for failure to honor the levy. See IRM 56(19)2.2.

536(13) (11-15-85) Release of Notice of Levy

536(13).1 (11-15-85) General

(1) IRC 6343 authorizes the release of levy upon all or part of the property or rights to property levied upon if it is determined that the action will facilitate collection of the liability. The authority to release a levy is not intended in any way to weaken the enforcement powers of the levy, and releases should be made only when circumstances warrant.

(2) IRC 6343 also provides authority for the release of property to the rightful owner when it is determined the property has been wrongfully levied upon.

(3) If it is determined that a notice of levy has been served in error, a release of levy should be issued immediately to the person upon whom the levy was served. A letter to notify third parties of an erroneous levy, prepared in duplicate, will be sent to the injured party, using Pattern Letter P-548 (see Exhibit 5300-16).

(4) An authorized Collection employee (see Exhibit 5300-18) may release the levy upon all or any part of the property levied upon if it is determined that a release will facilitate collection of the liability. Specific conditions under which the levy may be released are provided by regulations under IRC 6343.

536(13).2 (11-15-85) Release of Levy

(1) If it is determined that release of levy is justified, an authorized Collection employee may issue the release. Form 668-D, Release of

Levy/Release of Property from Levy, will be used when a Notice of Levy Form 668-A was served. This form should not be confused with Form 668-E, Release of Levy, which is for use when property has been seized.

(2) Form 668-R, Release of Levy on Wages, Salary, and Other Income, will be used to release all levies made by service of Form 668-W.

536(14) (11-15-85) Notice of Levy in Special Cases

536(14).1 (11-15-85) Benefit Income

(1) Under the law, levy may be made upon any property that is not exempt. Thus, sources of income such as social security benefits, benefits under the G.I. Bill of Rights, pensions of veterans, self-employed pension plans (Keogh), Individual Retirement Accounts (IRA), etc., are subject to levy. However, levy action would ordinarily defeat the very purpose and intent for which the Federal or state statutes creating the incomes were enacted and in most instances could cause hardship on the individuals involved. Therefore, levy should be made on these types of income only in flagrant and aggravated cases, and then only with the prior approval of the authorized service employee who will sign the notice of levy. See Exhibit 5300-18 and Policy Statement P-5-30. Definite criteria cannot be established for determining whether levy on benefit income sources should be authorized, since the facts and circumstances of each case will govern the decision. However, among the factors to consider are:

- (a) the amount of liability;
- (b) the amount which may be obtained by service of a single notice of levy;
- (c) the possibility of collection from sources other than benefit income; and
- (d) whether the taxpayer is relying upon this source of income as the chief means of support, and if so, whether deprivation of the amount would cause hardship.

(2) Form 668-W, Notice of Levy on Wages, Salary, and Other Income, is to be used to attach benefit income of individuals and must be approved and personally signed by the Chief of the Collection Field function (district director, if no chief). At district management option, approval authority may be delegated to group managers and/or ACS Branch Chief.

536(12)

MT 5300-1

IR Manual

(3) A notice of levy to attach benefit income is not continuous. However, the taxpayer is allowed the \$75 personal exemption plus the \$25 exemption for a spouse and each dependent. Therefore, the references on the appropriate parts of Form 668-W that the levy is continuous should be deleted prior to service. See Policy Statement P-5-31.

536(14).2 (11-15-85)
Social Security Benefits and Retirement Plan Benefits

536(14).21 (11-15-85)
Social Security Benefits

(1) Notice of levy should be served on the Social Security Administration's area office from which the social security number was issued. That office pays the benefits regardless of the taxpayer's current address. Mailing addresses and account number allocations of Social Security Administration area offices are shown in Document 6408, Notice of Levy Address Directory.

(2) The statement of exemptions, Parts 5 thru 7, of Form 668-W should be mailed directly to the taxpayer along with Part 3 and Notice 483. (Make the appropriate pen and ink changes on the Notice 483.) See IRM 5366.4.

(3) The notice of levy should only be served between the fifth and 21st of the month.

(4) See IRM 536(16).2 for instructions relating to levy on death benefits.

536(14).22 (11-15-85)
Retirement Plan Benefits

Retirement plan benefits (income) receivable from a qualified pension fund or account, generally will not be levied upon if the annual benefits are \$6000 or less (\$500 or less per month).

536(14).3 (11-15-85)
Medicare Payments

(1) Medicare benefits are not exempted from levy; however, levy action should only be taken when failure to pay is flagrant and it is believed that action will not cause hardship. Medicare payments are not considered to be income; therefore, Form 668-A will be used when levy is appropriate.

(2) Payments are made by an insurance company acting as intermediary or carrier under a contract with the Health Care Financing Administration. Levies should be served on the

company responsible for the area where the services were provided

(3) Payments for services of hospitals, home health agencies, and extended care facilities are made directly to the provider of the services. Payments for physicians' services and other medical services and supplies (such as ambulance services, equipment rental, and laboratory services) can be made two ways. Medicare may pay the supplier of the services, or the beneficiary can pay the supplier and be reimbursed by Medicare.

536(14).4 (11-15-85)
WELFARE, Supplemental Security Income, Manpower Development and Training Act and the Area Redevelopment Act

Payments under these acts are not exempt from levy. However, benefits under these acts will not be levied upon. (See policy statements P-5-32 and P-5-33.)

536(14).5 (11-15-85)
Pension and Retirement Plans

(1) Qualified pension, profitsharing, stock bonus, IRA plans and retirement plans benefiting self employed individuals, or interest earned on these plans, are not exempt from levy. However, because the plans are established for the taxpayer's future welfare, they will not be levied upon except when the taxpayer flagrantly disregards requests for payment. See IRM 536(14).22, dealing with Retirement Plan Benefits.

(2) When serving a Form 668-A, Notice of Levy, on institutions that are likely to handle retirement accounts, the Form should state whether the levy is intended to attach them. Examples of these levy sources are banks, savings and loans, brokerage firms, mutual fund organizations, and insurance companies. The levy should state, "This levy will not attach to any individual retirement account (IRA), retirement plan benefiting self employed individuals, and any other qualified pension, profitsharing, and stock bonus plan in your possession or control," if these accounts are not being attached. The same statement without, "not," should be used, if they are being attached. When using a Notice of Levy with this statement printed on it, the word, "not," should be crossed

MT 5300-1

536(14).5
IR Manual

out and the person signing the Form will initial above the alteration.

(3) When Service personnel judge it necessary to levy on deferred compensation plans, the Form 668-A, Notice of Levy, will be submitted for approval. See Exhibit 5300-18 for suggested approval authority. The case should be discussed with a representative of the Employee Plans Group prior to approving the levy.

536(15) (11-15-85)
Federal Employees

536(15).1 (11-15-85)
General

(1) The accrued salary or wages of any officer or employee (including members of the Armed Forces) or elected or appointed official, of the United States, the District of Columbia, or any agency or instrumentality of either, may be levied upon by serving Form 668-W on the employer. See IRM 5671.3 for collection against Civil Service Retirement funds.

(2) The Comptroller General has issued instructions that payroll offices, after a notice of levy has been served, should not permit the employee to make any increases in voluntary allotments until the tax liability has been paid or until other satisfactory arrangements have been made. If the taxpayer increases a voluntary allotment after a notice of levy has been served, the agency should be informed of the decision of the Comptroller General, B-45105 dated January 21, 1955, as amended April 18, 1955.

536(15).2 (11-15-85)
Military Personnel on Active Duty

(1) The accrued salary or wages of members of the military are subject to levy action. In addition to salary or wages, levy attaches to payments for quarters, subsistence, travel, savings deposits (except see IRM 5364.1:(2)), clothing and uniform allowances, personal money and overseas station allowances, reimbursement funds for shipment of household goods, lump-sum leave payments, retirement income (including disability payments) re-enlistment bonuses, severance pay of officer personnel, and mustering-out pay.

(2) Notices of levy served on wages of military personnel should show their name, service address, branch of service, social security num-

ber, and duty status, i.e., active, reserve or retired. If any one of these items is not known, the notice of levy should not be issued since it will not be processed by the military organization.

(3) Notices of levy on personnel with an APO or FPO address will be made out to "Payroll Officer" at the serviceman's/servicewoman's address but mailed to the appropriate finance center provided in the Notice of Levy Address Directory, Document 6408. However, notices of levy on military personnel in Alaska, Hawaii and Puerto Rico (except those in the Air Force) will be mailed (or personally served) on the local payroll office.

(4) If the current address of military personnel stationed in the United States is known, notices of levy will be made out to "Payroll Officer" and sent to their military address. If the taxpayer has changed duty stations, the payroll officer will forward the notice of levy to the new duty station and advise the Collection employee of the new address. When the current address of such military personnel is not known, notices of levy will be made out to "Payroll Officer" at the serviceman's/servicewoman's last known address, but mailed to the appropriate finance center provided in the Notice of Levy Address Directory, Document 6408.

(5) The following documents will be mailed when notices of levy are served on military personnel:

- (a) Form 668-W.
- (b) Notice 28, Service of Notice of Levy by Mail on Agencies and Instrumentalities of the United States.
- (c) Two E-25 envelopes.

(6) Letter 1096(DO) should be sent to the finance center if the proceeds are not received within the period as follows:

(a) if the military employee is overseas, within 10 weeks from date notice acknowledged in the finance center.

(b) if the military employee is in the United States, within four weeks from the acknowledged date.

(c) if 8 weeks have elapsed from the date the notice of levy is acknowledged, in the case of Air Force military personnel.

(7) Airmail envelopes will be used if transit time is expected to exceed three days. If no response is received from the Letter 1096(DO) within 30 days, contact should be made with the appropriate finance center or another notice of levy may be sent.

(8) In some instances, the taxpayer may pay the tax liability before remittance is received on the levy and even though a release of levy may have been promptly forwarded to the military office, it might not reach the office in time to prevent the issuance of a check as a result of the levy. When a check is received on an account which has already been paid, it should not be returned to the issuing office but will be processed as an excess collection with the request that refund be made to the taxpayer as soon as possible.

(9) Notices of levy and releases of levy served on U.S. Naval Reserve personnel are to be sent to the address for Naval Military Personnel—Retired, as specified in the Notice of Levy Address Directory.

536(15).3 (11-15-85)

Military Personnel—Retired

(1) Notices of levy may be served to reach the pay of retired personnel of the armed forces at the offices listed in the Notice of Levy Address Directory.

(2) For identification, the name, address, and military serial number of the taxpayer should be furnished. If the serial number is unknown, other available information should be furnished, such as the full name, date of birth, and date of retirement or discharge.

(3) Notices of levy served against the pay of retired Air Force and Navy personnel should be mailed to allow sufficient time to reach the Finance Center as close as possible to, but not later than, the 24th of the month. Checks in satisfaction of notices of levy will be issued by the Air Force and the Navy only at the end of the pay period regardless of when the notice of levy is served. Therefore, follow-up should not be made until sufficient time has lapsed for the issuance of a check. See IRM 5366.4 for service on a centralized payroll facility.

536(15).4 (11-15-85)

Military—Class O Allotments

Class O allotments to dependents of service personnel are not exempt from levy by law. However, these allotments will not be levied upon as a means of collecting a tax liability of a dependent of military personnel.

536(15).5 (11-15-85)

Department of Defense Civilian Employees Overseas

(1) A notice of levy on the wages of any Department of Defense civilian employee residing overseas may be served by mail. Notices of levy on personnel in Alaska, Hawaii and Puerto Rico should be served (by mail or otherwise) on the local payroll offices. If available, the employer's name and address as reflected on Form W-2 will be shown on the notice of levy. If the information from the W-2 is not available, the notice of levy will be made out to "Payroll Officer" at the employee's business address. In these cases, the branch of service that the employee is working for should also be shown.

(2) The procedures prescribed in IRM 536(15).2:(5) through (7) will be followed with respect to civilian employees. Notices of levy will be mailed as provided in IRM 536(15).2:(3) except those against employees of the Army. See Document 6408, Notice of Levy Address Directory.

536(15).6 (11-15-85)

Department of Health and Human Services Employees

(1) The payroll records of all employees of the Department of Health and Human Services are centralized in Washington, D.C. These centralized payroll activities include:

(a) HHS and elements thereof located in the Washington, D.C., Metropolitan Area.

(b) HHS Regional Offices.

(c) Public Health Service (Including PHS Hospitals and Indian Health Installations located in various cities of the United States).

(d) Food and Drug Administration (Including district offices located in various cities of the United States).

(e) Social Security Administration (Including SSA Headquarters in Baltimore (Woodlawn), and SSA Payment Centers and district offices located in various cities of the United States).

(2) All notices of levy on HHS employees or inquiries concerning HHS payrolls should be mailed to the address provided in Document 6408, Notice of Levy Address Directory.

(3) Procedural instructions in IRM 5366.4 for service on employers with centralized payrolls and IRM 5369 for service of notices of levy by mail are to be followed.

536(15).7 (11-15-85)

Postal Employees

(1) To aid the U.S. Postal Service in identifying employees, notices of levy served on the Postal Service should state the social security number and, if possible, postal service employee number and type of employment of the employee against whom the levy is being served. In addition, if the employee lives in one town and works in another, that information should also be furnished. If the information is not readily available, it should be obtained at time employment is verified.

(2) The payroll records of postal employees (except star route and mail messenger contractors referred to in (3) below) are maintained at various Data Centers. Accordingly, notices of levy should be mailed, as prescribed in IRM 5326 to the appropriate Postal Data Center as shown in Document 6408, Notice of Levy Address Directory.

(3) Notices of levy against star route and mail messenger contractors should be mailed to the address provided in Document 6408. The U.S. Postal Service has requested the use of Form 668-A instead of Form 4793 in offset conditions.

536(15).8 (11-15-85)

Agricultural Stabilization and Conservation Service (ASCS)

(1) The Department of Agriculture (USDA) has agreed that a Notice of Levy, Form 668-A, is to be considered as a request for setoff and that the Notice of Levy would be retained by the local office of ASCS until satisfied in full.

(2) Notices of Levy prepared for service on ASCS should be served only on the State ASCS.

(3) When a Notice of Levy is prepared for service on the ASCS, a copy of the Notice of Federal Tax Lien, if one has been filed, should be attached to the Notice of Levy in situations where it is known that an assignment was made of the funds due the taxpayer from ASCS. This action is necessary to establish the priority over amounts which may have been assigned by the taxpayer. ASCS has agreed to setoff if the date of filing the Notice of Lien is prior to the date of the assignment.

536(15).7

IR Manual

MT 5300-1

536(15).9 (11-15-85)

Federal Home Loan Bank

Notices of levy may be served to reach the pay of any employee of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation. Levies on the Board or Corporation employees should be mailed to the address provided in Document 6408, Notice of Levy Address Directory.

536(15).(10) (11-15-85)

Internal Revenue Service

Notice of Levy on Wages, Salary, and Other Income, Form 668-W, on the salary or wages of Internal Revenue Service employees will be served during the first week of the pay period. Levies on district office and service center employees will be served on the Chief, Resources Management Division, of the district office or service center. Levies on salaries of regional office employees, including Regional Counsel and Regional Inspection, and of National Office employees will be served on the appropriate Chief, Fiscal Section. See IRM 5366.4.

536(16) (11-15-85)

Levy on Insurance Companies

536(16).1 (11-15-85)

Cash Loan Value of Insurance Policies

(1) Under IRC 6332(b) the cash loan value of life insurance or endowment contracts may be levied upon without surrender of the policy. However, levy action against this type of property should only be taken with the prior approval of the authorized Service employee, who will sign the notice of levy. (See Exhibit 5300-18.)

(2) A basic factor to consider in making a determination to levy is the general financial condition of the taxpayer. As a general rule, levy action should not be taken if the taxpayer has few assets, small income potential and policies with an aggregate face value of only \$1000 or less. If multiple policies totaling more than \$1000 are involved, the first \$1,000 should be excluded from levy. This can be done by specifically identifying on the notice of levy any policies that are to be excluded from the levy or providing this information as an attachment to the notice.

(3) When preparing Form 668-A, interest and failure to pay penalty should be computed to the 90th day after service. A notation should be inserted in the space above "Name and Address of Taxpayer" as follows: "I certify that a copy of this notice was mailed on _____ (date) _____ to the last known address of the taxpayer" and be signed by the person certifying. Accordingly, Part 3 should be mailed to the taxpayer before the notice of levy is actually served on the insurance company. The following additional information, whenever readily available, should be inserted on the notice of levy or furnished as a separate attachment:

(a) list known policy number(s) and this statement "and any other policies on the life of this individual which are owned by him/her;"

(b) if no policy numbers known, give the date of birth of the taxpayer; or

(c) the approximate age of taxpayer, occupation and name of spouse, if any.

(4) The insurance company is not required to pay over the amount reached by levy until 90 days after service of the notice of levy. Promptly following the 90th day, Letter 980 (DO) should be sent to the insurance company giving the current status of the tax liability and the total payment received since service of the notice of levy. This notification is required even though there may be no change in the amount due. If the tax liability is paid before the end of the 90-day period or if it is otherwise determined to release the levy, a Form 668-D should be issued. Letter 980(DO) will also be used to transmit the release to the insurance company. Failure to issue a release impedes the taxpayer's right to secure a loan on the policy. Therefore, immediate release must be made.

(5) The insurance company is required by regulations to promptly pay over after receipt of the 90-day letter. The notice of levy is complied with when the insurance company pays:

(a) the amount levied upon or

(b) the amount the taxpayer could have had advanced on the 90th day after the notice of levy was served, plus the amount of any policy loan (together with contractual interest) made to the taxpayer after the insurance company had actual notice of the tax lien. The amount of any automatic premium loans (together with contractual interest) will not be included if the loans were made to keep the contract in force and the agreement was entered into before the insurance company had actual notice of the tax lien.

(6) In the event of termination of the policy or the death of the insured before the 90th day after service, the amount to be paid will be computed as provided in (5) above but using the date of termination or date of death, as applicable, rather than the 90th day after service.

(7) If the taxpayer so directs, the insurance company may satisfy the notice of levy prior to the 90th day by paying the amount set forth in (5), thereby substituting the date of payment for the 90th day.

(8) Compliance with the levy, other than full payment of the tax liability, does not discharge the contract from the tax lien since the taxpayer still has a property interest in the policy. However, once the levy is complied with, the insurance company takes priority for any subsequent policy loans until placed on actual notice. Actual notice should be given by furnishing a copy of the notice of tax lien or by letter. The purpose of the notice is to stop policy loans until sufficient cash loan value has accumulated to justify levy action. Thus, a notice of levy is not the appropriate means of placing the insurance company on notice since it starts the 90-day period again.

(9) The right to levy on cash loan value of insurance does not eliminate the government's right to foreclose on the policy when it is believed this approach is necessary.

(10) An alphabetic listing that identifies insurance companies which have designated titles of officers (or persons) who are to receive actual notice of Federal tax lien and service of notice of levy is provided in Document 6408, Notice of Levy Address Directory. After each title, the forms which that particular officer or person may receive are indicated in parentheses. The companies shown underwrite approximately 95 percent of all life insurance policies issued in the United States.

(11) See IRM 536(16).4:(3) for addresses and other instructions relating to levy with Veterans Administration on the cash loan value of National Service Life Insurance policies.

(12) When requesting taxpayer information from an insurance company in cases where a levy is served or is about to be served, prepare Form 2270, Notice to Exhibit Books and Records, to accompany the request. When requested by the insurance company, use Form 2039, Summons, in lieu of Form 2270.

536(16).2 (11-15-85)

Death Benefits

(1) Death benefits payable from an insurance company or government organization (Veterans Administration, Social Security Administration, etc.) are normally subject to levy. However, levy action should not be taken on this source of income except in cases in which failure to pay is flagrant and aggravated. Definite criteria cannot be established but factors to consider are whether the levy action will cause hardship and whether it may also make it impossible for the taxpayer to pay the terminal expenses of the person whose death made the insurance proceeds available.

(2) Because of the sensitive nature, the prior approval of the district director is suggested before a notice of levy is served on death benefits. If a courtesy levy is involved, Form 2209 will specifically state that the district director of the originating district has approved the action unless the district director has indicated his approval on the notice of levy.

536(16).3 (11-15-85)

Employees of Insurance Companies

If the levy action is against wages, salary, etc., of an employee of the insurance company, indicate this on Form 668-W. The address for an insurance company in Document 6408 may not be appropriated for this type of levy.

536(16).4 (11-15-85)

Veterans Administration Insurance Policies

(1) Dividends payable in cash to holders of United States Government Life Insurance and National Service Life Insurance policies are subject to levy. References to payment of dividends in cash mean that the policyholder has elected to receive payment of the dividends due instead of having them applied to future premiums. All United States Government Life Insurance policies issued to eligible veterans of World War I participate in and receive dividends. However, only National Service Life Insurance policies prefixed by the letter V participate in and receive dividends. All other policies are nonparticipating and no dividends are paid.

(2) Before a notice of levy is served on the Veterans Administration (VA), the insurance file number, policy number, anniversary date of the

policy, and the office from which the dividend payments are issued should be determined. Form 2876, Request for V.A. Insurance Policy Dividend Information, will be used to obtain this information. The full name of the taxpayer should be shown. If the insurance file number and policy number are available, it will not be necessary to furnish the remaining data on the form. The mailing addresses for the VA offices issuing dividend payments are provided on Form 2876. The appropriate address should be entered in the space provided.

(3) If Form 2876 is returned by the VA stating that future dividends will be paid in cash, a Form 668-A, may be mailed to the VA office thirty days prior to the anniversary date of the taxpayer's policy(ies). See IRM 5369 for service of notices of levy by mail. The policy number should be inserted on the notice of levy above the name and address of the taxpayer as "Policy No. _____" and also a statement that "Levy is on dividends only". If the insurance file number is different from the policy number, the insurance file number should also be inserted immediately after the policy number, for example, "Policy No. _____ (File No. _____)." Form 2876 will be retained with the related TDA. Managerial approval is not required on levies against dividends.

(4) Within approximately forty-five days from the date of mailing the notice of levy, the VA will send a check for the amount attached or advise that no payments were due at time the notice of levy was received.

(5) The cash loan value of National Service Life Insurance policies may be levied upon by serving Form 668-A on the VA office having jurisdiction over the policy as indicated above. Notices served for that purpose should show the "Policy No." and indicate that "Levy is against cash loan value only." The procedures in IRM 536(16).1 concerning approval of the levy action, issuance of Letter 980(DO) at expiration of 90 days, etc., also apply.

536(17) (11-15-85)

Mutilated Currency

(1) Mutilated currency presented to the Department of the Treasury for redemption by the taxpayer, or by a bank or other party on behalf of the taxpayer, is subject to levy.

(2) The fact that currency has been presented for redemption may be discovered through routine investigation or, if the amount is \$5000 or more, this information is reported to the National Office by the Currency Redemption Division of the Department of the Treasury. The latter cases will be referred to the district in which the request for redemption originated.

(3) The notice of levy should be addressed and mailed to the address provided in Document 6408.

536(18) (11-15-85) Property Used in Violation of Internal Revenue Laws

(1) Money, securities, and similar property seized by the Bureau of Alcohol, Tobacco and Firearms are subject to levy but only if the property will not be forfeited. The Bureau will notify the district director when levy may be made.

(2) Where judicial forfeiture is undertaken in a Criminal Investigation case and there is reason to believe that the seized money cannot be identified as used, or intended for use, in violating the internal revenue laws and a tax liability has been assessed, the Chief of the Collection Division (district director if no chief) will be alerted by the Criminal Investigation Division to have a Collection employee stand-by to levy on the money if the court declares it not forfeitable.

(3) Property that is used as evidence in criminal court proceedings is subject to levy after the court releases the property. The notice of levy should be served on the police property clerk as soon as the Collection employee has knowledge that the property is being retained as evidence. The property cannot be released by the police department until the court authorizes it.

536(19) (11-15-85) Receivables

536(19).1 (11-15-85) General

(1) Accounts receivable, notes receivable and other debts owed to a taxpayer may be levied upon. Ordinarily, Form 668-A should be served on the taxpayer's debtor. Seizure of the receivables may be appropriate where they can be sold.

(2) Any receivable that is due or about to become due in single payment (rather than installments) should, ordinarily, be reached through service of a notice of levy. In cases where the right does not exist or there is doubt

as to the unqualified fixed right of the taxpayer to future payments, a notice of levy should be served on the taxpayer's debtor as each installment payment becomes due.

536(19).2 (11-15-85) Computerized Accounts Receivable

536(19).21 (11-15-85) General

(1) The increased use of computerized book-keeping systems raises many questions as to the effectiveness of our levy procedures in reaching these accounts receivable.

(2) Computer tapes may contain listings for more than one customer and if so, should not be subject to levy action. Tapes should not be seized. The use of Form 2039, Summons, or Form 2270, Notice to Exhibit Books and Records, to secure a list of a particular customer's (taxpayer) accounts receivable is more appropriate. Because of time requirements to extract data from the tape, the usual ten day period allowed for response to a summons may need to be extended.

536(19).22 (11-15-85) Direct Payments to Subscriber

(1) Some systems provide only a billing service for the subscriber (taxpayer) with a direct payment. The customer pays the computer system for the service rendered.

(2) In this situation the computer service has no property subject to levy. The tapes (books of account) should not be seized. The summons procedure or requirement to exhibit books and records (Form 2270) should be used to secure the names of persons indebted to the taxpayer.

536(19).23 (11-15-85) Payments to Computer Service and Remittance to Subscriber

(1) Under other systems the computer service will bill the taxpayer's client, receive payment from the client and remit the payment to the subscriber who will subsequently be billed for the service.

(2) Under this method of operation, Form 668-A, should be served on the computer service to reach any and all the payments in-house for benefit of the subscriber. In those cases when the computer service deducts its service

charge and remits the balance to the subscriber, the computer service should be permitted to take its service charge and turn over that amount due the subscriber.

(3) The service of the Form 668-A does not have a continuing effect. A new Notice of Levy should be served at the time maximum recovery can be anticipated.

536(20) (11-15-85)
State and Municipal Employees

Accrued salaries, wages, or other compensation of any officer, employee, or elected or appointed official of any State or Territory, or any political subdivision thereof, are subject to levy. The provisions of a law of any State or political subdivision thereof cannot exempt property or rights to property from levy for the collection of any Federal tax.

536(21) (11-15-85)
United Nations Headquarters District

(1) Pursuant to a joint resolution of the 80th Congress, the President entered into an agreement concerning certain activities relative to the United Nations. The agreement includes a provision that service of legal process may take place within the United Nations Headquarters District only with the consent of the Secretary General of the United Nations and under conditions approved by him.

(2) If levy action is contemplated within the United Nations Headquarters District (which includes the General Assembly Building of the United Nations, New York City), a request should be made from the district director to the Assistant Commissioner (Collection), Attn: OP:C:O, so that the matter can be taken up with the Department of State to determine the feasibility of requesting the consent of the Secretary General.

(3) The request should give the name and address of the taxpayer, type and amount of tax involved, a brief resume of previous collection activity, and any other information believed pertinent. *A request should be made by providing a completed Form 668-W only after all other means of collection have been exhausted.* Further action should not be taken on the proposed levy pending notification from the National Office.

536(19).23

IR Manual

MT 5300-1

536(22) (11-15-85)
United States "HH" Bonds—Interest

(1) United States Savings Bonds, Series HH, are issued in denominations of \$500, \$1,000, \$5,000 and \$10,000 with a maturity date of 10 years. Interest, which is paid semi-annually to the registered owner, is subject to levy.

(2) If levy action is to be taken to reach interest due on Series "H" bonds, a letter should transmit Form 668-W, together with a copy of the notice of lien. The letter should give the name and address of the taxpayer and identify the bond series, serial number, denomination and issue date. The mailing address is provided in Document 6408, Notice of Levy Address Directory.

536(23) (11-15-85)
Amish Taxpayers—Self-Employment Taxes

(1) Code section 1402(g) exempts members of certain recognized religious sects or divisions from self-employment tax. Generally, the Amish meet the requirement of this provision and may be exempt upon filing an acceptable application.

(2) Before enforced collection action is taken on self-employment tax liabilities of Amish taxpayers who have not filed Form 4029, a contact should be made as prescribed in IRM 5252 in an effort to secure a Form 4029.

(3) In cases involving periods ending on or after December 31, 1967, levy action may be taken if the taxpayer does not file Form 4029 within the three-month period after written notice is given as prescribed in IRM 53(10)1.

(4) In all cases, group manager approval of the contemplated levy action is required. Details of the case history, including the type of property to be levied upon and any known reason for the taxpayer's failure to file a Form 4029 should be documented. Livestock and real property should not be seized if collection can be made from any other source.

(5) If the issue is one involving an incident significant to tax administration, the Assistant Commissioner (Collection) should be kept informed. See IRM 5132.

536(24) (11-15-85)
Judgments for Child Support Payments

(1) IRC 6334(a)(8) exempts from levy so much of a taxpayer's salary, wages, or other income as is necessary to comply with a court judgment, entered into prior to levy, requiring him/her to contribute to the support of his/her minor children.

(2) When levy action becomes necessary on the income of a taxpayer who has previously furnished proof of a court directed judgment for child support requirement, the Notice of Levy will include, preferably in the tax liability section, a notation as follows: "Under the provisions of section 6334(a)(8) of the Internal Revenue Code \$ _____ of the funds due this taxpayer are exempt from this levy."

(3) In those cases where the Service is unaware of a taxpayer's child support requirement and levy action is taken against the income of that taxpayer, a specific portion of the levy will be released if the taxpayer furnishes proof of the court directed child support requirement.

(4) A levy is not required to be released until it is determined that the amount to be released from levy will actually be applied in satisfaction of the support obligation. Arrangements may be made with a delinquent taxpayer to establish a specific amount of such taxpayer's salary, wage, or other income for each pay period which shall be exempt from levy. Any request for such an arrangement shall be directed to the Chief, of the Special Procedures function, for the Internal Revenue district in which the taxpayer resides. Where the taxpayer has more than one source of income sufficient to satisfy the support obligation imposed by the order or decree, the amount exempt from levy may at the discretion of the Service be allocated entirely to one salary, wage, or source of other income or be apportioned between the several salaries, wages, or other sources of income.

536(25) (11-15-85)
Relocation Act Payments

Relocation Act payments, provided to displaced persons for moving costs, related expenses and for the cost of replacement housing, are not exempt from levy. However, levy on such payments should only be made in flagrant situations. See Exhibit 5300-18 for suggested delegation of authority.

536(26) (11-15-85)
Cash Deposited as Security for Bail

Service of Notice of Levy to reach cash deposited as security for bail should only be made where a jeopardy assessment (or a determination is made that collection is in jeopardy) is appropriate. In the event a Notice of Levy is served under these conditions, the Court Clerk will be advised that the levy does not require response until such time as the conditions for which the bond was posted are concluded and the taxpayer is released from the bond requirement.

536(27) (11-15-85)
Educational Institutions

(1) In the normal course of Collection activities involving TDAs on institutions of higher learning, notices of levy may be served on funds deposited with banks or other financial institutions. Collection personnel must be alert to the fact that such accounts may contain funds belonging to the U.S. Department of Education (ED).

(2) The Department of Education (ED) provides funds to institutions of higher learning to be used for student financial assistance. These funds, though deposited in the taxpayer's account, remain the property of the Department of Education until the school formally designates students as recipients thereof. Therefore, to avert erroneous levy of such funds, Collection personnel will follow these procedures after the levy has been served:

(a) If the bank honors the levy, process remittance as usual. Contact by phone the Assistant Regional Administrator (ARA) for ED who has jurisdiction over the taxpayer school (see Exhibit 5300-29) and advise of levy action. Mail a copy of that notice of levy to the appropriate ARA. The ARA has 60 days in which to investigate the matter and certify as to its interest in the funds levied upon. The ARA and Collection personnel may mutually agree to a shorter or longer period for certification. ED's certification letter will inform the IRS of the amount and nature of any ED funds in the account and the basis for this determination. Funds certified belonging to ED will be refunded.

(b) If the bank does not honor the levy because of possible ED involvement, contact

MT 5300-1

536(27)
IR Manual

the appropriate ARA and mail that office a copy of the notice of levy. Do not seek to enforce the levy for 60 days pending ED's investigation. Upon certification, release or enforce the levy as appropriate. This procedure should also be followed if a bank, because of possible ED involvement, does not honor a levy on a bank account of an official of an institution of higher learning.

536(28) (11-15-85)
**Levy on Fees of Attorneys
Representing Claimants for Social
Security Benefits**

(1) When issuing a Notice of Levy in these instances, a list of all clients the attorney represents should not be used. Each client should be identified by name and SSN on a separate sheet of paper or index card attached to the levy. If the SSN can not be found, other known identifying information (such as address and/or date of birth) should be provided to SSA, which may be able to locate the claimant's record. Avoid sending these without SSNs, whenever possible, especially if the claimant has a relatively common name. SSA's files, like ours, are extremely large, and there is a great deal of duplication of names.

(2) However, a single Notice of Levy is sufficient to reach the fees for all clients identified on the attachments to the levy.

5370 (11-15-85)
**Currently Not Collectible
Accounts**

5371 (11-15-85)
General

(1) A Collection employee may determine that accounts are currently not collectible in accordance with Policy Statement P-5-71 and P-5-72.

(2) Reporting an account currently not collectible does not abate the assessment. It only stops current efforts to collect it. Collection can start again any time before the statutory period for collection expires.

(3) All actions to support currently not collectible determinations must be documented. The last entry will be a summarizing statement supporting the decision to report the account currently not collectible.

536(27)
IR Manual

MT 5300-1

(4) Accounts above the tolerance level in Section 372 of LEM V are reported currently not collectible on Form 53, Report of Currently Not Collectible Taxes.

5372 (11-15-85)
Tolerance Cases

(1) Accounts whose unpaid balances, including accruals, do not exceed the amounts in Section 372 of LEM V may be reported currently not collectible in accordance with Policy Statement P-5-72.

(a) TDAs coded N, TRSF-N or 914-N (fictitious W-2 cases) may not be reported currently not collectible under tolerance provisions.

(b) Form 53 is not required when an account is reported currently not collectible under tolerance provisions. "TC 530-09" and the responsibility unit code ("1" for Special Procedures function or "2" for Collection Field function), should be written on the top of the TDA or notice in red. Form 4907, or Form 3177, noted with TC 530-09 and responsibility unit code should be attached to the face of the TDA. Notices do not require a separate input document.

(c) Managerial approval is required on all tolerance cases initiated by Collection Division personnel below GS-9. The approving manager will indicate approval by documenting "APPROVED", the date approved, and complete signature immediately beneath the notation "TC 530-09" on the face of the TDA.

(2) Accrual-only accounts (including IRAF and NMF) which are currently not collectible and more than the amount in Section 372 of LEM V must be reported on Form 53.

5373 (11-15-85)
**Authority to Report Accounts
Currently Not Collectible**

5373.1 (11-15-85)
**Automated Collection System
Branch Authority**

Automated Collection System (ACS) Branch may report accounts currently not collectible to the limits in section 373:(1) of LEM V ACS procedures are described in IRM 5500.

5373.2 (11-15-85)
Service Center Collection Branch Authority

Service Center Collection Branch (SCCB) may report accounts currently not collectible to the limits in section 430 (3) of LEM V. SCCB procedures are described in IRM 5430

5373.3 (11-15-85)
Collection Field Function Authority

(1) Revenue Officers in the Collection Field function are authorized to report any account currently not collectible.

(2) Tax Examiners in the Collection Field function are authorized to report accounts currently not collectible up to the limits in Section 373:(1) of LEM V.

5373.4 (11-15-85)
Special Procedures Function Authority and Procedures

(1) Special Procedures function may report accounts currently not collectible on bankrupt corporations and insolvent decedent estates when the amount to be paid from the proceedings has been received and the case files show no collection potential from exempt property.

(2) Special Procedures function may report accounts described in IRM 5372 currently not collectible.

(3) Special Procedures function should use responsibility unit code 1. Closing codes applicable are 07, bankruptcy; 08, decedent; and 09, tolerance.

(4) Tax examiners may initiate Forms 53 on accounts to the limit in section 373:(2) of LEM V. Others must be initiated by advisors/reviewers.

(5) All requirements of IRM 5370 must be met prior to initiation of Form 53, particularly the requirement for a 100-percent penalty determination. No field call is required if, in the judgment of the originator, all assets have been identified.

5374 (11-15-85)
Action Required Prior to Reporting an Account Currently Not Collectible

5374.1 (11-15-85)
Collection Information Statements

(1) The Collection Information Statement (CIS) or an equivalent statement is the basic

documentation of the taxpayer's financial condition and should be carefully analyzed

(2) The CIS supporting a currently not collectible determination is considered current if it is less than twelve months old.

(3) Accounts may be reported currently not collectible under hardship provisions without a CIS if the verification in IRM 5375.12 indicates the account would be reported currently not collectible if the taxpayer provided a CIS. In these cases, explain:

(a) why a CIS was not secured; and

(b) the basis for the hardship determination.

(4) A CIS in support of Form 53 is not required if:

(a) the statutory period for collection has expired;

(b) liquidating bankrupt corporation or decedent estate cases are being reported currently not collectible. (The Court Docket number should be shown in item 21D of Form 53); or

(c) the taxpayer is imprisoned with more than six months to serve, owes \$2,000 or less and a search of public records reveals no assets.

5374.2 (11-15-85)
Lien Filing

(1) A notice of lien should be filed on all open accounts before reporting an account currently not collectible if the aggregate assessed liability, including accounts previously reported currently not collectible, is \$2,000 or more (\$500 or more if the taxpayer owns real property). A notice of lien need not be filed just to include a small dollar account (below tolerance level of Section 372 of LEM V).

(2) Notice of lien filing is not required if the taxpayer is deceased, if a corporation that has gone through liquidating bankruptcy or has been out of business for at least one year and for which an earlier notice of lien is in effect, if the statutory period for collection has expired, if the taxpayer resides abroad and there are no known assets in the United States, or the circumstances of a case indicate that a notice of lien is not warranted. In the latter instance, the case history sheet must explain why the notice of lien was not filed. Notices of lien may be filed on any account reported currently not collectible.

MT 5300-1

5374.2

IR Manual



C
433

ible if it is believed that collection might later result. (See policy statement P-5-47.)

5374.3 (11-15-85)

Full Compliance Check

A compliance check in accordance with IRM 5232 will be made if the taxpayer is contacted.

5375 (11-15-85)

Currently Not Collectible Conditions

5375.1 (11-15-85)

Unable-To-Pay Cases—Hardship

5375.11 (11-15-85)

General

(1) If collection of the liability would prevent the taxpayer from meeting necessary living expenses, it may be reported currently not collectible under a hardship closing code. Sometimes accounts should be reported currently not collectible even though the CIS shows assets or sources of income subject to levy.

(2) Analyze the taxpayer's financial condition as described in IRM 5323.

(a) Since each taxpayer's circumstances are unique, other factors such as age and health must be considered as appropriate.

(b) Document and verify the taxpayer's financial condition as described in IRM 5375.12.

(3) Consider the collection potential of an offer in compromise.

(4) Consider an installment agreement before reporting an account currently not collectible as hardship. Whenever regular payments of at least \$25 per month will be made on an account being reported currently not collectible as hardship, prepare a Form 53 in addition to A Form 433-D (Installment Agreement). The Form 433-D, is the top document in the file and is noted "Form 53 case" in red along the top margin.

(5) Use one of the hardship closing codes 24-32. Definitions of the codes are on the back of Form 53. Hardship closing codes are only appropriate for individuals (including joint accounts and sole proprietors) and partnerships.

(a) Select the closing code having a total positive income (TPI) large enough to warrant additional collection effort. Some of the factors to consider in making this judgment are:

1 TPI necessary to meet the basic living expenses of the taxpayer and family;

2 impact of inflation on family income and expenses;

3 changes in taxpayer's financial condition (e.g., change in size of family, reduction in financial obligations);

4 non-taxable income (e.g., social security) which increases spendable income without affecting the TPI; and

5 other factors, which are documented in the case file.

(b) A computer program will reactivate IMF accounts reported currently not collectible under one of the hardship closing codes. The account will be reactivated, coded TPI, when the TPI on the latest return is at least the amount for the closing code.

5375.12 (11-15-85)

Verification of Inability to Pay

(1) When the aggregate assessed liability is \$2,000 or less (open and CNC accounts) but is above the TDA deferral level (see Section 324 of LEM V).

(a) Verification is not required if the information on a CIS is reasonable.

(b) The verification described in 5375.12:(3) is required if a CIS cannot be obtained.

(2) When the aggregate liability (open and CNC accounts) is below the TDA deferral level (see Section 324 of LEM V) but above the TDA tolerance (see Section 372 of LEM V).

(a) Verification is not required if the information on a CIS is reasonable.

(b) Research local property records (real estate, personal property, and motor vehicles), if a CIS cannot be obtained.

(3) The following verification is required whenever the aggregate assessed liability is greater than \$2,000 (open and CNC accounts), regardless of whether a CIS is secured.

(a) Research local property records (real estate, personal property and motor vehicle) to be sure all sources of collection are known, and the CIS is accurate. Exceptions are:

- 1 corporations that have been through liquidating bankruptcy,
- 2 insolvent decedent estates, and
- 3 statute expiration cases.



(b) Review the latest income tax return (1040 series, 1120 series, or other appropriate documents) for levy sources and accuracy of the CIS. Include a copy of the return with the case record, or explain why it is not included.

1 The taxpayer's retained copy can be used. However, if it is not available, or if it appears inaccurate, request a copy of the original return.

2 In addition to the exceptions in (3)(a), the return does not have to be reviewed when:

a accounts are reissued on defaulted installment agreements previously 53'd.

b the most current return available is over two years old (based on the due date), or

c the latest return is a Form 1040A or 1040EZ. In that case, use IDRS to find out the adjusted gross income.

(c) If the account resulted from an examination deficiency and/or a fraud penalty, review the revenue agent's report or special agent's report, if available. If the reports are not available, try contacting the revenue agent or special agent for information about the taxpayer's assets.

(d) If income or assets are identified during verification which are not shown elsewhere in the case record, either use the levy source to collect the liability, or explain why it is not being used.

5375.2 (11-15-85)

Unable-To-Locate Cases

[Amended and Supplemented by MS 5G-305
Elimination of Collection Closed Files
Expiration Date May 14, 1987.]

(1) Use the unable-to-locate closing code (03) when neither the taxpayer nor assets can be located.

(2) Before an account may be reported currently not collectible (CNC) as unable-to-locate,

(a) check routine internal sources such as directories and IDRS to locate the taxpayer or levy sources;

(b) confirm with the Postal Service that the taxpayer moved and left no forwarding address. Confirmation includes a field or telephone call to the Postal Service documented in the history; Form 4759, Request for Information in Accordance with the Postal Manual, or returned mail bearing an official Postal Service stamp; UNDEL coding on the TDA.

(3) In addition to actions in (2), for aggregate assessed liabilities greater than \$2,000 (open and CNC accounts)

(a) review the most current income tax return to locate the taxpayer or assets unless

- 1 it is a 1040A or 1040EZ, or
- 2 the return due date is over two years old.

(b) conduct a field investigation to the taxpayer's last known address and neighbors.

(c) research property records (real estate, personal property and motor vehicle);

(d) check state or local employment records when available.

(e) If the account resulted from an examination deficiency and/or a fraud penalty, review the revenue agent's report or special agent's report, if available. If the reports are not available, try contacting the revenue agent or special agent for information about the taxpayer's assets.

(4) The account will reissue as a Change of Address (COA) coded TDA when another return, amended return, or address change posts to the same Master File.

5375.3 (11-15-85)

Unable-To-Contact Cases

[Amended and Supplemented by MS 5G-305
Elimination of Collection Closed Files
Expiration Date May 14, 1987]

(1) Use the unable-to-contact closing code (12) when the taxpayer's location is known and the apparent lack of distrainable assets and income indicates a currently not collectible (CNC) condition, but hardship cannot definitely be determined because the taxpayer will not respond.

(2) In all cases with an aggregate balance (open and CNC accounts) greater than \$2,000:

(a) conduct all research specified in IRM 5375.2;

(b) If a telephone number is available, make at least one attempt to contact the taxpayer.

(c) Postal Service verification is required only if it is uncertain that the taxpayer resides at the address.

(3) An IMF account will reissue as a UTCO coded TDA when the taxpayer's total positive income exceeds \$14,000. Since the system will only reissue IMF accounts, consider a mandatory follow-up for other types of accounts.

5376 (11-15-85)

Corporate Trust Fund Taxes

(1) Before reporting trust fund taxes assessed against corporations as currently not collectible, 100-percent penalty assessments must be considered by the Collection Field function. The corporate accounts can be reported currently not collectible when Form 4183 is approved. This is noted in Item 21A of Form 53, and a copy of the Form 4183 is attached. Form 4523 can be used as the assignment control. Additional time spent on asserting the penalty is reported as Code 203. See section 632.(2) of LEM V for cost-of-collection criteria.

(2) Forward Form 2363, Master File Entity Change, to Centralized Services function to delete the filing requirements for bankrupt or defunct corporations, if appropriate.

(3) Closing code 10, defunct or insolvent corporation, applies to:

(a) any corporation which is no longer operating and from which all assets are dispersed. If the corporation is chartered in a state which permits corporate reactivation, consider a mandatory follow-up if it appears likely the corporation will resume business.

(b) a corporation which has been dissolved under state receivership proceedings or other state dissolution proceedings.

(4) Use closing Code 07, bankrupt when the corporation has been adjudicated bankrupt and meets the criteria of IRM 5377. No Collection Information Statement is required.

(5) Use closing code 13, in-business corporation, when the corporation cannot pay its back taxes. This closing code may be used only when enforcement cannot be taken because the taxpayer has no distrainable income or equity in assets. In addition, conduct a 100-percent penalty investigation in accordance with IRM 5634 and submit Form 4183, Recommendation re 100-Percent Penalty Assessment, to the group manager before disposition of the account.

(a) Consider issuing Letter 903(DO).

(b) Since there is no systemic follow-up with this closing code, initiate a mandatory follow-up 12 to 18 months after the date of the Form 53. The follow-up should include obtaining an updated Collection Information Statement, a review of the latest income tax return, and a full compliance check. Determine wheth-

er another mandatory follow-up will be established.

(c) Subsequent accounts on the same taxpayer must be investigated to verify the taxpayer's financial condition and to make a 100-percent penalty determination. (Mandatory follow-up on the previous account should be rescheduled accordingly.)

5377 (11-15-85)

Bankruptcy Cases

(1) Accounts on bankrupt taxpayers may be reported currently not collectible when no further proceeds will be received from the bankruptcy and collection from exempt, abandoned, or after-acquired property is insufficient to warrant further collection efforts. (For instructions for abatement of taxes discharged in bankruptcy, see IRM 57(12)6.2.)

(2) If the account is being reported currently not collectible because of bankruptcy, the closing code is 07. (Exceptions are IMF accounts which will generally be reported under hardship closing codes.) However, if after-acquired assets require extended Collection process (e.g., installment agreement), any unpaid taxes remaining after all Collection activity is completed will be reported currently not collectible under a hardship or other appropriate closing code. Record the bankruptcy docket number in item 21D of Form 53.

(3) Since there is no systemic follow-up for closing code 07, consider mandatory follow-up.

5378 (11-15-85)

Decedent and Decedent Estate Cases

(1) Use closing code 08 when reporting an account currently not collectible on a decedent or insolvent decedent estate. See IRM 58(10)0, Legal Reference Guide for Revenue Officers, regarding proof of claim and other administrative actions.

(2) No Collection Information Statement is required. Show the court docket number in item 21D of Form 53.

(3) Request input of TC540 to record the death of the taxpayer and delete the filing requirements.

5376

MT 5300-1

IR Manual

5379 (11-15-85)

Statutory Collection Period Cases

(1) Do not solicit voluntary payments of accounts barred by statute. If a taxpayer responds to a notice for an amount barred from collection by statute, tell the taxpayer that payment is not required.

(2) Unpaid balances remaining when the statutory period for collection expires are reported currently not collectible or adjusted as prescribed below.

(a) If the module balance is no longer collectible, prepare Form 53. Annotate on top of the form "Statutory Period for Collection Expired."

1 If the statute expires on an open account, enter closing code 05 in Item 14. Document why the account was not closed before expiration of the statutory collection period.

2 If an account is generated and the statute had already expired enter closing code 04 in Item 14. Document the date the collection statute expired and the date the TDA was issued.

(b) For master file accounts, if the amount no longer collectible is only a portion of the module balance, the statute expired portion must be manually adjusted by input of TC 534 whether the statute expired before or after the account was issued.

1 Input adjustment transaction (TC 534) by preparing Form 3354, Assessment Adjustment Document, or Form 3870, Request for Adjustment.

2 The balance for which the statute is open should be collected or reported currently not collectible using the appropriate closing code.

3 The majority of master file accounts on which the collection statute has expired on all or part of the unpaid assessment prior to issuance will be identified by TDA selection code "534".

(c) For non-master file accounts, if the amount no longer collectible represents only a portion of the total liability (NMF accounts only), the statute expired portion should be reported currently not collectible on Form 53 as indicated above. The top of Form 53 should be noted, "Statutory Period for Collection Expired."

1 All actions required to dispose of the portion on which the statute has not expired must be accomplished prior to input of closing code 04 or 05.

2 If an amount (or part thereof) whose statute was open at TDA issuance time is also

to be reported as currently not collectible, the appropriate closing code for that portion should be used for the entire amount, and the closing code 04 should not be used.

3 Where adjustment or payment tracer action is appropriate on the balance for which the statute is open, see IRM 5340. The adjustment or payment tracer action must fully satisfy the unexpired assessment prior to reporting the statute expired portion currently not collectible using closing code 04.

(3) When an extension of the statutory period for collection is required but an executed Form 900, Tax Collection Waiver, cannot be secured, consider recommending a suit to reduce the assessment to a judgment and note Item 21C of Form 53. If a report is submitted recommending suit, report the account currently not collectible after the report is approved by the group manager. Enter closing Code 05 in Item 14 of Form 53. The memorandum of statute expiration cited in (5) below for closing code 05 cases is not required. If suit is not recommended, document the TDA history and report the account currently not collectible using the appropriate closing code. These accounts are not to be reported currently not collectible with closing code 05.

(4) Unsolicited voluntary payments on statute expired TDAs shall be accepted and routinely processed.

(5) The employee reporting an account currently not collectible, closing code 04 or 05, will report the expiration by memorandum, through Field function channels, to the Chief, Special Procedures function. Include the following information:

- (a) taxpayer's name, address, class of tax, taxable period, and identifying number;
- (b) amount of outstanding assessed tax;
- (c) date of assessment (23-C date);
- (d) date Form 53 prepared;
- (e) a statement of the reasons for the expiration of the statutory period; and
- (f) any other pertinent information.

(6) When the collection statute expires on the secondary taxpayer but the account is not being reported currently not collectible because action is pending on the primary taxpayer, prepare a memorandum of statute expiration as specified in (5) above.

MT 5300-1

5379

IR Manual

537(10) (11-15-85)
Special Conditions

537(10).1 (11-15-85)
Transferee Cases

If a transferee assessment has been recommended, the assessment against the transferor should be reported currently not collectible using an appropriate closing code if the transferor liability cannot be collected. Item 21B of Form 53 will indicate whether transferee assessment has been considered.

537(10).2 (11-15-85)
Assessments Against Two or More Taxpayers

(1) Assessments against more than one taxpayer are only reported currently not collectible when the tax cannot be collected from any of the taxpayers. If one of the taxpayers lives in a different area and the liability cannot be collected from the taxpayers or from property where the assessment is outstanding, send a Form 2209, Courtesy Investigation, (if not prohibited by IRM 5696 to the other area. If the courtesy investigation shows the tax cannot be collected from the out-of-area taxpayer, report the account currently not collectible. Attach the Form 2209 to the original Form 53. However, if a new address is received on the Daily Transaction Register or if the TDA was initially issued with an address outside the area, (but within the United States), the TDA may be transferred without prior courtesy investigation as specified in IRM 537(16).2.

(2) Sometimes, one of the taxpayers files an offer in compromise stating it is restricted to that individual's liability. When such an offer is accepted, the amount of the offer is credited to the total assessment. The liability of the other taxpayers continues for the balance of the assessment after this credit. If this balance is then reported currently not collectible, the name of the person whose offer has been accepted is included on the Form 53. The amount reported currently not collectible is the balance of the assessment after credit for the amount received on the offer and any subsequent payments. Item 1 of Form 53 should state, "Accepted Offer on (Name)."

(3) When a joint account on husband and wife is reported currently not collectible, and the conditions are different for the taxpayers, the

closing code used on Form 53 should relate to the primary TIN. The originator should explain the differing conditions in the case history.

537(10).3 (11-15-85)
Distilled Spirits Taxes

Before a TDA of \$500 or more, for distilled spirits taxes, is reported currently not collectible, contact the Bureau of Alcohol, Tobacco and Firearms representative serving the taxpayer's area for additional information to enforce collection.

537(10).4 (11-15-85)
Cases Reported Currently Not Collectible Without Courtesy Investigations

(1) Forms 53 for accounts described in IRM 5696 and text 691 of LEM V should indicate the steps taken to locate the taxpayer's assets. Closing codes for these accounts are:

(a) closing code 03 if mail has been directed to the taxpayer and no response was received or the mail was returned undelivered.

(b) appropriate "Hardship" closing code if a response was received from the taxpayer but full payment could not be secured through correspondence.

537(10).5 (11-15-85)
Accounts on Relocated Witnesses

For procedures on witnesses given new identities and relocated by the Department of Justice, see IRM 5155.

537(10).6 (11-15-85)
Accounts That May Be Reported Currently Not Collectible Based on a Prior Form 53

(1) When an account is issued on a taxpayer for whom a prior account was reported currently not collectible (CNC), under circumstances described below, the new account may be reported currently not collectible based on the prior Form 53. The originator of Form 53 must decide what additional investigation, if any, is needed prior to disposition of the account.

(2) Subject to the additional requirements in (3) for certain closing codes, use the following guidelines:

(a) If the aggregate assessed liability (open and CNC accounts) is less than \$2,000 and the most recent TC 530 is less than 12 months old, the open account may be reported CNC with no further action.

(b) If the aggregate assessed liability is less than \$5,000 (open and CNC accounts), the prior 53'd accounts over \$2,000, and the most recent TC 530 is less than 12 months old, the open account may be reported CNC with no further action.

(c) Except for the situations in (a) and (b), accounts will be worked even though others were recently 53'd. Actions less than 12 months old in the prior 53 file may be copied and used for a 53 on the new accounts. However, as long as the earlier TC 530 is less than one year old, the CIS from the earlier 53 is not required for the new 53 when the aggregate, assessed liability (open and CNC accounts) is less than \$5,000. All other requirements in IRM 5370 for the type of 53 and amount due must be satisfied. Check IDRS for the date of the prior 53 if "Y" appears in the CNC block of the TDA.

(3) If accounts are reported CNC under one of the following closing codes, requirements in addition to (2)(a) and (b) for basing a 53 on a prior one are:

(a) Unable to locate (closing code 03) or unable to contact (closing code 12)—the current TDA address was already investigated and mail is returned undeliverable.

(b) Defunct corporations (closing code 10) and bankrupt corporations (closing code 07)—the current account accrued before the previous 53. If accounts are for trust fund taxes, Form 4183 must be approved to report them CNC. The one year limit in (2) above, does not apply. The filing requirements should be deleted. Before disposing of the account, contact the Special Procedures function to ensure that no other collection sources are possible.

(c) Other bankrupt individuals or partnerships (closing code 07)—the taxpayer is not currently in business.

(d) Decedents (closing code 08)—when a proof of claim was filed, or the issue was settled prior to the earlier 53. The one year limit in (2) above, does not apply.

537(10).7 (11-15-85) W-4 Penalty and Frivolous Return Penalty

(1) Prior to reporting a penalty TDA as CNC, all collection methods, with the exception of field contacts with the taxpayer, are to be pursued. Every source for securing levy information should be exhausted.

(2) Any penalty TDA reported as CNC under this procedure should be closed using closing code 03, unable to locate

(3) Request a TC 130 on the Form 53.

(4) These penalty TDA(s) will not be reported as CNC by ACS or SCCB.

(5) This procedure is restricted to entities having no other outstanding assignments.

537(11) (11-15-85) Preparation of Form 53, Report of Currently Not Collectible Taxes

537(11).1 (11-15-85) Completion of Form 53

(1) Part 1 of Form 53 is shown in Exhibits 5300-20 (front) and 5300-21 (back). Keyed explanations are, for the most part, provided in these exhibits.

(2) If more space is required, use additional Forms 53. Item one of each continuation page should contain the taxpayer's name and page number (page 2 of 2, etc.). If item 16, Description of Accounts, is continued, the Taxpayer Identification Number (TIN) must be shown at least once in part (a).

537(11).2 (11-15-85) Scheduling Mandatory Follow-up

(1) Sometimes follow-up is needed on an account being reported currently not collectible. Request follow-up only when required or when there is a strong likelihood that revenue will be collected by taking the requested action. Request follow-up on IMF accounts sparingly since a systemic follow-up is performed.

(2) Mandatory follow-up should not be requested if the account balance is less than the TDA deferral level in section 324 of LEM V.

(3) Request follow-up when the following conditions or others warrant:

(a) there is evidence that the taxpayer's ability to pay will improve (BMF and NMF, and IMF closing code 07 only);

(b) the statutory collection period should be extended by waiver or suit (if taxpayer's assets or income potential warrants);

(c) the notice of lien should be refiled if statute is extended (if the taxpayer's assets or income potential warrant).

MT 5300-1

537(11).2

IR Manual

(d) employment taxes are being reported currently not collectible and the taxpayer is still in business.

(e) the taxpayer is a defunct corporation and there is a definite indication that it will reactivate.

(f) the taxpayer is a seasonal worker, the majority of whose income is made during a few months of the year, and the tax would be collectible if the taxpayer were contacted then.

(g) the account is reported currently not collectible using closing code 12 (except IMF), and there is a definite indication that contact could be made in the future.

(4) Document specific actions and the date required in item 22 of Form 53 in sufficient detail to ensure appropriate follow-up. Also, document the case history to permit review of the follow-up determination after part 4 is detached. As each follow-up is completed, update part 4 of Form 53 to show the date of the next follow-up.

537(11).3 (11-15-85)
Forms 53 for Pre-TDA Status Accounts (IMF, BMF Only)

(1) When reporting Notice Accounts currently not collectible, send a copy of the notice (or other document identifying the account) with the Form 53. Write "Notice Account" in the top margin of Form 53.

(2) Do not include accounts not yet assessed on the same Form 53 with assessed accounts. See IRM 5263.

537(11).4 (11-15-85)
Forms 53 for NMF Accounts Not on IDRS

(1) Certain NMF accounts are not loaded onto IDRS. The TDAs are noted "Not on IDRS." Also, NMF delinquencies in notice status are not on IDRS. In both cases, special handling of Form 53 is required.

(2) Route these as outlined in IRM 5851.9:(2):(b)3.

537(11).5 (11-15-85)
Multiple Accounts on the Same Taxpayer

(1) Report multiple accounts for the same taxpayer currently not collectible on one Form 53. This includes accounts on different Master Files and accruals. It also includes IMF and BMF accounts in notice status. However, do not

include accounts not yet assessed on a Form 53 with assessed accounts

(2) If the name changes, (for instance a 7612, 1040 on husband and wife, 7712, 1040 on husband only; or a partnership that changes a partner), all accounts may be included on one Form 53, if all accounts have the same TIN. Use the name on ENMOD in item 1.

537(11).6 (11-15-85)
Managerial Approval of Currently Not Collectible Accounts

(1) CF1 Forms 53 are approved by the originator's immediate manager or acting manager.

(2) SP1 Forms 53 are approved by the Chief, SP1 or by the functional unit manager (i.e., Chief, Technical Advisory Unit).

(3) The approving manager should determine that all necessary steps have been taken.

537(12) (11-15-85)
Other Procedures for Currently Not Collectible Accounts

537(12).1 (11-15-85)
Area Office Reactivation of TDAs Reported Currently Not Collectible

(1) Area offices will reactivate currently not collectible accounts when there is:

(a) a significant improvement in the taxpayer's ability to pay.

(b) information secured while investigating another account that indicates the currently not collectible account can be collected.

(2) To reactivate a currently not collectible account, prepare Form 4907 or 4844 in triplicate. Identify the accounts being reactivated, explain the reason, and indicate TC 531. If the manager approves, send the input document to Centralized Services, and keep a copy. If it is not approved, the manager will explain on the back of the input document and return it to the originator.

(a) The initiator's assignment code will be the TSIGN on the input document. The initiator will use a copy of the input document to request the closed 53 file from SPF and associate it (if available) with the reissued TDAs. The initiator will also assure the accounts are reissued.

(3) TC 521 will not automatically reactivate an account suspended by a TC 520 action if the account history contains an unreversed TC 530. Therefore, SPS should determine if reactivation is necessary and input TC 531 if the account should be reactivated.

5380 (11-15-85)**Collection Waivers****5381 (11-15-85)****Extending the Statutory Period for Collection**

(1) The Internal Revenue Code provides, in general, that taxes must be collected within six years after the date of assessment unless a levy is made or a court proceeding has begun before expiration of the six-year period. The six year collection period may, at any time prior to its expiration, be extended for any period of time agreed upon in writing by the taxpayer and the District Director. The extension is effective upon execution of the agreement by both the taxpayer and the District Director or by his/her authorized delegate. Any period agreed upon may be extended by subsequent agreements, in writing, made before expiration of the period previously agreed upon.

(2) Form 900, Tax Collection Waiver, will be used whenever agreements are required to extend the statutory period for collection. The form consists of four parts as follows:

(a) Part 1, IRS Copy—Transmitted to Special Procedures function after execution of the agreement.

(b) Part 2, Taxpayer's Copy.

(c) Part 3, (For processing as Form 3177)—Retained by initiator until Special Procedures function acknowledges receipt of Part 1. After acknowledgment is received, process Part 3 as Form 3177 for input of TC 550 or at local management option may be forwarded to SPF with Parts 1 and 4.

(d) Part 4, Acknowledgment Copy—Used for transmittal and acknowledgment by Special Procedures function of the executed Part 1.

5382 (11-15-85)**Accounts Requiring Tax Collection Waivers**

(1) TDA's should, in practically all instances, be collected, otherwise satisfied, or reported as currently not collectible within the statutory period for collection. In some cases, however, there are problems which delay collection or other closing action where it becomes necessary to request that the taxpayer execute a tax collection waiver.

(2) A waiver determination should be made not later than one year prior to expiration of the statutory period for collection, including any extensions. This waiver determination date will

normally be five years after the date of assessment, unless it is clear that the statute has been extended by operation of some provision of law. If the statutory period has been extended, the period of extension and the reason should be noted on the TDA, together with the new statute expiration date.

(3) In making their periodic reviews of case-loads, managers should ascertain that appropriate action is being taken on TDA's which have reached the waiver determination date, or which will reach that date prior to the next anticipated review. In cases where a waiver has not been secured, the manager should review the facts of the case to determine if the Service should request that the taxpayer execute a waiver or whether other action should be taken to dispose of the account. If a waiver is not secured, the manager should assure satisfactory disposition of the account at least six months before the statute expiration date.

(4) If a Form 2209, Courtesy Investigation, is required on a case where a waiver determination will be necessary within the normal completion time for the investigation, the originator should enter pertinent information in the "Remarks" section of Form 2209. If the investigating officer secures a waiver, it should be forwarded with the completed courtesy investigation. Courtesy investigations should not be requested solely to secure a waiver unless the taxpayer is only temporarily located in the other jurisdiction.

(5) TDA's should not be transferred (either inter- or intra-district) if the statutory period for collection will expire within six months from the date of transfer. If it appears necessary to transfer an account with six months or less of the statutory period remaining, a Form 2209 fully explaining the facts of the case should be submitted to the proposed transferee office. Transfer will not be made until an executed tax collection waiver is secured and approval of that office is received. In all cases the proposed transferee office will either secure an executed tax collection waiver and accept transfer or furnish sufficient information to permit satisfactory disposition of the account.

(6) If further collection action is to be initiated on an account previously reported as currently not collectible, a waiver determination should be based on the amount which may be reasonably expected to be collected during the period of the extension. This determination should be

made at the time of follow-up investigation to secure payment of the account.

5383 (11-15-85)

Preparation of Waiver Forms

(1) Form 900, Tax Collection Waiver, should be prepared prior to requesting the taxpayer's signature. The form may be typed or legibly printed. Several assessments may be included on the form and more than one class of tax may be listed. However, only those accounts for which a waiver is required should be listed. A separate Form 900 is required for the following:

- (a) each entity,
- (b) BMF accounts,
- (c) IMF accounts, and
- (d) NMF accounts.

(2) If the taxpayer's name is incorrectly stated on the TDA, the correct name should be listed on the Form 900 and action taken to correct the assessment. After preparation of Form 900, the initiator should check the form to ensure that the taxpayer's name and all assessment data (class of tax, period, assessment date) are correctly shown thereon.

(3) In cases where the entire assessed balance has been paid but unassessed accrued amounts remain outstanding, a waiver may be secured so that collection of the unassessed accrued amounts may be made during the extended period. In such cases, the total amount of the unassessed accruals should be entered in the "Unpaid Balance of Assessment" block with the heading of the block clearly changed to show "Amount Outstanding."

(4) Generally the date to which the statute should be extended will be December 31 of the year following the year in which the statutory period will expire. However, if an installment agreement is in effect and runs beyond the December 31 date, the waiver should extend the statute to a date 12 months later than the expiration date of the agreement. Also, if there is a TC 290 or TC 300 assessment, the waiver should extend the statute to a date at least one year beyond the statute expiration date of the latest additional assessment. If a taxpayer refuses to execute a waiver because the taxpayer considers the period of extension too long, the period may be reduced to that requested by the taxpayer provided it will allow sufficient time to effect settlement of the account.

5382

IR Manual

MT 5300-1

(5) The Form 900 should be personally signed by the taxpayer or by a person empowered to act for the taxpayer. If the waiver is secured by mail, and the authorized delegate has reason to believe that the signature is not the taxpayer's, it should be compared with the signature on documents contained in the case file, e.g., Form 433-A, 433-B, 433-D, copy of tax return, etc. Forms 900 to extend the statute for collecting corporate liabilities should be signed by the president, vice-president, treasurer, assistant treasurer, or chief accounting officer. In cases where the Form 900 is signed by a person other than the taxpayer, a copy of the instrument authorizing the representative to act for the taxpayer should be attached to Part 1 of Form 900, or a brief statement citing the documented authority for such person to sign on the taxpayer's behalf should be attached. In the case of joint assessments, every effort should be made to secure the signature of all persons named in the assessment against whom collection action is expected to be pursued during the extended period.

(6) After the taxpayer executes the Form 900, the authorized delegate should manually sign the waiver and insert the date and title. The district director's name may be written, typed, or stamped. Generally, Form 900 will be signed by the revenue officer who secures the waiver. After signing Parts 1 and 2, Part 2 should be given to the taxpayer.

5384 (11-15-85)

Disposition of Executed Waivers

(1) Upon receipt of an executed waiver from the taxpayer:

(a) complete Section A of Part 4 for transmittal of Part 1 to the Special Procedures function.

(b) either note on Part 3 the date the executed waiver was forwarded to the Special Procedures function and attach to TDA file pending return from the Special Procedures function of the acknowledged Part 4; or, at the option of local management, forward Part 3, together with Parts 1 and 4, to the Special Procedures function for disposition and annotate the TDA history sheet accordingly.

(2) Upon receipt of Part 4 of Form 900 transmitting an executed tax collection waiver, the Special Procedures function will:

(a) examine the waiver to determine if it was properly prepared and executed.

(b) acknowledge receipt of the waiver, if it is in proper order, by completing Section B of Part 4.

(c) forward Part 4 to the originator.

(d) place Part 1 of the executed waiver in an alphabetic file.

(e) forward Part 3 to Centralized Services for input.

(3) If, for any reason, a waiver has not been properly prepared or executed, the Special Procedures function will immediately return the waiver to the originator with a memorandum indicating the corrective action required.

(4) Upon receipt of the acknowledged Part 4 from the Special Procedures function:

(a) note the related TDA or ACS comments section "Waiver secured—statute extended to (date);"

(b) attach Part 4 to the related TDA file except in ACS where it can be destroyed; and

(c) if the account is within the required refiling period, prepare Form 668-F for refiling.

(d) When Form 900 is secured during the refiling period, districts may elect to have Collection employees prepare and execute Form 668-F to be sent to SPI with Parts 1 and 4 of Form 900, in which case:

1 The TDA history should be noted "Form 668-F forwarded to SPI."

2 SPI will forward Form 668-F for filing immediately after Form 900 has been reviewed and acknowledged. Part 6 of Form 668-F will be returned to the originator with the acknowledged Part 4 of Form 900.

(5) Form 900 secured for non-master file accounts will be processed as above, except for conspicuously noting Part 3 "NMF." The notation should appear immediately in front of the TC 550.

(6) The Special Procedures function will maintain and safeguard all executed tax collection waivers. In any case where a waiver is secured which extends a period previously agreed upon in a tax collection waiver, the Form 900 should be attached and filed with the previously secured waiver. The executed waiver (Part 1) should not be removed from the Special Procedures function during the period in which it remains valid unless a written request for the original copy is received from the district director or district counsel. In such cases, the written request should be substituted for the waiver. In other cases where waivers are requested, copies should be furnished by photostat or other reproduction process. SPI should process all

inter-office inquiries relative to tax collection waivers.

5390 (11-15-85)

Transfer of Accounts

5391 (11-15-85)

TDA Transfer Without Prior Courtesy Investigation

(1) Accounts in TDA status (for nonresident taxpayers see (2) below), may be transferred without prior courtesy investigation if the balance due including accruals exceeds the dollar criteria contained in text 391 of LEM V; and one of the following paragraphs applies.

(a) ACS has completed all productive actions to close the account.

(b) The receiving office requests or agrees to the transfer of specific accounts.

(c) An *intra-district* transfer of an open account is made between Area offices because:

- 1 the TDA was received in error as indicated by the TDA address, or
- 2 district procedures permit the transfer.

(d) The TDA was initially issued with an address outside the district's jurisdiction and the address is not a P.O. Box number or in care of a motel or hotel; and

1 the statute of limitations for collection will not expire within eight months from the date of transfer;

2 the accounts are not in one of the following categories: awaiting adjustment or payment tracer action, deferred, military deferment, withhold collection status, or those on which recommendations for legal action have been made. Accounts in these categories should not be transferred until these actions have been concluded;

3 there are no indications in the address or in the file to indicate that the taxpayer is incarcerated;

4 a courtesy investigation is not already outstanding or completed based on the same new address; and

5 partnership or joint TDAs may be transferred only if all of the taxpayers involved reside in the transferee district or the accounts are currently not collectible with respect to the taxpayers who reside in the transferor district. For corporate liabilities, the address must be that of the corporation, rather than that of an officer of the corporation.

MF 5300-1

5391
IR Manual

(e) New address information appears on IDRS (usually as notified by the Daily Transaction Register), or

(f) Letter 1058(DO) is sent certified mail with return receipt requested to the new address but fails to elicit full payment and is not returned "undelivered" within 30 days; or

(g) New address information is received through correspondence from the taxpayer or personal contact with the taxpayer; and

(h) the account meets the provisions of 1-5 in (d) above.

(2) Accounts of *nonresident* taxpayers having current addresses located outside the United States, Puerto Rico, Guam, American Samoa, and the Virgin Islands (except military personnel or civilian employees of the Department of Defense—see IRM 53(10)6.2 will be transferred to the Foreign Operations District (FOD), Internal Revenue Service, P.O. Box 384, Washington, DC 20044, Attn: FOD:532, without prior courtesy investigation if they meet all of the following conditions:

(a) the aggregate assessed balance of all delinquent accounts of the taxpayer equals or exceeds the tolerance criteria (see text 391 of LEM V);

(b) the statute of limitations for collection of each account will not expire within one year from the date of transfer of each account. If less than one year remains within the statutory period for collection, agreement will be secured from FOD prior to transfer of the accounts;

(c) the accounts are not in offer-in-compromise status, withhold collection status, awaiting adjustment action, military deferment status, or those on which recommendations for legal action have been made;

(d) the grounds for determination that the taxpayer is outside the United States and the date (or approximate date) of departure are documented on the history sheet. In addition, Letter 1058(DO) must be sent by registered mail and sixty days allowed for taxpayer response;

(e) all known assets have been thoroughly investigated and the TDA history documents the results of the investigation. This includes a check of all known assets shown on the taxpayer's return and a check of real and personal property records. If the investigation reveals an asset anywhere in the United States, a levy or seizure determination must be made prior to transfer;

(f) copies of the related returns and revenue agent's reports are attached. These include a copy of the last return filed (which must be determined) and copies of returns for each delinquent account; and

(g) in 100 percent penalty cases, attach a copy of the 100 percent penalty file and the latest individual income tax return for the taxpayer.

5392 (11-15-85)

TDA Transfer Following Courtesy Investigation

(1) Conditions for transfer of accounts without prior courtesy investigation are outlined in IRM 5391. In all other cases, a courtesy investigation should first be requested (unless prohibited by IRM 5690. One of the following conditions must be met before transferring a TDA:

(a) Receiving office completes courtesy investigation and indicates willingness to accept transfer.

(b) Receiving office completes courtesy investigation indicating that the taxpayer is located within its jurisdiction but fails to furnish sufficient information to permit proper disposition of the account.

(c) Receiving office fails to reply to a request for courtesy investigation within 45 days from the date of the request or fails to request an extension of time for completion of the investigation.

(2) In all cases, transfer of accounts is prohibited where the statutory period for collection will expire within six to eight months from the date of transfer, is prohibited unless approval of the manager of the receiving revenue officer is received prior to actual transfer. The originating office should expedite Form 2650 to effect transfer. If the statutory period for Collection will expire in less than six months, a waiver must be secured prior to transfer.

(3) TDAs of resident taxpayers having current addresses in Puerto Rico or the Virgin Islands will be transferred to P.O. Box 300 Hato Rey, Puerto Rico, 00918, Attn: Chief, Field Branch. However, a Courtesy investigation must first be requested (unless prohibited by IRM 5(13)20) and one of the situations stated in (1) above must exist before transfer is made.

(4) TDAs transferred as a result of any of the situations stated above will be accepted by the receiving office.

5391

MT 5300-1

IR Manual

5393 (11-15-85)
Transfer of Accounts Previously Reported Currently Not Collectible

(1) Accounts in currently not collectible status may be transferred between districts without prior reactivation. If related TDAs qualify for transfer, currently not collectible files may be transmitted for information purposes at time of transfer. Otherwise, Form 2209, Courtesy Investigation, will be initiated if Letter 1058 (DO) does not result in full payment and the aggregate unpaid balance including accruals is more than the tolerance criteria. (see text 391 of LEM V). If the aggregate unpaid balance including accruals is less than the specified amount, the currently not collectible TDAs will be returned to the files.

(2) Currently not collectible accounts being transferred should be listed on Form 2650, TDA-TDI Transfer, and after input of the transfer information to IDRS transmitted to the receiving office. (If an account is not on IDRS, request it from master file. Input the transfer information to IDRS in three weeks.) Complete Form 2650 as follows:

- (a) Annotate in the remarks section "53'd account—do not reissue TDA."
- (b) Do not complete item 9 or 10.
- (c) Forward the file, along with the triplicate of Form 2650 to the transferee office as no new TDA will be issued.

(3) For NMF accounts, the SCCB will use a copy of the Form 2650 to transmit the related Unit Ledger Card, without reissuance of a TDA, to the transferee service center.

5394 (11-15-85)
Preparation of Form 2650

5394.1 (11-15-85)
TDA Transfers

(1) Form 2650, TDA-TDI Transfer, should be prepared in triplicate and routed as follows:

- (a) Part 1 and 3 with all attachments to SCCB via Form 3210;
- (b) Part 2 to Centralized Services closed files; and

(c) If the balance of TDA(s) is below the level in text 391 of LEM V, Part 3 should be routed to the closed file in the receiving office for information purposes. Form 2650s requiring input of TC 130 should be sent to transferee SCCB for input, then routed to the closed files.

(2) Transfers between area offices within a district when TDAs are received erroneously in one area office and belong in another is accomplished by sending the TDA to the transferee office with original only of Form 1976 after input of new assignment code.

(3) Transfers between ACS and the district when all productive actions have been taken to close an account will be handled by the SCCB via Form 1976.

(4) New TDAs will be generated to the transferee office.

(5) All open TDAs and TDIs on the same entity must be associated at the time of transfer, as all outstanding TDAs and TDIs will be reissued to the transferee office.

(6) Occasionally on transferred cases the address on the TDA does not coincide with the DOAO of the TDA/TDI assignment code. As part of batch initialization, the Service Center Collection Branch may call the transferor district to obtain the correct new address. Response to these inquiries will prevent the TDA being returned to the transferor district.

(7) When transferring NMF TDAs not on IDRS (these will be received on Form 2209, Courtesy Investigation), prepare Form 2650 in triplicate; send the duplicate to the closed file with the duplicate Form 2209, and send the original and triplicate on Form 3210 to the Service Center Collection Branch along with the TDA, case file, and the original 2209 which is closed nong the transfer.

5394.2 (11-15-85)
Management Approval

Group managers will approve revenue officer Forms 2650 if the statutory period for collection will expire within eight months from the date of transfer.

53(10)0 (11-15-85)
Cases Requiring Special Handling

53(10)1 (11-15-85)
Self-Employment Tax Liabilities of Amish Taxpayers

(1) IRC 1402(h) exempts members of certain recognized religious sects or division from self-employment tax. To qualify under this provision, the individual has to file Form 4029, Application for Exemption From Tax on Self-Employment Income and Waiver of Benefits.

(2) Generally, the Amish meet the requirements of this provision and may be exempted upon filing Form 4029. An individual who had self-employment income from any taxable year ending prior to December 31, 1967, was required to file Form 4029 not later than December 31, 1968. In any case, the application must be filed on or before the return due date (including any extensions) for the first taxable year for which the person has self-employment income. However, if Form 4029 is not filed by that date, it may still be timely filed on or before the last day of the third calendar month following the month in which the taxpayer is first notified in writing by the Service that an application for exemption has not been filed.

(3) Self-employment tax TDAs will not normally be issued for taxpayers who have an approved application for exemption. However, if at any point in the collection process it is determined that the taxpayer may qualify under IRC 1402(h), collection action will be suspended and the taxpayer should be contacted to determine if the Form 4029 has been filed. If the Form 4029 has not been filed, a personal interview should be held with the taxpayer as soon as possible and the provisions of the law explained. Further action should be taken as provided in (5)(a) below.

(4) If the taxpayer advises that the Form 4029 was filed, verify by checking Copy B or Copy C of the form. If the copy of the form is not available, request a check of service center records for current status of the application.

(a) If the taxpayer's application was disapproved, attempt to secure voluntary payment before proceeding with enforced collection action.

(b) If the application was approved prepare Form 3870, Request for Adjustment, for abatement of the assessment.

(c) If the application is still pending and a reasonable time for processing has elapsed, prepare a memorandum request to the Assistant Commissioner (Collection), National Office, OP:C:O for contact with the Social Security Administration to determine the status of the application.

(5) Taxpayers claiming eligibility for the exemption, who have not filed Form 4029, should be requested to do so.

(a) If a Form 4029 is secured, a waiver (Form 900) should not be secured even though expiration of the collection period is imminent.

In these cases, if notification is not received from the Social Security Administration as to action taken on the Form 4029 before the statutory period for collection expires, the account may be reported as currently not collectible.

(b) The taxpayer should be notified in writing if there is no record of an application for exemption (see pattern letter in Exhibit 5300-25). Written notification is required in every case even though the taxpayer was personally advised or has indicated that an application will not be filed. Collection action should be suspended during the three month period allowed in the written notification for filing Form 4029.

1 If Form 4029 is received from the taxpayer within the specified period, forward it to the service center, Attention: Correspondence function and hold the related TDA in abeyance pending action on the application.

2 If Form 4029 is not filed by the taxpayer within the specified period, effort should be made to secure voluntary payment. If that fails, enforced collection may be taken within the limitations prescribed in IRM 536(23).

53(10)2 (11-15-85) Income Tax Assessed Against A Child

(1) Any income tax assessed against a child, to the extent of the amount attributable to income included in the gross income of the child solely by reason of IRC 73(a), if not paid by the child shall be considered as having also been properly assessed against the parent. See IRC 6201(c) and regulations thereunder.

(2) District Directors and Service Center Directors are not allowed to assess any amount of unpaid estimate tax required to be paid under IRC 6153 or 6154.

53(10)3 (11-15-85) Telephone Excise Tax Cases

(1) Quarterly, telephone companies will report the names and addresses of telephone subscribers who fail to pay telephone excise tax.

(2) Annually, in November, service centers will review all unpaid accounts and research all available service center sources to determine taxpayer's Social Security Numbers (SSNs). On those cases where taxpayers' SSNs are determined, Unit Ledger Cards (ULC) will be updated with the SSN and the service center will input a TC 130 to the IMF in an effort to capture subsequent refunds.

(3) During the first week of November, service centers will manually issue Forms 3967C, Balance Due IRS Second Notice. The notices will reflect an aggregate account liability where there are multiple ULCs on the same taxpayer.

(4) During mid-December, service centers will manually issue TDAs if the aggregate unpaid liability meets the criteria in text 324 of LEM V, and load the modules onto IDRS. No IDRS third or fourth notices are issued on these accounts.

(5) Each TDA will identify the first delinquent quarter as the TC 150, Tax Assessment-Return, and subsequent (if multiple) quarters as the TC 290s, Additional Tax Assessment. Separate computation of accrued penalty and interest will be entered on the TDA for each period of liability; and, each TDA will be recorded on IDRS as a single inventory item for the last period of liability.

(6) Telephone excise tax TDAs with an aggregate balance due, including accruals, of less than the amount specified in text 3(10)3 of LEM V which have mail returned as undeliverable will be reported currently not collectible using closing code "03".

53(10)4 (11-15-85) Reopening of Cases by Examination Division

53(10)4.1 (11-15-85) Collection Requests for Reconsideration of Deficiency Assessments

[Amended and Supplemented by MS 5G-305
Elimination of Collection Closed Files
Expiration Date May 14, 1987]

(1) A TDA or notice account generated as a result of an Examination deficiency may be reconsidered by Examination Division if it appears the taxpayer did not receive any notification prior to the Collection contact; thus, did not have the opportunity to submit the substantiation required and now has the necessary documentation. Also the taxpayer may have moved since filing the return in question.

(2) If, based on the contact made with the taxpayer, the Collection employee determines that the taxpayer has not had an opportunity to submit needed documentation to support claimed deductions, request Examination Division to reconsider the amount of the disputed deficiency.

(3) Secure copies of all documents the taxpayer has to substantiate the disallowed de-

ductions, including a copy of the tax return and Examination Report, if available.

(4) Prepare Form 3870, Request for Adjustment, and boldly mark in item 18, "Taxpayer Request for Reconsideration of Examination Assessment." Explain why the case should be reconsidered and have the taxpayer sign the form, or attach the taxpayer's letter.

(5) When the contact is an ACS taxpayer, complete item 18 only and have the taxpayer sign Form 3870; or attach the taxpayer's letter to the case file and substantiation and forward to the ACS call site for preparation of the adjustment request. The taxpayer's letter must be signed.

(6) The district office shall establish local controls for forwarding assigned cases to Examination. Do not request input of Transaction Code (TC) 470 at this time. However, Collection action should be suspended pending Examination action.

(7) Examination will evaluate the information and, if possible, make an immediate determination concerning the liability in question.

(8) If Examination cannot make a determination within thirty days, Collection will be notified, and the Collection case will be closed. Examination will then re-establish controls under AIMS and secure the administrative file for further consideration. The TDA or notice will be forwarded to Centralized Services function for input of TC 470, (for TDAs use CC 90) and filed in the closed file.

(9) If Examination accepts the case for reconsideration, forward the TDA or notice to Centralized Services function for input of TC 470, (for TDAs use CC 90) and filing in the closed file.

(10) If Examination does not accept the case for reconsideration, inform the taxpayer and proceed with Collection action.

(11) Illegal tax protester cases are excluded from the above procedures.

53(10)4.2 (11-15-85) Premature Assessments in Tax Court Cases

(1) A TDA or notice account may be generated even though the taxpayer has filed a timely Tax Court petition. Some of these assessments are correct, and collection should be pursued. Others are premature and should be abated.

MT 5300-1

53(10)4.2

IR Manual

(2) If the taxpayer when contacted maintains that the deficiency is still before the Tax Court for consideration, the Collection employee will contact the responsible Appeals office and determine if the assessment was made prematurely.

(3) If the assessment is premature, the Collection employee will request input of the TC 470, CC90 and send the TDA or notice to be filed in the close files. Appeals will be responsible for abating the premature assessment.

(4) If the assessment is correct, the Collection employee will pursue collection of the assessment only. The Collection employee will not attempt to collect the proposed deficiency before the Tax Court.

53(10)4.3 (11-15-85) Other Cases Reopened by Examination

[Amended and Supplemented by MS 5G-305
Elimination of Collection Closed Files
Expiration Date May 14, 1987]

(1) In instances where an Examination case is reopened and the Chief, Examination Division, believes that collection should be suspended, the Chief, Collection Division, (district director if no Chief) will be requested to suspend any further collection action until the examination is complete. Upon such notification, and with the concurrence of the Chief, Collection Division, the revenue officer will suspend all collection action. BMF, IMF, and NMF TDAs will be forwarded to Centralized Services function for input of TC 470 with a Closing Code of "90". TDAs will be filed in the closed file. The case will remain assigned to the revenue officer.

(2) In all cases where the revenue officer learns of Examination Activity on a TDA, the revenue officer will contact the Examination Division before closing the TDA to determine what the expected outcome of the examination will be. If the revenue agent expects to reduce the liability to zero, the revenue officer should close the TDA. Otherwise, collection should continue.

53(10)5 (11-15-85) Taxpayers Entitled to Installment Billing

(1) The Internal Revenue Code authorizes automatic installment billing for the following types of tax if certain conditions are met:

53(10)4.2

IR Manual

MT 5300-1

(a) Form 706, U.S. Estate Tax Return, if the taxpayer fulfills conditions set forth in IRM 5673 and

(b) Form 1041, U.S. Fiduciary Income Tax Return (For Estates and Trusts), if the return is filed timely and the taxpayer elects to pay equal amounts on the return due date and on the 15th day of the third, sixth and nine months following the return due date.

(c) Form 2290, Federal Use Tax Return on Highway Motor Vehicles, if the return is timely filed and the remittance (plus 10% or \$1,000, whichever is less) equals or exceeds one-fourth of the tax due for July, August and September; one-third of the tax due for October, November and December; or, one-half of the tax due for January, February and March, and the taxpayer pays the balance of the tax in equal quarterly instalments;

(d) ERTA Tax Straddles—Form 1040, U.S. Individual Income Tax Return, Election for Extension of Time for Payment. In accordance with the Economic Recovery Tax Act of 1981, if the election is made, the taxable gain for the year from regulated futures contracts is taxed at the rates in effect for 1982. In addition, the portion of the tax attributable to gain from prior years rolled forward into 1991 may be paid in equal annual instalments over a period of up to 5 years. An election under this section and the first installment of the tax on the pre-1981 gain must be made on or before the due date of the taxpayer's return for the tax year including June 23, 1981.

(2) Where there is an open TDA in inventory for current tax year Form 706, 1041, 2290, or for an ERTA tax straddle case, and the taxpayer is current with installment payments, the employee should determine if the Master File has been updated to Status 14.

(3) If the status has not been updated, the employee should prepare Form 4844, Request for Terminal Action, and forward to Centralized Services for input of TC 488 to reestablish installment status.

53(10)5.1 (11-15-85) Defaulted Deferred Payments on Straddle Contracts

(1) Prompt contact must be made as the collection statute is not extended when this method of payment is elected. Final demand for payment will not have been made prior to the issuance of this type of NMF Account. Collection Field function employees must assure themselves that a Final Demand for payment has been made.

(2) If the taxpayer contends that the delinquent payment has been made, the Service Center Accounting Branch will be contacted for verification.

(3) A determination on the filing of a Notice of Federal Tax Lien, Form 688, will be made within prescribed time frames and in routine manner with the following exception:

the unpaid balance of assessment will reflect the missed installment(s) only.

(4) Interest will accrue on the unpaid installment. Therefore, TC 340 must be used to prevent an erroneous refund of interest at the time the case is closed.

(5) If the revenue officer determines that the taxpayer is in bankruptcy or an insolvency proceeding, the Chief, Service Center Collection Branch and the Chief, Special Procedures function will be notified so that a Proof of Claim may be filed for the entire amount of the unpaid liability, and the Chief, Service Center Accounting Branch can be notified of the bankruptcy or insolvency proceeding.

53(10)6 (11-15-85) Accounts on Military Personnel and Employees of Department of Defense

53(10)6.1 (11-15-85) Accounts on Taxpayers Who Served in a Combat Zone

(1) IRC 7508 provides that, for individuals who served in an officially designated combat zone, payment and collection of any federal tax liability will be suspended during the period of the individual's service in the combat zone, plus any period of continuous hospitalization outside the United States as a result of injury received while serving in the combat zone, plus the next 180 days thereafter. See IRC 7508(d) for exceptions.

(2) Among the classes of individuals serving in support of the Armed Forces who are within the scope of IRC 7508 are Red Cross personnel, industrial technicians, civilian employees of the Federal Government in specialist categories, scientists, and accredited correspondents.

(3) IRC 692 provides that any individual who dies while in active service as a member of the Armed Forces of the United States (if such death occurred while serving in a combat zone or as a result of wounds, disease or injury incurred while so serving) is not liable for any

income tax for the taxable year in which falls the date of death or with respect to any prior taxable year ending on or after the first day of the period in a combat zone and any income tax which is unpaid for any prior years at the date of death (including interest, additions to the tax and additional amounts) shall be abated. Where military personnel are reported as Missing-In-Action and later determined to have died at an earlier date, Public Law 93-597 provides for forgiveness of income taxes through the taxable year in which the missing status is changed rather than just through the year of actual death. However, such taxes will not be forgiven for any year beginning more than two years after termination of combatant activities (in the case of Vietnam, no later than January 2, 1978).

(4) Collection action will be suspended when it is determined that a taxpayer is entitled to an extension of time as authorized by IRC 7508. Information received from the taxpayer or other sources reflecting the date service in the combat zone began will be sufficient to suspend further activity in collecting the liability. If a joint assessment is involved, action to collect the liability from the spouse may also be suspended during the period provided by IRC 7508. The case file should be appropriately noted.

53(10)6.2 (11-15-85) Military Personnel and Civilian Employees of Department of Defense Residing Overseas

53(10)6.21 (11-15-85) General

(1) The following procedures will be used for processing accounts on military personnel and on civilian employees of the Department of Defense (DOD) residing overseas.

(2) DOD has given instructions to their payroll officers to transfer a Notice of Levy to the proper payroll officer when military personnel change their duty station either within the United States or overseas. As a result, it is not necessary to have the TDA follow the taxpayer who is transferred to a new duty station.

(3) As a followup to the agreement with DOD on processing accounts of military personnel having APO or FPO addresses, the Service entered into a similar agreement on processing accounts of DOD civilian employees residing overseas. Both agreements provide for accept-

MT 5300-1

53(10)6.21
IR Manual

ance of service of levies by mail in the United States and forwarding to the payroll officer overseas. This includes all military personnel and DOD civilian employees residing overseas with the exception of those in Hawaii, Alaska, and Puerto Rico where the local payroll offices continue to accept service of the levy.

(4) District offices should take precautionary measures to ensure the TDAs are processed in accordance with prescribed instructions to prevent any repercussions from DOD.

(5) All TDAs on military personnel stationed outside the district in which the TDA is located and those TDAs on civilian employees of DOD residing overseas require a waiting period of 30 days after the date of the Final Notice. The Tax Equity and Fiscal Responsibility Act of 1982 requires that the Final Notice or its equivalent bearing foreign addresses be sent via registered mail. Those TDAs on military personnel stationed within the district where the TDA is located will only require a waiting period of 15 days.

53(10)6.22 (11-15-85)

Processing Notice Responses

(1) Responses from the taxpayer as a result of the notices sent out will be directed to the Service Center for further processing.

(2) On military accounts where the taxpayer makes a specific inquiry about a military deferment in response to a notice request for payment of individual income tax, the Service Center will accelerate the account to TDA status, place the correspondence in the suspense file for attachment to the TDA when assigned to CFI and processed in accordance with procedures in IRM 53(10)6.3.

53(10)6.23 (11-15-85)

Securing Addresses of Military Personnel

(1) Form 2223, Request for Address of Military Personnel, is used in any case where it is desired to obtain from the records of the Military Services the current or last known address of a taxpayer who is a member of or who has been recently separated or discharged from the Armed Forces. In order for the Military Service Branches to identify the person named on Form 2223, certain information is required. The full name of the taxpayer, together with the taxpayer's pre-service address, should be entered ac-

curately. The taxpayer's social security number is of utmost importance to the Military Service Branches in providing positive identification of the taxpayer. Also, the taxpayer's last known military address and the latest date such address was known to be current should be furnished. The correct mailing addresses for the Military Service Branches are printed on the face of Form 2223 and the address corresponding to the member's branch of service should be entered in the space provided.

(2) Form 2223 is designed for mailing to the Military Service Branch in a window envelope. All Forms 2223 intended for one branch may, instead of being individually mailed, be mailed in bulk in a large envelope addressed to the branch concerned. The receiving Military Service Branch will furnish the address information to the extent possible and mail the form to the return address listed on it. For that reason, care should be taken to ensure that each Form 2223 bears the return address of the requester. Otherwise, even though a current address is available, the Military Service Branch will be unable to return the completed form.

(3) Many of the Forms 2223 will have to be forwarded by the Military Service Branch concerned to various record centers located throughout the United States. Therefore, no follow-up inquiry should be made within 90 days from the date of the original request. If after 90 days, it is found that follow-up inquiry is necessary, a second Form 2223 should be mailed to the proper Military Service Branch. The second Form 2223 should not be identified as a second request, and no reference should be made to the original form.

(4) When requesting the address of a retired military taxpayer, the Form 2223 should be sent to the applicable office listed in IRM 536(15).3 except for those for retired Navy personnel, which should be directed as follows:

U.S. Navy Finance Center
Mail and Central Files Division (SMM)
1240 East 9th St.
Cleveland, Ohio 44199

53(10)6.21

IR Manual

MT 5300-1

53(10)6.3 (11-15-85)

Military Deferments

53(10)6.31 (11-15-85)
Universal Military Training and Service Act

(1) Under the—Universal Military Training and Service Act (hereinafter referred to as Section 573, Title 50), the collection of any income tax due from any person in the military service, whether falling due prior to or during his or her military service, may be deferred if such person's ability to pay the tax is materially impaired by reason of such military service. The period for which collection of the tax may be deferred is the period of the taxpayers' military service plus an additional period of not more than six months after the termination of his military service.

(2) The term "person in the military service," for purposes of Section 573, Title 50, means any member of the United States Army, the United States Air Force, the United States Navy, the Marine Corps, the Coast Guard, and any officer of the Public Health Service detailed by proper authority for duty with the Army or Navy.

(3) The term "period of military service" means a person's initial period of active military service, which will be one of the following:

(a) the period of active duty for which the taxpayer is inducted into the military service under any selective service act;

(b) the period of active duty under the first enlistment of the taxpayer in the military service;

(c) the period of service which precedes any reenlistment following recall of the taxpayer to active duty from a reserve or National Guard unit;

(d) the first period of reenlistment of taxpayer who has been out of the military service for one year or more; or

(e) in the case of an officer, the first two years of any tour of active duty that is preceded by a period of inactive duty or nonmilitary status of one year or more.

(4) A deferment of collection of income tax under Section 573, Title 50, will be granted if the following conditions are present.

(a) The taxpayer has submitted a written request for deferment under Section 573, Title 50.

(b) The taxpayer establishes that he or she is serving an initial period of military service, as defined in (3) above.

(c) The taxpayer submits, with request for deferment, satisfactory proof that ability to pay

the tax has been materially impaired by reason of taxpayer's military service.

53(10)6.32 (11-15-85)
Procedure for Military Deferment Cases

(1) If a taxpayer requests an extension of time for payment under a military deferment, the employee assigned the TDA should send the taxpayer Letter 1175 (DO) and a Collection Information Statement. The date of mailing should be noted on the TDA.

(2) Further action on the TDA should be withheld for a period of at least two months without response from the taxpayer. If the completed Letter 1175 (DO) is not received from the taxpayer, or if information becomes available indicating that the taxpayer is not serving an initial period of military service or is merely seeking unjustifiably to delay payment, collection action can be resumed after managerial approval.

(3) The completed Letter 1175 (DO) and the Collection Information Statement should be reviewed to determine the taxpayer's eligibility for a deferment. This determination should be based on the extent to which the taxpayer's ability to pay the tax has been impaired by military service. In borderline cases, doubt as to the degree of impairment will be resolved in favor of the taxpayer. If it is concluded the taxpayer is not entitled to a deferment, a letter of denial should be prepared for the signature of the manager. (See Exhibit 5300-26). A copy of the letter should be placed in the case file and collection action resumed.

(4) If it is concluded the taxpayer is entitled to a deferment, a letter granting the deferment should be prepared for signature of the manager. See Exhibit 5300-27. A copy of the letter should be placed in the case file. The termination action request form will be noted with TC 50/CC-51, and the number of cycles the account is to remain in suspense status. Ensure that the interests of the Government will be protected during the deferred period, including filing or refiling a Notice of Lien, if necessary. The TDA case file, along with the input Form and a routing slip addressed to SPI, should be submitted with Form 795.

MT 5300-1

53(10)6.32

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53(10)6.33 (11-15-85)
**Interest and Limitations on
Collection**

(1) If a deferment of collection is granted, the running of the statutory collection period is suspended for the period of the taxpayer's military service plus an additional nine months beginning with the day following the period of military service.

(2) Interest does not accrue during the period of deferment on any tax for which collection is deferred. However, the taxpayer remains liable for any interest which accrued prior to the beginning date of the period of military service. Interest will also accrue during the period the tax remains unpaid following expiration of the period of deferment.

53(10)7 (11-15-85)
**Failure to Deposit Penalty
Assertions**

(1) Collection personnel have the responsibility for determining Federal Tax Deposit Penalties on TDA's in accordance with IRM 5172.55. An attempt should be made to collect immediate full payment on the first contact.

(2) FTD Penalties may be assessed via distinct IDRS terminals.

(3) If the penalty is collected in *accrual status* the related remittance posting document should reflect the amount of FTD penalty collected as a debit transaction using TC 180.

(4) If the penalty is being assessed, but not collected at that time, the following actions should be taken.

(a) Enter the amount of penalty to be assessed, as a TC 180 debit, on the TDA All Purpose form, or Form 4844.

(b) Annotate the form prominently with "ADJ 54."

(c) Do not post the debit to the TDA at this time.

1 This assessment must go to the Master File to obtain the required 23-C date.

2 A Master File Notice of Adjustment will be generated to the taxpayer.

3 A DTR debit item will be issued for posting to the TDA.

4 Annotate the history as to the action taken.

5 No enforcement action should be taken to collect such FTD penalties until the 23-C date statutory requirements are established.

53(10)6.33

IR Manual

MT 5300-1

(d) Forward the TDA All Purpose Form or Form 4844 to Centralized Services for input.

53(10)8 (11-15-85)
Erroneous Refunds

(1) There are three methods used by the Service for processing erroneous refund cases.

(a) credit reversal is used by the Service Center Accounting Branch when a posted return for the period in question reflects a tax of an amount equal to or greater than the erroneous refund. The credit reversal method results in generation of a TDA.

(b) when a posted return reflects zero tax for the period in question, the Service Center Accounting Branch issues a Form 2209, Courtesy Investigation, for field contact and attempted voluntary payment of an erroneously issued refund or initiation of a civil suit.

(c) when a posted return for the period in question reflects a tax of lesser amount than the erroneous refund, a combination of (a) and (b) above is used. The credit reversal method is used to recover an amount equal to the tax, and a Courtesy Investigation is used to attempt recovery of the remaining erroneous refund. When used in combination with the credit reversal method, Courtesy Investigation instructions will call for associating the Form 2209 with the corresponding outstanding TDA.

(2) For TDAs identified as representing unassessable erroneous refunds, request input of TC 470-closing code 90. Prepare Form 3210, with notation "Unassessable Erroneous Refund Cases," and showing the number of accounts attached. Forward with related TDAs to the service center Accounting function. Retain the duplicate for filing and control purposes.

53(10)9 (11-15-85)
**Cases Involving Household or
Agricultural Employees**

In general, normal TDA processing will be followed to effect collection of the tax. However, to help eliminate future delinquencies, individuals making personal contact with taxpayers should inform them of the provisions for voluntary withholding income tax from the wages of household and agricultural employees. If taxpayers choose to request that their employers withhold income tax from their wages, assist them in preparing Form W-4, Employee's Withholding Allowance Certificate. Furnish the taxpayer a copy of Circular E, Employers Tax Guide for delivery with Form W-4 to the employer.

53(10)10 (11-15-85)
**Accounts on Taxpayers Located
 in High Assault Risk Areas
 (HARA)**

53(10)10.1 (11-15-85)
General Procedures

(1) To reduce field contacts by revenue officers, the following procedures will be initiated.

(a) If Collection and Examination are in the same office and Examination cannot collect the balance due, Collection personnel will, at the time the deficiency is agreed to, attempt to secure an agreement for payment and levy sources.

(b) Collection personnel should be alert for HARA cases in which the proposed deficiency including accruals is less than TDA deferral. Data processing procedures will generate a notice to the taxpayer but no TDA will be issued.

(c) The Collection Field function will have CSB use command code ACTON to establish a dummy module, and input levy sources to the Account Number File (ANF), so preprinted levies will be issued for cases which become TDAs. These levy sources may come from a Form 4966, Form 1902-E, or the interview described in (1)(a) above. However, there should be no ANF input if the deficiency is below TDA deferral.

(2) Any payments received prior to receipt of the TDA should be processed on Form 3244. Use TC 640 to denote advance payment of determined deficiency.

(3) IRM 5140 describes measures which may help ensure the safety of revenue officers in high risk areas.

(4) Periodic rotation of assignments may equalize the risk in field contacts on HARA cases (policy statement P-5-3).

(5) Collection employees who enter high risk areas should be informed of instructions in IRM 5141.

(6) Instructions for reporting forcible assault or threat of force on Collection personnel are in IRM 5141.

53(10)11 (11-15-85)
**Cases Involving an "Innocent
 Spouse"**

53(10)11.1 (11-15-85)
General

(1) Public Law 98-369 provides that in certain cases a spouse will be relieved of liability

arising from a joint income tax return when the following conditions exist.

(a) A joint return has been filed which reflects substantial underpayment attributable to grossly erroneous items of one spouse.

(b) The "innocent spouse" establishes that in signing the return he or she did not know of, or had no reason to know of, the substantial underpayment, and

(c) Considering all facts and circumstances, it is inequitable to hold the "innocent spouse" responsible for the substantial underpayment.

53(10)11.2 (11-15-85)
Procedure

53(10)11.21 (11-15-85)
Referral to Examination Division

(1) Cases in which the law appears to apply (deficiency assessments only) should be referred to Examination Division for consideration. The following procedures should be followed:

(a) Prepare Form 3449, Referral Report, based upon P.L. 98-369, "Innocent Spouse" legislation.

(b) Specific abatement requests should not be made on individual cases, as Collection personnel are not authorized to determine the merits of the claim made by the alleged "innocent spouse."

(c) A memorandum to the Chief, Examination Division, should accompany the referral. The memorandum will contain all data gathered by Collection personnel relevant to consideration of the claim by the Examination Division.

53(10)11.22 (11-15-85)
Original TDA Disposition

(1) After referral to Examination Division, a revenue officer should determine whether to withhold collection against the party claiming to be the innocent spouse. If collection is to be withheld, the file will be documented and the TDA kept active for collection against the other spouse.

(2) No action will be taken to remove the innocent spouse's name from the TDA or lien until such time as Examination Division makes their final determination.

53(10)11.23 (11-15-85)

TDA Reissuance

(1) The Examination Division's findings, after reexamination of the original return, may affect the original TDA and entity. The resulting TDA issuance and entity procedures are as follows.

(a) The Examination Division may find that "Innocent Spouse" legislation does not apply and so notify the Chief, Collection Division, by memorandum. In such cases, collection action will resume if it was previously suspended. No entity problems should arise in these situations.

(b) The Examination Division may find that "Innocent Spouse" legislation applies fully to the original assessment. If this is their finding, one non-master file TDA will be issued against the liable spouse from the service center to the district office. The original tax module will be deleted from the master file by the service center. No action by Collection personnel will be necessary to effect the entity change.

(c) The Examination Division may find that "Innocent Spouse" legislation only applies partially to the original assessment. In these cases, a joint master file TDA will be issued by the service center reflecting the corrected balance against both taxpayers. A separate non-master file TDA will reflect the balance of the original assessment for which one spouse alone is liable.

53(10)11.24 (11-15-85)

Application of Payments in Multiple Assessment Cases

Whenever accounts are issued as in IRM 53(10)11.23 involuntary payments and undesignated voluntary payments received from the solely liable spouse or from his or her assets should be applied to his/her account first and then to the balance outstanding jointly. This method should generally ensure that the Government holds the best possible collection position. However, a judgment may be made to apply payments to the joint account first.

53(10)11.25 (11-15-85)

Notices of Federal Tax Lien

(1) It is possible a Notice of Federal Tax Lien may have been filed on a joint income tax TDA before the issue of a potential "Innocent Spouse" arose. The original notice may remain in force or be changed depending upon Examination Division's findings. One of the following procedures will apply when notices have been

filed prior to reexamination of an income tax return based upon P.L. 98-369.

(a) If the Examination Division determines "Innocent Spouse" legislation does not apply, no change of the original notice is necessary.

(b) If the Examination division concludes that "Innocent Spouse" legislation fully applies, thereby relieving the "Innocent Spouse" of the liability, the employee will issue a memorandum to the chief, Special Procedures function, requesting he/she notify the appropriate local jurisdiction to delete the "Innocent Spouse" from the original notice. The original notice should not be released.

(c) If the Examination division finds that "Innocent Spouse" legislation partially affects the original assessment, the Collection Division will treat the reissued joint assessment as if there had been a partial abatement of the original TDA. In these cases, no action on the original notice is necessary, unless or until the reissued joint TDA is fully paid. At that time, the employee will issue a memorandum to the chief, Special Procedures function, requesting he/she notify the appropriate local jurisdiction to delete the "Innocent Spouse" from the original notice. Again, as in (b) above, the original notice should not be released.

53(10)11.3 (11-15-85)

Offer in Compromise Consideration

(1) IRC 6013(e) incorporates the provisions of P.L. 98-369. While the law covers all open years under the 1939 and 1954 Codes, it does not open a year closed by Statute of Limitations, Res Judicata, or otherwise.

(2) Acceptance of an offer in compromise closes the year or years involved (Regs 301.7122-1C). Therefore, an accepted offer in compromise precludes consideration of a claim by an alleged "Innocent Spouse."

53(10)12 (11-15-85)

Political Activity Case TDAs

53(10)12.1 (11-15-85)

General

(1) Public Law 93-625 established income tax filing requirements for political organizations, committees and candidates for tax years beginning January 1, 1975. P.L. 93-625 affirmed the substance of the prior Revenue Rulings. The provisions of the law are contained in IRC 527.

(2) Political entities subject to P.L. 93-625 are required to file Form 1120 POL, U.S. Income Tax Return of Certain Political Organizations, only if they have taxable income over \$100 that is not specifically exempted by law.

53(10)12.2 (11-15-85)

Procedures

(1) "G" coded accounts will receive normal ACS processing.

(2) Employees will make normal full compliance checks for taxable periods and types of returns not reflected on the "G" coded account.

(3) Employees should recognize that "G" coded taxpayers are frequently temporary entities established for the limited purpose of financing and managing a political campaign. Since many of these taxpayers will be defunct, employees should be alert to transferee situations.

53(10)13 (11-15-85)

Transaction to Prohibit Offset-In to Specific Master File Accounts

53(10)13.1 (11-15-85)

General

TC 470 with a unique Closing Code "99" is used to prevent automatic offset of a credit balance to an outstanding debit balance. The posting of this TC470 to a module on IDRS will update the module to a new suspense status, "73". The module will remain in this suspense status until reversed with a TC 472, Closing Code 99, at which time an analysis will be made for IDRS Third Notice. At the master file, the module is frozen from the offset-in until the suspense action is reversed.

53(10)13.2 (11-15-85)

Procedures

(1) There are several conditions under which the use of this freeze would be applicable. For example:

(a) instances where a deficiency is being contested or adjusted and offset-in would be inappropriate until the liability is resolved; and,

(b) instances, such as in nationally declared disaster areas where it may be specifically directed that collection be withheld.

(2) Although service centers will make the most frequent use of TC 470 CC 99, the district office will also have occasion to utilize the transaction to freeze and suspend both notice

and TDA status accounts as mentioned in IRM 5341. The district office application of TC 470 CC 99 will be carefully controlled by National Office directive.

(3) There is no systemic control or monitoring of accounts suspended in Status 73. To safeguard against potential integrity problems, it will be necessary to maintain a control file to ensure that the accounts are monitored for timely reversal of the suspense status. District offices utilizing this unique closing code to suspend an account will forward the entire case file to SCCB for input and monitoring. Attach Form 4844 to the face of the TDA or notice and indicate "TC 470, CC99" and the required suspension period in the remarks section.

53(10)14 (11-15-85)

Ad Valorem Penalty Adjustments

District Office and ACS personnel have the primary responsibility for processing claims for abatement of ad valorem penalties relating to TDAs in open or closed IDRS status, delinquent returns secured by the district office or the ACS call site and those cases where the taxpayer has requested a personal contact. If the service center receives correspondence from a taxpayer requesting abatement of a penalty for any of the above categories, the correspondence will be forwarded to the appropriate responsibility unit within ACS or the district office.

53(10)15 (11-15-85)

Cases with Mathematical or Clerical Errors

53(10)15.1 (11-15-85)

General

(1) Returns filed after December 31, 1976, containing mathematical or clerical errors (hereafter referred to simply as math errors) will initially be identified at the Master File by a Freeze Code "G." They will be subject to a first notice issuance and then held in suspense for 12 cycles to meet the stay of collection requirement of the law.

(2) The 12 cycle suspense applies to the aggregate module balance of the assessment. Such a module will be retained on IDRS and can be identified as having Freeze Code G or J. Its retention on IDRS will neither cause the default of an installment agreement, nor require it to be

included when the installment agreement is input.

(3) When the appeal period expires or the taxpayer responds indicating agreement with the assessment, the Freeze Codes are removed and the module is then subject to notice and TDA issuance.

(4) Should the taxpayer respond and contest the assessment, the service center will immediately input a TC 470 Closing Code 94, Claim Pending. This will establish the "J" freeze to temporarily extend the suspense period. The taxpayer's return will be secured immediately and a determination as to liability will be made. The determinations will be as follows:

(a) if the taxpayer's claim is justified, the tax will be abated with a TC 291 and the remaining liability, if any, will then be subject to notice and TDA issuance.

(b) if the taxpayer's claim cannot be justified, the tax will be abated with a TC 291 and the issue will be referred to the Examination Division. Excepting exempt organization returns, any existing credit will be frozen until the Examination determination is made. Any remaining liability will be subject to notice and TDA issuance.

53(10)15.2 (11-15-85) Procedures

(1) Generally, math error problems will have been resolved prior to TDA issuance. However, there may be instances when a timely taxpayer response to the first notice will unaccountably not have been processed during the appeal period. When this happens, the service center will immediately input a TC 470 Closing Code 94. If the module has already gone to TDA status, a Daily Transaction Record (DTR) reflecting TC 470 will be issued. This is to ensure that collection action is not pursued against that portion of the liability which is being contested.

(2) The module will remain in TDA status.

(3) The service center will attempt to resolve the issue and input TC 291 as soon as possible after their input of the TC 470. Should it be necessary to pursue collection during that interval, telephone contact with the service center will provide information on the amount of the math error and its status. Use the control base to identify the appropriate service center organization unit to contact.

53(10)16 (11-15-85) Child Support Obligation TDAs

53(10)15.1

MT 5300-1

IR Manual

53(10)16.1 (11-15-85)

General

(1) IRC 6305 provides for the assessment and collection of certified Child Support Obligations (CSO) in the same manner, with the same powers and subject to the same limitations as if such amount was a tax imposed by Subtitle C (Employment Taxes). The following exceptions apply to CSO TDAs:

(a) no interest or penalties shall be assessed or collected, except for bad check penalties.

(b) the following exemptions under IRC 6334(a) shall not apply:

- 1 unemployment benefits;
- 2 certain annuity and pension payments; and,
- 3 salary, wages or other income if generally exempt because of a judgment for support of minor children.

(c) salary, wages or other income of an individual being withheld by a garnishment pursuant to a judgment for the support of minor children may not be levied upon.

(2) Collection must be stayed for a period of 60 days immediately following notice and demand in the case of the first assessment against an individual for a particular person(s). This requirement is met in the service centers, where a notice is issued and the account is held in notice status for 60 days prior to issuance of a TDA. Once issued, CSO TDAs are subject to immediate collection action by CFI.

53(10)16.2 (11-15-85)

Service Center Collection Branch Procedures

(1) As new CSO certifications are received, but prior to assessing the liability, the Service Center Accounting Branch will send them to the Service Center Collection Branch (SCCB) for the revenue officer to review. If the certification appears to be in order, it will be returned to the accounting branch for assessment. The revenue officer will attach a copy of IRM 53(10)16 before returning the certification. If the certification is not in order, it will be returned to the State with a cover memorandum. The revenue officer will advise the Accounting Branch and also send a copy of the file and the cover memorandum to the Deputy Director, Office of Child Support Enforcement (OCSE), Department of Health and Human Services, Rockville, MD 20852.

(2) TDAs under this program will be issued manually, reflect MFT Code 59, Tax Class 6, and will bear the legend CSO. Each TDA will have a copy of the certification attached so that pertinent information secured by the state agency will be available for revenue officer use. CSO TDAs will be assigned directly to revenue officers.

(3) The revenue officer should ensure that a TC 130 has been input.

53(10)16.3 (11-15-85) Collection Field Function Procedures

(1) Because of the special nature of these cases, the difficulty level symbol will not appear on the TDA. Group managers will review the cases for level of difficulty and will assign the cases accordingly.

(2) Normal field collection procedures should be followed in the collection of CSO TDAs subject to the qualifications in IRM 53(10)16.1 above.

(3) Since the liability has been determined by a state court, the IRS does not have abatement or compromise authority. Changes to the amount of liability must be initiated by the state of jurisdiction.

(4) If, after contact with the taxpayer, it is determined that there is an obvious error in the assessment or the taxpayer produces satisfactory evidence that he/she paid the respective state after the assessment was made, the revenue officer should cease further collection action. The revenue officer should first contact the state official whose name and telephone number appear on the certification. In the unlikely event that this does not resolve the problem, the revenue officer should contact the regional OCSE representative whose name and telephone number are also listed on the certification.

(5) States are to certify only cases with good collection potential. All state information forwarded with the certification should be carefully reviewed for maximum collection potential.

(6) The revenue officer reporting a CSO TDA currently not collectible will schedule a mandatory follow-up if it appears that the taxpayer's ability to pay or equity in assets will improve.

(7) If an agreement is made for regular payments, the account will be handled as an NMF installment agreement.

(8) If the account is transferred, the revenue officer will:

(a) follow procedures for the transfer of NMF cases, and,

(b) send a photocopy of the TDA and all related paperwork directly to the transferee office on Form 2650, TDA-TDI Transfer. The receiving office will immediately start working the case using the photocopy of the TDA. When the TDA and case file are received from the service center, they will be associated.

(c) Notify the appropriate state official of the transfer of the case.

53(10)16.4 (11-15-85) Coordination With States

(1) In the event the state intervenes after the case has been certified to Collection, i.e., subsequent state court action, etc., the revenue officer should contact the appropriate state coordinator, whose name and telephone number are shown on the certification, to clarify the matter.

(2) Occasionally, the state may request information on a particular case. Such requests may be handled by the revenue officer to whom the TDA is assigned. Care should be exercised so that nothing more than CSO information is disclosed to the state.

(3) After a CSO case has been in the revenue officer's inventory for 90 days, a brief narrative report outlining the present status will be forwarded to the state. The revenue officer will provide his/her telephone number so the state can follow-up on cases. Districts will retain copies of these reports for possible regional or National Office review.

(4) The revenue officer will prepare Form 5482, Record of Disclosure (Privacy Act of 1974), each time a report is sent to the state agency.

53(10)17 (11-15-85) Action Against False Refund Claims

53(10)17.1 (11-15-85) General

(1) In false refund claim cases, IRC 6201(a)(3) allows assessment of overstated prepayment credits of income tax to be made in the same manner as in the case of mathematical or clerical error, without the necessity of sending a notice of deficiency to the taxpayer(s).

(2) Cases where the Form W-2 appears to be a fraudulent, contrived document created to obtain a false refund may be subject to criminal or civil compliance action.

53(10)17.2 (11-15-85)
Procedures

(1) Service Center Collection Branch will assign TDAs coded N and TRSF-N directly to the Collection Field function. TDAs coded 914-N will be routed to Special Procedures function to be processed in accordance with IRM 5141.

(2) The N, 914-N and TRSF-N TDAs will receive priority handling and the revenue officer will immediately make personal contact with the taxpayer.

(3) Prior to any contact with 914-N coded TDA taxpayers, Criminal Investigation function should be notified to determine if a special agent should accompany the revenue officer.

(4) Because of the nature of the liability, all authorized enforcement necessary to recover the assessment plus accruals will be taken. Tolerance procedures of IRM 5372 will not be used.

53(10)18 (11-15-85)
Combined Annual Wage Reporting (CAWR) TDAs

(1) The Social Security Administration, after processing Forms W-2 and Forms W-3, Transmittal of Income and Tax Statements, forwards a computer tape of FICA earnings and withheld tax information to IRS for reconciliation against the wage and tax information reported on Forms 941, 942, 943, and 941E.

(2) Data from the Forms W-2 and W-3 series of documents are matched against the information reported on Forms 941, 941E, 942, and 943. Five money fields are reconciled—FICA Wages, FICA Tips, FICA Tax Withheld, Federal Income Tax Withheld and Total Wages, Tips and Other Compensation.

(3) When the match indicates the amount of tax reported on Forms 941, 941E, 942 or 943 is underreported, Returns Processing and Ac-

counting attempts to resolve the discrepancies through correspondence. Two notices are mailed to the taxpayer. If there is no response, or an unsatisfactory response, the underreported tax is assessed.

(4) The following characteristics are common to CAWR assessments

(a) The Transaction Code (TC) is 290.

(b) The 9th, 10th, and 11th digits of the Document Locator Number (DLN) for the TC290 range from 550 through 559. This is not necessarily the DLN printed on the TDA. If there is any doubt, check IDRS.

(c) At least one notice explaining the discrepancy will have been sent to the taxpayer.

(5) Normal BMF notice routines and deferral criteria are followed prior to TDA issuance for CAWR assessments.

(6) If it is necessary to review the actual Forms W-2 and W-3 and they are not available in the CAWR file at the Service Center, they can be secured from the Wage and Information Retrieval System (WIRS). See IRM 5128.

53(10)19 (11-15-85)
Non-Petitioning Spouse Cases

(1) If one spouse files a petition with the United States Tax Court on a proposed joint return deficiency and the other spouse agrees or does not take appeal actions, separate NMF TDAs are issued. TDAs and IDRS are noted by the service center "Non-Petitioning Spouse" and "Petitioning Spouse." If two districts are involved, the name of the other district will be noted by the service center on the face of the TDA.

(2) Revenue Officers assigned this type of case should contact the other district involved to determine if any collections have been made.

(3) Once the amount of the corrected joint return liability is collected, either from one spouse or in part from each, the remaining balances should be abated.

Exhibit 5300-1**Pattern Letter P-513 (Rev. 5-78)**

(Reference: IRM 5313.24)

(Type on Appropriate Letterhead)
NOTICE OF JEOPARDY ASSESSMENT AND RIGHT OF APPEAL

(Salutation)

Under section (insert 6861, 6862 or 6867) of the Internal Revenue Code, you are notified that I have found you (insert reason for asserting the jeopardy assessment) thereby tending to prejudice or render ineffectual collection of (insert type of tax) for the period _____. Accordingly, based on information available at this time, I have approved assessment of tax and additional amounts determined to be due as reflected in the attached computations:

Taxable Period	Tax	Penalty	Interest
----------------	-----	---------	----------

Under section 7429 of the Internal Revenue Code, you are entitled to request administrative and judicial reviews of this assessment action.

For an administrative review, you may file a written protest with the District Director within 30 days from the date of this letter, requesting redetermination of whether or not:

1. the making of the assessment is reasonable under the circumstances, and
2. the amount so assessed or demanded as a result of the action is appropriate under the circumstances.

A conference will be held on an expedite basis to consider your protest. Your protest will be forwarded to the Regional Appeals Office where a conference will be held.

If you submit new information or documentation for the first time at an Appeals conference, the Appeals Office may request comment from the District Director on such evidence or documents.

Enforced collection action may proceed during any administrative appeal process unless arrangements are made regarding collection of the amount assessed. To make such arrangements, please contact (indicate name and telephone number of appropriate district office official).

You may request a judicial review of this assessment by bringing a civil suit against the United States in the U.S. District Court in the judicial district in which you reside, or in which your principal office is located. However, in order to have this action reviewed by the District Court, you must request administrative review within 30 days of the date of this letter. Such suit must be filed within 30 days after the earlier of (1) the day of the Service notifies you of its decision on your protest, or (2) the 16th day after your protest. The Court will make an early determination of the same points raised in your protest to determine whether the making of the assessment is reasonable under the circumstances, and whether the amount assessed or demanded is appropriate under the circumstances. The Court's determination is final and not reviewable by any other court.

Appeal to the courts in Case of Income, Estate, Gift and Certain Excise Taxes

If an agreement is not reached with the Internal Revenue Service, a notice of deficiency is required by law to be issued within 60 days from the date of jeopardy assessment made under section 6861 of the Internal Revenue Code. You will then have 90 days (150 days if outside the United States) from the date the notice is mailed to file a petition with the United States Tax Court.

Appeal to Courts in Case of Other Taxes Assessed Under IRC 6862

Claim for credit or refund of taxes assessed under section 6862 of the Internal Revenue Code may be filed in accordance with section 6511(a) of the Code of administrative and judicial review of the merits of the liability assessed. An administrative decision on the claim may be appealed to the courts under the provisions of section 7422(a) of the Code.

Very truly yours,

District Director

Enclosure
Computation

Exhibit 5300-1 Cont.Pattern Letter 1583(P) (Rev. 8-81) 0

(formerly Pattern Letter P-49)

(Reference: IRM 5313.24)

(Type on Appropriate Letterhead)
NOTICE OF TERMINATION ASSESSMENT OF INCOME TAX

(Salutation)

Under section 6851 of the Internal Revenue Code, you are notified that I have found you (insert specific facts and reasons for termination assessment action) thereby tending to prejudice or render ineffectual collection of income tax for the (current/preceding) taxable year. Accordingly, the income tax, as set forth below, is due and payable immediately.

Taxable Year	Tax	Penalty
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Based on information available at this time, tax and penalty, if any, reflected in the attached computations, have been assessed.

This action does not relieve you of the responsibility for filing a return for your usual annual accounting period under section 6012 of the Code. Such return must be filed with the office of the District Director of the district in which you reside, or the district in which your principal office is located, not with the Internal Revenue Service Center. A copy of this letter should accompany the return so that any amount collected as a result of this termination assessment will be applied against the tax finally determined to be due on your annual return or to be credited or refunded.

Under section 7429 of the Internal Revenue Code, you are entitled to request administrative and judicial reviews of this assessment action.

For an administrative review, you may file a written protest with the District Director within 30 days from the date of this letter, requesting redetermination of whether or not:

1. the making of the assessment is reasonable under the circumstances, and
2. the amount so assessed or demanded as a result of the action is appropriate under the circumstances.

When feasible, a conference will be held on an expedite basis by the Regional Appeals Office to consider your protest.

If you submit information or documentation for the first time at an Appeals conference, the Appeals Office may request comment from the District Director on such evidence or documents.

As indicated above, enforced collection action may proceed during any administrative appeal process unless arrangements are made regarding collection of the amount assessed. To make such arrangements, please contact (indicate name and telephone number of appropriate district office official)

You may request a judicial review of this assessment by bringing a civil suit against the United States in U.S. District Court in the judicial district in which you reside or in which your principal office is located. However, in order to have this action reviewed by the District Court, you must first request administrative review within 30 days of the date of this letter. Such suit must be filed within 30 days after the earlier of (1) the day the Service notifies you of its decision on your protest, or (2) the 16th day after your protest. The Court will make an early determination of the same points raised in your protest to determine whether the making of the assessment is reasonable under the circumstances and to determine whether the amount assessed or demanded as a result of the action is appropriate under the circumstances. The Court's determination is final and not reviewable by any other court.

Very truly yours,

District Director

Enclosure
Computation

Exhibit 5300-2

Special Situations

(Reference: IRM 5353.1)

IRC Code Section	LIC Subsection	Subject	Property Involved	Person Protected	Requires Actual Notice	Has Absolute Priority	Needs Loan to Notify or Enroll
(b)(1)(1)	352.2	Securities	Securities			No	No
(b)(1)(2)	352.3	Motor Vehicles	Motor Vehicle			No	No
(b)(1)(3)	352.4	Retail Purchases	Tangible Personal Property	Retail Purchases		No	Yes
(b)(1)(4)	352.5	Casual Sales	Tangible Personal Property	Purchasers		Yes	No
(b)(1)(5)	352.6	Passenger Loans	Tangible Personal Property	Repurchase, Auction, Mfg. claims, etc.		No	No
(b)(1)(6)	352.7	Real Property and Special Assessments	Real Property	Young Ambassadors		Yes	No
(b)(1)(7)	352.8	Small Repairs and Improvements	Residential Real Property	Homeowner's Loans		No	No
(b)(1)(8)	352.9	Attorneys Fees	Judgments and Settlements	Attorney		No	No
(b)(1)(9)	352.10	Certain Insurance Contracts	Cash Loan Value	Insurer		Yes	No
(b)(1)(10)	352.11	Postbank Loans	Savings Account	Savings Institutions		Yes	No

* Qualifications noted in appropriate LHM section.

Exhibit 5300-3

Protection for Certain Commercial Transactions Financing Agreements, Etc.

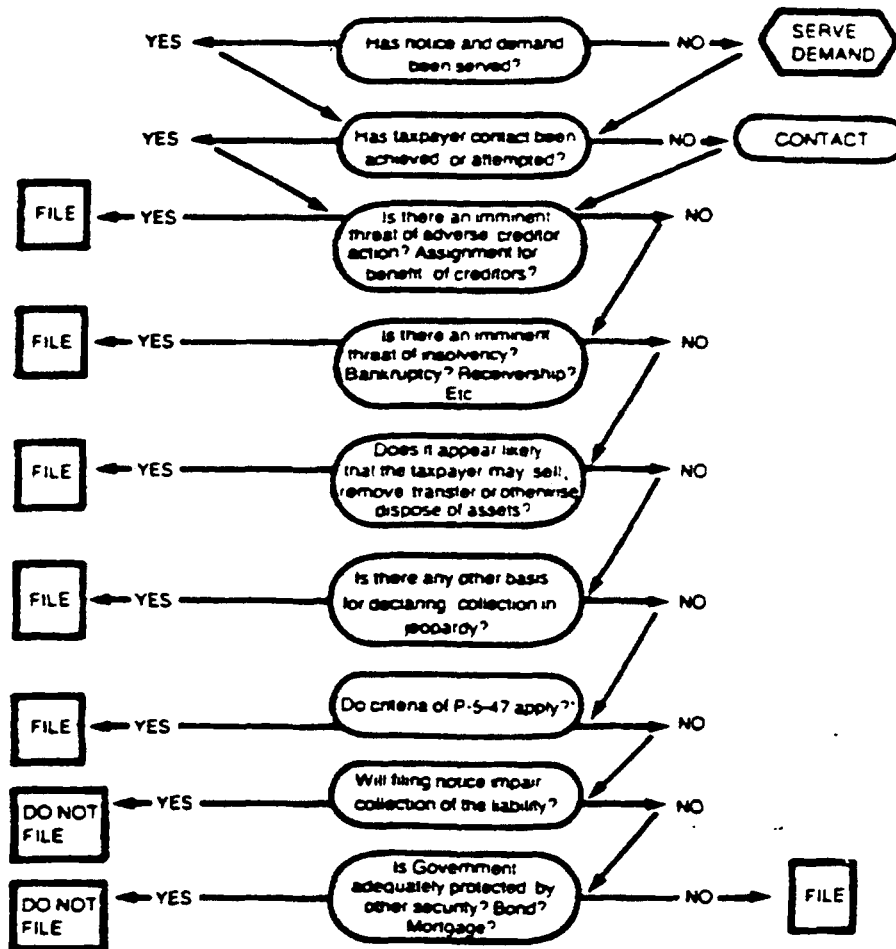
(Reference: IRM 5353.1)

IRC Code Section	IRC Subsection	Subject	Who	How	What (Qualified Property)	When
6323(c)(2)	258 2	Commercial Trade Financing Agreements	A person acting in the course of his trade or business i.e. bank or businessman	1 Written agreement before loan 2 Good against a judgment creditor under local law 3 Loan made within 45 days of loan being	1 Commercial financing security acquired in ordinary course of trade or business within 45 days after notice of loan held 2 Inventory (1) 3 Interpayables 4 Accounts Receivable 5 Real Property Mortgage 6 Commercial paper	45 days after loan being or date of actual notice—whichever is earlier (loans only)
	258 2		Purchaser of commercial financial security other than inventory (RM 5472.2 (2)(a))			
6323(c)(3)(A)(i)	258 3	Real Property Construction or Improvement Financing Agreement	Any person	1 Written agreement before loan 2 Good against a judgment creditor under local law 3 Loans may be made at any time 4 Must be cash disbursement 5 Except furnishing of goods or services in same as cash disbursement	1 Real property with respect to which construction or improvement has been made 2 Contract proceeds of financed contract 3 Crop 4 Unvested or interests in real property in existence at time of loan being	Unlimited
	258 3		Any person			Unlimited
6323(c)(4)	258 4	Obligatory Disbursement Agreement (Other than surety)	Person acting in course of trade or business	1 Written agreement before loan being 2 Good against judgment creditor under local law 3 Disbursement required by rights of third parties	1 Property in existence at loan being 2 Property acquired from the disbursements required to be made 3 Property accessible to disbursements 4 Contract proceeds of insured contract (1) 5 Tangible personal property used in performance of insured contract (2)	Unlimited
	258 4	Obligatory Disbursement Agreement (surety)				Unlimited
6323(d)	258 5	General Rule	Any person	1 Written agreement before loan being 2 Valid against judgment creditor under local law 3 Loan made within 45 days of loan being	Any property in existence and subject to loan at time notice of performance of insured contract loan being	45 days after loan being or date of actual notice—whichever is earlier

(1) Exclude inventory under 6323(c)(2)(D)
(2) Surety only

Exhibit 5300-4**Criteria for Filing Notice of Federal Tax Lien**

(Reference: IRM 5355.11)



• A notice of lien must be filed:

- prior to instituting levy action on property in possession of the taxpayer;
- prior to service of final demand for Payment if there is reasonable probability that suit may later be instituted; and,
- prior to reporting an account as currently not collectible where the total outstanding liability is \$1,000 or more, except where the taxpayer is deceased, is a bankrupt corporation, or where the statutory period for collection has expired. See P-5-47.

A notice of lien must be filed prior to service of a notice of levy on an insurance company.

Exhibit 5300-5

Form 668

(Reference: IRM 5355.31)

Form 668 <small>Rev. September 1978.</small>	Department of the Treasury Internal Revenue Service Notice of Federal Tax Lien Under Internal Revenue Laws
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District ①	Serial Number ②	For Original Use by Recording Office
<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 ③		
Residence ④		

Kind of Tax <small>(a)</small>	Tax Period Ended <small>(b)</small>	Date of Assessment <small>(c)</small>	Identifying Number <small>(d)</small>	Unpaid Balance of Assessment <small>(e)</small>
⑤	⑥	⑦	⑧	⑨

Place of Filing ⑩	Total \$ ⑪
--------------------------	-------------------

⑫

This notice was prepared and signed at _____, on this

the _____ day of _____, 19 _____

Signature ⑬	Title ⑭
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(Note: Certificate of error authorized by law in case circumstances do not conform to the wording of items of Federal Tax Lien 26 CFR 20010.1000-1, CD 120.)

Part 1 - To be kept by recording office Form 668 (Rev. 9-78)

Exhibit 5300-5 Cont.

Instructions for Form 668

(Reference: IRM 5355.31)

1. Name of city where originating district headquarters office is located—literal.
2. Originating office serial number—optional use.
3. Taxpayer(s) name(s)—See IRM 5355.31.
4. Taxpayer(s) address—Use latest available address at time of filing. This space should include the name of the taxpayer's representative, a fiduciary (if the lien does not attach to the individual), care of names, etc., if it appears on the TDA.
5. Enter kind of tax, i.e., 940, 941, 720, 1040, etc. Use 6672 for 100% Penalty.
6. Enter tax period ended for each module in MM-DD-YY format.
7. Enter TIN.
8. Enter dates of assessment for each listing.
9. Enter last date for refiling for each assessment date listed.
10. Enter total outstanding assessed balance of each period at the time of lien filing, i.e., one total for all assessment dates shown.
11. Location of filing/recording office determined in accordance with IRM 5355.4.
12. Total unpaid balance of assessment(s).
13. Location at which the notice of lien is signed and the date on which signed.
14. Typed name of the authorized delegate with manual signature.
15. Title of authorized delegate.

Exhibit 5300-6

Form 668-F

(References: IRM 535(11).71 and 535(11).8)

Form 668-F <small>(Rev. 10-22-78)</small>	Department of the Treasury Internal Revenue Service Notice of Federal Tax Lien Under Internal Revenue Laws
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District _____	Serial Number _____	<i>For Optional Use By Recording Office</i>
----------------	---------------------	---

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 _____

① _____

 ② _____

Kind of Tax <small>(a)</small>	MFT <small>(b)</small>	Tax Period Ended <small>(c)</small>	Date of Assessment <small>(d)</small>	Identifying Number <small>(e)</small>	Unpaid Balance of Assessment <small>(f)</small>

Place of filing _____

Total \$

Notice of Federal Tax Lien Refiling	
MS Serial Number _____ ③	Recorder's Identification Number _____ ④
Notice filed with _____ ⑤	Date _____ ⑥
Taxpayer's Address (if different than shown above): _____ ⑦	
Signature _____ ⑧	Title _____ ⑨

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

(Note: Certification of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax Lien. G.C.M. 26419, 1950-1, C.B. 125)

Part 1 - To be kept by recording office

Form 668-F (Rev. 10-78)

Exhibit 5300-7

Letter 1879(P)

0

(Reference: IRM 535(24).1)

Person to Contact
Telephone Number
Refer Reply to
Date**To Prospective Purchasers of Real Property:**

The Internal Revenue Service is seeking to redeem and sell the real property located at (Street address).

To redeem the property under (Section 7425(d) of the Internal Revenue Code or Section 2410 of title 28 of the United States Code), the Internal Revenue Service must obtain a written agreement to bid, secured by a deposit of 20% of the amount of the bid. The deposit must be in the form of a cashier's or certified check, a bank or postal money order, a certificate of deposit, or an irrevocable letter of credit. If redeemed, the property will be sold pursuant to Section 7506 of the Internal Revenue Code subject to any prior outstanding mortgages, encumbrances, or other liens that may be superior to the lien of the United States.

For additional information please contact (Revenue Officer's Name) at the address and telephone number shown above.

Sincerely,

Revenue Officer

Exhibit 5300-9**Pattern Letter P-403**

(Reference: IRM 535(18) 52.(2))

(Name and address
of applicant)**CONDITIONAL COMMITMENT TO DISCHARGE CERTAIN
PROPERTY FROM FEDERAL TAX LIEN**Re: (Name and address
of taxpayer)

(Salutation)

Your application for a certificate of discharge under the provisions of section 6325(b)(2)(B) of the Internal Revenue Code has been investigated. Based on the information furnished, I have determined that the interest of the United States under the Federal tax lien(s) outstanding against the taxpayer named above in the following described property is at present valueless.

(Enter legal description of property)

I will withhold issuance of a certificate of discharge, however, until the taxpayer through the foreclosure proceeding has been divested of all right, title, and interest (exclusive of any right of redemption) in the property. Unless later circumstances disclose value to the interest of the United States in the property described above, I will on a proper showing that the taxpayer has been divested of all of his right, title, and interest to the property (exclusive of any right of redemption), issue a certificate discharging the property from the Federal tax lien(s) outstanding against the taxpayer named above.

You are allowed to advertise that you have obtained a conditional commitment to discharge the property described above from the Federal tax lien.

Sincerely yours,

District Director of Internal RevenueBy: _____
Signature and Title

Exhibit 5300-10

Letter 1628(P)

(Reference. IRM 535(19) 2)

CERTIFICATE OF NONATTACHMENT OF FEDERAL TAX LIEN

TO WHOM IT MAY CONCERN

I certify that I am the appointed and qualified District Director of Internal Revenue charged by law with the duty of collecting and enforcing the collection of internal revenue taxes due the United States. I also certify that the Federal tax lien against all property and rights of property belonging to _____ (Name and address of taxpayer) _____ based on an assessment of _____ tax for the year _____ against _____ did not attach, and does not now attach, to any separate property of _____ or the following described property:*

Notice of the lien in the sum of _____ dollars (\$_____) was filed on _____ with the _____ State of _____ or with the Clerk of the United States District Court for the _____ District of _____ on _____ 19____, as provided by section 6323 of the Internal Revenue Code. (**or the corresponding provision of prior law).

The reason for this action is that it has been determined that _____ (Name and address of applicant) _____ is not liable for tax under the above assessment.

Witness my hand at _____ this _____ day of _____ 19____.

District Director of Internal Revenue

By: _____
(Signature and Title)

- * Delete inapplicable phrase, either "any separate" or "or the following"
- ** Include when applicable.

Exhibit 5300-11

Form 4376
(Reference: 535(22))

Report of Investigation (IRC 7425 or 2410 USC)		Date Notice of Lien filed	Serial number <div style="text-align: center; border: 1px solid black; border-radius: 50%; width: 20px; height: 20px; display: flex; align-items: center; justify-content: center;">1</div>
Name and address of Taxpayer		Place where Notice of Lien filed	
Type of Action			
<input type="checkbox"/> Judicial Docket number	<div style="text-align: center; border: 1px solid black; border-radius: 50%; width: 20px; height: 20px; display: flex; align-items: center; justify-content: center;">2</div> Name of court and caption of action	Redemption recommended by Dept. of Justice or U.S. Attorney <input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> Non-Judicial	<div style="text-align: center; border: 1px solid black; border-radius: 50%; width: 20px; height: 20px; display: flex; align-items: center; justify-content: center;">3</div> Date of Notice	Notice adequate <input type="checkbox"/> Yes <input type="checkbox"/> No	Consent given <input type="checkbox"/> Yes <input type="checkbox"/> No
Property Information			
Description of property subject to redemption <div style="text-align: center; border: 1px solid black; border-radius: 50%; width: 20px; height: 20px; display: flex; align-items: center; justify-content: center;">4</div>			
Description of encumbrance on which action was predicated <div style="text-align: center; border: 1px solid black; border-radius: 50%; width: 20px; height: 20px; display: flex; align-items: center; justify-content: center;">5</div>			
Name and address of encumbrance holder <div style="text-align: center; border: 1px solid black; border-radius: 50%; width: 20px; height: 20px; display: flex; align-items: center; justify-content: center;">6</div>		Outstanding balance of encumbrance on which action was predicated \$	<div style="text-align: center; border: 1px solid black; border-radius: 50%; width: 20px; height: 20px; display: flex; align-items: center; justify-content: center;">7</div>
Describe how Fair Market Value was determined (personal appraisal, auction sale, etc.)		Date encumbrance was recorded	
		If not recorded, date of instrument	
		Fair Market Value of property \$	
List and describe all other encumbrances on the property prior to the foregoing instrument <div style="text-align: center; border: 1px solid black; border-radius: 50%; width: 20px; height: 20px; display: flex; align-items: center; justify-content: center;">8</div>			

Exhibit 5300-11 Cont.

Form 4376
(Reference IRM 535(22))

Sale Information			
Name and address of purchaser	Date of sale		
	Purchase price	\$	⑧
Deficiency judgment ⑩ <input type="checkbox"/> Yes <input type="checkbox"/> No	Amount of judgment obtainable	\$	⑪

Recommendation	
Action taken under "Additional remarks": <input type="checkbox"/> Redeem <input type="checkbox"/> Do not redeem <input type="checkbox"/> Release right of redemption	List names and addresses of prospective purchasers and the amount of agreed bid by each

Amount Required to Redeem <small>(Complete only if redemption is recommended)</small>			
Actual amount paid by purchaser	1 \$	Date by which redemption must be made	⑬
Interest payable to purchaser	2 \$	Date by which check is required	
Amount paid to son or lender	3 \$	Date purchaser's foreclosure expenses ascertained	
Purchaser's foreclosure expenses	\$	Enter either of these amounts and date of loan if known	\$
Purchaser's bid less foreclosure income from property	\$	4 \$	Approximate date of repayment to revolving fund
Amount to be requested from revolving fund (Total of items 1 thru 4)	5 \$	⑭	Date of District Council advisory opinion
Make checks payable to	⑮	Deliver checks to	⑯

Additional remarks (Continue on a separate sheet if necessary)

⑰

Signature of revenue officer	Date	
Approval Signatures	Chief, Special Procedures function	Date
	District Director	Date
	Assistant Regional Commissioner (optional)	Date

GPO 675000

Form 4376 (Rev. 1-82)

Exhibit 5300-12**Pattern Letter P-597**

(Reference: IRM 535(23).1)

Internal Revenue Service
Washington, D.C. 20224

Department of the Treasury

Date:

Property Location:

Date of Sale:

Contact Telephone Number:

[Salutation]

We understand that you purchased property identified above at a foreclosure sale. This property was subject to a Federal tax lien junior to the foreclosing lien. Under section 7425(d) of the Internal Revenue Code, the Internal Revenue Service has the right to redeem the property from you by paying you the amount specified in the regulations issued under that section.

We are considering this action and can take it within the period that begins with the date of the sale and ends on (Enter date, and number of days after) after the date of the sale. We may release our right of redemption before the redemption period expires if you pay an amount determined to be equal to that right. Publication 467 is enclosed. It describes how to apply for a release. If the right of redemption is determined to be without value, you will not be required to pay to obtain a release.

If we redeem the property, we will pay you the sum of the following amounts:

1. The actual amount you paid for the property at the foreclosure sale, including the amount of the obligation secured by the foreclosing lien to the extent satisfied by the sale if you were the holder of that lien;
2. Interest on the amount paid at the rate of six percent a year for the period from the date of the sale to the date of redemption;
3. An amount equal to the excess of (A) the expenses you incurred to maintain the property over (B) any income you realized from the property, plus a reasonable rental value of the property (to the extent the property is used by you or with your consent, or is rented at less than its reasonable rental value); and,
4. The amount you paid after the foreclosure sale to a holder of a senior lien, if you properly request reimbursement for such payment and your request is approved.

Form P-597 (Rev. 10-78)

MT 5300-1

IR Manual

Exhibit 5300-12 Cont.

Pattern Letter P-597

(Reference: IRM 535(23).1)

- 3 -

Attachment

IDENTITY OF PERSON TO WHOM PAYMENT SHOULD BE MADE FOR REDEMPTION OF PROPERTY UNDER SECTION 7425 OF THE INTERNAL REVENUE CODE OR SECTION 2410 OF TITLE 28 OF THE UNITED STATES CODE

1. Name and address of person to whom payment should be made (if person is your agent, please indicate):

2. Area code and telephone number:

3. Dates when person will be available to accept payment:

Between (date) and (date) (Note: Second date should not be less than 20 days before the redemption period expires.)
Give days of week and hours when person will be available during the above period:

SIGNATURE: _____ Date: _____

Form P-597 (Rev. 10-78)

Exhibit 5300-13

Pattern Letter P-544

(Reference: IRM 535(28).1)

Person to Contact:

Contact Telephone Number:

Refer Reply to:

Date:

Dear (Name of taxpayer):

We apologize for the concern and inconvenience we caused you by the (improvident) (erroneous) filing of a Notice of Federal Tax Lien, number _____ (appropriate number Or numbers). The lien(s) referred to in the notice filed with the (filing official) on (date) in the amount of (dollars) has (have) been released.

We are enclosing a copy of this letter, since you may want to furnish it to your employer, bank, or other individual or organization.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

District DirectorBy _____
(Signature and Title)Enclosure:
Copy of this letter

Exhibit 5300-14

Letter 1696(P)

◇

(Reference IRM 5364.3)

Taxpayer's Name:
Address
Social Security Number
Person to Contact:
Telephone Number:

(Name and Address of Levy Source)

(Salutation):

The enclosed notice of levy is for the collection of a delinquent child support obligation as authorized by section 6305 of the Internal Revenue Code. The following exemptions from levy under Code sections 6334(a), (4), (6), and (8) listed on the back of Part 2 of the notice do not apply:

- 1) Unemployment benefits,
- 2) Certain annuity and pension payments, and
- 3) Judgments for support of minor children unless the funds are actually withheld because of a garnishment under the judgment.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

(Place for signature)

Title

Enclosures:
Notice of levy
Envelope

Letter 1696(P) (9-82)

Exhibit 5300-15

Letter 1697(P)

6

(Reference: IRM 5366.3)

Taxpayer's Name
Address
Social Security Number
Person to Contact
Telephone Number:

(Name and Address of Levy Source)

(Salutation):

The taxpayer identified in the enclosed notice of levy is not entitled to the exemptions (\$75 for taxpayer and \$25 for each exemption)* under section 6334(a)(9) of the Internal Revenue Code. Therefore, please disregard the instructions about the exemptions under that Code section on Part 8 of the notice. Parts 5, 6, and 7 (Statement of Exemptions) of the notice have been removed and you should disregard the instructions on Part 8 for the Statement of Exemptions.

This levy attaches the taxpayer's take-home pay.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

(Place for signature)

Title

Enclosures:
Notice of levy
Envelope

* \$50 and \$15, respectively, prior to January 1, 1983.

Letter 1697(P) (9-82)

Exhibit 5300-16

Pattern Letter P-548

0

(Reference: IRM 536(13).1)

Person to Contact.

Contact Telephone Number.

Date:

Dear (Name of Taxpayer):

We apologize for the concern and inconvenience we caused you by the erroneous serving of a notice of levy, dated _____, that attached assets, belonging to you, in the possession or control of _____, at _____.

We are enclosing a copy of this letter, since you may want to furnish it to your employer, bank, or other individual or organization.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

District Director

By _____

(Signature and title)

Enclosures:
Copy of this letter
Copy of Release of Levy

Exhibit 5300-18

Suggested Delegations of Authority Applicable to IRM 5350—Lien for Taxes

(Reference: IRM 535(30))

		Deputy Director	Chief Call Function	Chief S P 1	Chief Field	Chief and Call Unit	Chief Service Liaison	Group Manager	R/O GS 12	R/O GS 11	R/O GS 9	Other
Notice of Lien, Form 668 ²												
Release of Lien, Form 668—Liability Satisfied												
— Legally Unenforceable ³												
— Bond												
— Accepted OIC												
Discharge, Form 669-A	IRC 6325(b)(1)											
Form 669-B	IRC 6325(b)(2)(A)											
Form 669-C	IRC 6325(b)(2)(B)											
Form 669-D	IRC 6325(d)(1)											
Form 669-E	IRC 6325(d)(2)											
Form 669-F	IRC 6325(d)(3)											
Pattern Letter —	IRC 6325(c)											
Nonattachment	IRC 6325(e)											
Revocation	IRC 6325(f)(2)											
Notice — Rejection	IRC 7425											
— Consent	IRC 7425											
Release of Redemption Right												
Redemption Fund Request Approval												

1. and unit or section chiefs in the SPI GS-12 and above
 2. and specific person GS-9 and above in managerial position.
 3. and specific GS-11 and above SPI employees.

Exhibit 5300-18 Cont.

Suggested Delegations of Authority Applicable to IRM 5360—Levy on Third Parties

(References: IRM 5363, 536(13) 1, 536(14) 1, 536(14).5, 536(16) 1, 536(25))

	District Director	Chief, Collection Function	Chief, Special Procedures Function	Chief, Collection Field Function	Chief, ACS Branch	Section/Unit Chief ACS Call Site	Group Manager	P.O. GS 12	P.O. GS 11	P.O. GS 9
Notice of Levy, Form 668-A and 668-W										
Benefit Income					①		②			
Pension Plan Contributions										
Retirement Benefits*										
Relocation Act Payments										
Social Security				①	①		①			
Medicare										
Insurance Policy				①	①		①			
Death Benefits										
Levy, Form 668-B										
Final Demand, Form 668-C										
Release of Levy, Form 658-D and 668-R										
Release of Levy, Form 668-E										
Notice to Exhibit Books & Records, Form 2270										
Notice of Sale, Form 2434 & 2434-A										
Advertised Sales										
Sales of Perishable Goods										
Certificate of Sale, Form 2435										
Deed to Real Property										
Record 21										
Surplus Proceeds										
Sale of Personal Property Acquired by the U.S.										
Administration of Real Estate Acquired by the U.S.										

*Not applicable to exemptions under IRC 6334(a)(6) and (7).

① May be delegated authority of district management option.

Exhibit 5300-19**Agreement Locator Number Designations** ◇

(Reference: IRM 5338)

Last Four Digits: XXYY

For XX use:	00	Form 433-D, District Office (COI only)/ACS Agreement
	01	TPS
	02	DO Field Branch
	03	Direct Debit Installment Agreements
	11	Form 2159, Payroll Deduction Agreement—D.O./ACS
	12	District Office/ACS Multiple Conditions
	20	ACS No supporting Documents on file
	60	Any 6-month Agreement
	90	SCCB regular
	91	Form 2159, Payroll Deduction Agreement—S.C.
	92	Service Center Multiple Conditions
	99	Deferral Level Notice Amount
For YY use:	08	Continuous Wage Levy
	09	All others
	22	Keep File
	27	Restricted penalty and/or interest
	30	Bypass ACS re-T sign to initiator
	32	Unassessed modules to be included
	41	BMF in business
	53	Report currently not collectible in event of default
	66	File lien in event of default
	80	Review and revise payment amount
	99	Deferral Level Notice Account

When you have more than one condition under "YY" use either 12 or 92 in the "XX" position. The following denotes priority:

1-41
2-53
3-80
4-32
5-27

Remaining multiple conditions will be input as a history item on IDRS.

MC YY YY YY YY (Multiple Conditions)

For constructing a history item to record unassessed module use the following format:

U M 3 0 8 1 1 2 (Unassessed Module)
MFT Tax
Period
U M F I L I E N
(if appropriate)

For constructing a listing item to record a new payment, use the following format:

N P 8 2	0 3	0 3 0 0	(New Payment
Year	Month	New Payment	
of	of	Amount	
Change	Change	(\$300-0300)	

Exhibit 5300-20

Report of Currently Not Collectible Taxes—Part 1 (Front)

(Reference: IRM 537(11).1:(1))

Report of Currently Not Collectible Taxes

1 Name and home address of taxpayer ①		2 Schedule or transmitter ②	3 Notice of Lien filed <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No ③	4 Form 53 charged out to ④
7 Name and home address of person(s) subject to TC 130 arrest (Same as grantor, partner, spouse, etc.) ⑦		5 TC 130 a Requested before input required ⑤	6 Follow up requested for non return and/or arrears <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No ⑥	8 Date of full compliance ⑧
		9 Social Security number of person(s) listed in item 7 ⑨	10 Date of death (CC 08) ⑩	
		11 TC ⑪ 530	12 Closed by ⑫	13 Location Code ⑬
		14 Closing Code ⑭	15 Records/Sources Checked	

16 Description of Accounts					15 Records/Sources Checked	
Taxpayer ID Number (a)	MFT Code (b)	Tax Period (c)	Cur. Not Collectible Assessed Balance (d)	Accrual Only (e)	Item	Date(s)
⑮	⑰	⑬	⑬	⑬	a Directories	
					b Former employer	
					c Closed TDA and 53 file	
					d Postia service	
					e Neighbors	⑮
					f Schools	
					g Personal property	
					h Vehicle registration	
					i Real property	
					j State employment	
					k Income tax return	
Total ▶					17 Signature of originator ⑬	18 Date ⑮
					19 Signature/title of approving manager ⑬	20 Date ⑮

21 Proposed Action	N/A	Date Submitted	Proposed Action	N/A	Date Submitted
a 100% penalty assessment		⑮	c Sent to reduce tax claim to judgment		
b Transferor assessment			d Proof of claim (attach number)		

22 Mandatory Follow-up Action	Date Required	Requested by	Date Completed	Completed by
⑲				

Exhibit 5300-20 Cont.**Report of Currently Not Collectible Taxes—Part 1 (Front)**

0

(Reference: IRM 537(11).1:(1))

- (1) Enter the name of the taxpayer as it appears on the TDA or notice and the last known address of the taxpayer.
- (2) Available for local use.
- (3) Check the appropriate box. The date of lien filing is not required.
- (4) Complete whenever a Form 53 is assigned to a Revenue Officer for reinvestigation.
- (5) Check the appropriate box. If TC 130 input is required, complete Items 7 and 8.
- (6) See IRM 537(11).2.
- (7) An entry is required if the criteria in IRM 5348 are met.
- (8) An entry is required whenever Item 7 is completed.
- (9) Enter the date of the full compliance check. If one is not applicable (for example: unable-to-locate or unable-to-contact cases), write "N/A."
- (10) If taxpayer is deceased, enter date of death.
- (11) No entry required.
- (12) Enter "1" for Special Procedures function, "2" for revenue officer or "3" for SCCB.
- (13) Self-explanatory.
- (14) Enter the closing code that fits the situation of the accounts being reported currently not collectible. (see reverse of Part 1). The closing codes were established to identify currently not collectible situations that require different follow-up procedures.
- (15) Enter the date(s) that any listed source was checked. Document History Sheets.
- (16) Enter TIN. If different Master File accounts are reported, the appropriate TIN may be entered once for each group of separate Master File accounts. Ditto marks may be used for successive TIN entries.
- (17) Enter the appropriate code (see reverse of Part 1) for Master File accounts only.
- (18) Enter the amount of an accrual-only account reported currently not collectible.
- (19) Check the appropriate block(s) for each category. Enter docket number for proof of claim cases.
- (20) Describe Mandatory Follow-ups. An entry is required whenever Item 6 is checked "yes".

Exhibit 5300-21

Report of Currently Not Collectible Taxes—Part 1 (Reverse)

(Reference: IRM 537(11).1:(1))

Review (Complete applicable blocks)

a Letters 728(DO) or 728(C) not required d No reply

b Letters 728(DO) or 728(C) mailed (Date) e Returned undelivered

c Reply attached

f Status

Approved (after post review) Rejected

g Signature of Reviewing Officer **h Date**

MFT Codes and Type of Tax		Closing Codes																			
01	Form 941 (Withholding and FICA Taxes)	03	Unable to locate																		
02	Form 1120 (Corporation Income Tax)	04	Statute expired prior to issuance																		
03	Form 720 (Estate Tax)	05	Statutory collection period expired after issuance or suit initiated to reduce tax claim to judgment																		
09	Form CT-1 (Excise Return Tax)	07	Bankrupt																		
10	Form 940 (SUTA Tax)	08	Decedent case																		
30	Forms 1040, 1040A and 1040 E2 (Individual Income Tax)	09	Tolerance case																		
		10	Defunct: insurance corporation																		
		12	Unable to contact																		
		13	In business continuation																		
			Hardship: Follow up and reissue TDA's if TPI of a subsequently filed return is more than any of the following amounts: <table style="margin-left: 20px;"> <tr><td>24</td><td>\$ 6,000</td></tr> <tr><td>25</td><td>\$ 9,000</td></tr> <tr><td>26</td><td>\$12,000</td></tr> <tr><td>27</td><td>\$15,000</td></tr> <tr><td>28</td><td>\$18,000</td></tr> <tr><td>29</td><td>\$21,000</td></tr> <tr><td>30</td><td>\$24,000</td></tr> <tr><td>31</td><td>\$27,000</td></tr> <tr><td>32</td><td>\$30,000</td></tr> </table>	24	\$ 6,000	25	\$ 9,000	26	\$12,000	27	\$15,000	28	\$18,000	29	\$21,000	30	\$24,000	31	\$27,000	32	\$30,000
24	\$ 6,000																				
25	\$ 9,000																				
26	\$12,000																				
27	\$15,000																				
28	\$18,000																				
29	\$21,000																				
30	\$24,000																				
31	\$27,000																				
32	\$30,000																				
Codes 03, 12, and 24-32: There is no systemic re-issuance of BMF or NMF accounts based on IMF filing. If a BMF or NMF account is currently not collectible under these codes and a follow up is desirable, indicate this in item 22.																					

Form **53**(1) (Rev. 7-84)

Exhibit 5300-22**Post 53 Review Sampling Table** ◇

(Reference IRM 537(13),2)

*Quarterly Dispositions	*Quarterly Sample	*Quarterly Dispositions	*Quarterly Sample
1-48	All	304-341	174
49-58	54	342-384	183
57-63	60	385-441	191
64-72	66	442-510	201
73-80	73	511-594	211
81-89	79	595-700	221
90-99	85	701-835	231
100-109	91	836-1,015	241
110-122	98	1,016-1,270	251
123-136	105	1,271-1,650	261
137-151	113	1,651-2,290	271
152-170	121	2,291-3,560	281
171-192	130	3,561-6,200	291
193-215	139	6,201-11,125	299
216-241	148	11,126-15,400	301
242-270	158		
271-303	165		

Deduct the count of Forms 53 for \$25,000 or more from the "universe" and review 100% of these cases. For the remainder of the Forms 53 use the above sampling Table to make the sample selection.

Note

The "universe" of cases from which the samples are to be selected may be secured from Report NO-5000-149 line 1.0.

* District Office

Sample Remittance with RPS Audit Trail

(Reference: IRM 5342)

Name of Depositor Address	Check No. <div style="border: 1px solid black; border-radius: 50%; padding: 2px; display: inline-block;"> 79 282 711 </div> American Banking Assoc. Transit Instructions		
Payee _____ \$	_____ Dollars		
Name of Bank Address _____			
<div style="border: 1px solid black; padding: 2px; display: inline-block;"> @0711028271 </div> MICR Format ABA Transit	<div style="border: 1px solid black; padding: 2px; display: inline-block;"> 189 392 80 </div> MICR Format T/P Account No.	<div style="border: 1px solid black; padding: 2px; display: inline-block;"> 1950 </div> MICR Format T/P Check No.	<div style="border: 1px solid black; padding: 2px; display: inline-block;"> /0000789456/ </div> MICR Format Encoded Money Amount

Pay Any F.R.B. Branch or Gov. Depository for Credit U.S. Trans. This is in Payment of U.S. Oblig. Must be paid at Par W.P. Do Not Write Non Payment 2009-1700 Dir. U.S. Cir., Conington, KY.

@C17141110900001100199

1
2
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7
8

- ① Four Digits - Alpha Check Digits or Name Control
- ② Fourteen Digits - Document Locator Number
- ③ Three Digits - Transaction Code
- ④ Two Digits - Master File Tax Code
- ⑤ First two Digits of TIN
- ⑥ Last seven Digits of TIN
- ⑦ Four Digit Tax Period
- ⑧ Six Digit Transaction Date

Exhibit 5300-24

Requirements for Manual Refund Processing

(Reference: IRM 5347)

1. TAXPAYER IDENTIFICATION NUMBER—SSN or EIN
2. RETURN PERIOD—Enter as YYMM
3. MFT—Master File Tax Code.
4. NAME AND ADDRESS OF TAXPAYER—As shown on the Master File
5. FORM NUMBER—The return form number.
6. DLN—Document Locator Number of the return.
7. MAKE CHECK PAYABLE TO—Advise when the payee is other than the taxpayer.
8. AMOUNT OF OVERPAYMENT OR ERRONEOUS PAYMENT—Amount to be refunded, without consideration of additional interest to be calculated.
9. REASON FOR MANUAL REFUND—Specify the hardship condition or processing error warranting expedite processing.
10. INTEREST DATE—Specify the date interest is to be computed from, e.g., from the date money is seized

Exhibit 5300-25

Pattern Letter P-295

0

(Reference: IRM 53(10)1)

(DISTRICT OFFICE LETTERHEAD)

(Name and address of taxpayer)

Contact Telephone Number

[insert appropriate salutation]

Federal tax law exempts members of certain religious sects or divisions from paying self-employment tax if they file an application on Form 4029.

We understand you may be eligible for exemption, but we have no record of receiving a Form 4029 from you. If you want to apply for exemption from self-employment tax, please complete the enclosed Form 4029 and return it, with the copy of this letter, by the date shown below. An addressed envelope is enclosed for your convenience.

If we do not receive your application by the date shown, we will have to collect the self-employment tax.

If you have any questions, please contact me at the telephone number shown above.

Thank you for your cooperation.

Sincerely yours,

[Space for signature]

Revenue Officer

Enclosures:
Form 4029
Copy of this letter
Envelope

Last day for filing Form 4029:

Exhibit 5300-26

Pattern Letter P-297

0

(Reference: IRM 53(10)6.32.(3))

(USE APPROPRIATE LETTERHEAD)

We have carefully considered your application to defer payment of your outstanding income tax liability for the year _____ under the Universal Military Training and Service Act.

We are sorry that we are unable to approve your request for deferment because the information you sent us (indicates that you are not presently serving an initial period of military service) (does not establish that your ability to pay your tax has been materially impaired by reason of your military service).

The total amount you owe is \$ _____, which includes tax of \$ _____ and interest \$ _____. Please make a check or money order payable to the Internal Revenue Service for the total amount due. We have enclosed a self-addressed envelope for your convenience. We would appreciate hearing from you in a few days.

Sincerely yours,

(Signature and Title)

Enclosure
Self-addressed envelope

Exhibit 5300-27

Pattern Letter P-298

(Reference IHM 53(10)6.32:(4))

(USE APPROPRIATE LETTERHEAD)

We are pleased to say we have approved your application dated _____ requesting to defer payment of your outstanding income tax liability for the year _____ under the Universal Military Training and Service Act.

The amount deferred is \$ _____. This includes tax of \$ _____ and interest of \$ _____ computed to the date you entered military duty. With this deferment, this amount is not due until _____.

If you desire to pay part of your outstanding tax liability before the date mentioned, please make a check or money order payable to the Internal Revenue Service and mail it to the above address.

Sincerely yours,

(Signature and Title)

Exhibit 5300-28**Lien Refiling Chart**

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(Reference: IRM 535(11).3)

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
1	1-31	3-03	3-31	5-01	5-31	7-01	7-31	8-31	10-01	10-31	12-01	12-31
2	2-01	3-04	4-01	5-02	6-01	7-02	8-01	9-01	10-02	11-01	12-02	01-01
3	2-02	3-05	4-02	5-03	6-02	7-03	8-02	9-02	10-03	11-02	12-03	01-02
4	2-03	3-06	4-03	5-04	6-03	7-04	8-03	9-03	10-04	11-03	12-04	01-03
5	2-04	3-07	4-04	5-05	6-04	7-05	8-04	9-04	10-05	11-04	12-05	01-04
6	2-05	3-08	4-05	5-06	6-05	7-06	8-05	9-05	10-06	11-05	12-06	01-05
7	2-06	3-09	4-06	5-07	6-06	7-07	8-06	9-06	10-07	11-06	12-07	01-06
8	2-07	3-10	4-07	5-08	6-07	7-08	8-07	9-07	10-08	11-07	12-08	01-07
9	2-08	3-11	4-08	5-09	6-08	7-09	8-08	9-08	10-09	11-08	12-09	01-08
10	2-09	3-12	4-09	5-10	6-09	7-10	8-09	9-09	10-10	11-09	12-10	01-09
11	2-10	3-13	4-10	5-11	6-10	7-11	8-10	9-10	10-11	11-10	12-11	01-10
12	2-11	3-14	4-11	5-12	6-11	7-12	8-11	9-11	10-12	11-11	12-12	01-11
13	2-12	3-15	4-12	5-13	6-12	7-13	8-12	9-12	10-13	11-12	12-13	01-12
14	2-13	3-16	4-13	5-14	6-13	7-14	8-13	9-13	10-14	11-13	12-14	01-13
15	2-14	3-17	4-14	5-15	6-14	7-15	8-14	9-14	10-15	11-14	12-15	01-14
16	2-15	3-18	4-15	5-16	6-15	7-16	8-15	9-15	10-16	11-15	12-16	01-15
17	2-16	3-19	4-16	5-17	6-16	7-17	8-16	9-16	10-17	11-16	12-17	01-16
18	2-17	3-20	4-17	5-18	6-17	7-18	8-17	9-17	10-18	11-17	12-18	01-17
19	2-18	3-21	4-18	5-19	6-18	7-19	8-18	9-18	10-19	11-18	12-19	01-18
20	2-19	3-22	4-19	5-20	6-19	7-20	8-19	9-19	10-20	11-19	12-20	01-19
21	2-20	3-23	4-20	5-21	6-20	7-21	8-20	9-20	10-21	11-20	12-21	01-20
22	2-21	3-24	4-21	5-22	6-21	7-22	8-21	9-21	10-22	11-21	12-22	01-21
23	2-22	3-25	4-22	5-23	6-22	7-23	8-22	9-22	10-23	11-22	12-23	01-22
24	2-23	3-26	4-23	5-24	6-23	7-24	8-23	9-23	10-24	11-23	12-24	01-23
25	2-24	3-27	4-24	5-25	6-24	7-25	8-24	9-24	10-25	11-24	12-25	01-24
26	2-25	3-28	4-25	5-26	6-25	7-26	8-25	9-25	10-26	11-25	12-26	01-25
27	2-26	3-29	4-26	5-27	6-26	7-27	8-26	9-26	10-27	11-26	12-27	01-26
28	2-27	3-30	4-27	5-28	6-27	7-28	8-27	9-27	10-28	11-27	12-28	01-27
29	2-28	0-00	4-28	5-29	6-28	7-29	8-28	9-28	10-29	11-28	12-29	01-28
30	3-01	0-00	4-29	5-30	6-29	7-30	8-29	9-29	10-30	11-29	12-30	01-29
31	3-02	0-00	4-30	0-00	6-30	0-00	8-30	9-30	00-00	11-30	00-00	01-30

LEAP YEAR ON REVERSE SIDE

NOTE- When the assessment date is December 2 or later, go to January of the next year and add 6 years.

IRC 6321 (LIEN REILING PERIOD IS: 5 YEARS 30 DAYS TO 6 YEARS 30 DAYS)

Exhibit 5300-28 Cont.**Leap Year**

(Reference: IRM 535(11).3)

	JAN	FEB
1	1-31	3-02
2	2-01	3-03
3	2-02	3-04
4	2-03	3-05
5	2-04	3-06
6	2-05	3-07
7	2-06	3-08
8	2-07	3-08
9	2-08	3-10
10	2-09	3-11
11	2-10	3-12
12	2-11	3-13
13	2-12	3-14
14	2-13	3-15
15	2-14	3-16
16	2-15	3-17
17	2-16	3-18
18	2-17	3-19
19	2-18	3-20
20	2-19	3-21
21	2-20	3-22
22	2-21	3-23
23	2-22	3-24
24	2-23	3-25
25	2-24	3-26
26	2-25	3-27
27	2-26	3-28
28	2-27	3-29
29	2-28	3-30
30	2-29	0-00
31	3-01	0-00

THE REMAINING MONTHS WILL BE THE SAME AS THE CHART ON THE REVERSE SIDE.

Instructions: To find the last day for refiling purposes, locate the month of the assessment date in the top horizontal heading and the day in the left vertical column. Go down and across until you locate the appropriate date.

Exhibit 5300-29**United States Department of Education Regional Offices**

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(Reference: IRM 536(27))

**Assistant Regional Administrators
DIVISION OF CERTIFICATION AND PROGRAM REVIEW**

REGION I		REGION V	
CT	Thomas O'Hare	IL	Josephine Ferguson
ME	ARA	IN	ARA
HA	Student Financial Assistance	MI	Student Financial Assistance
NH	Department of Education	MN	Department of Education
RI	Butfinch Bldg.	OH	300 South Wacker Drive
VT	15 New Chardon	WI	Chicago, Illinois 60606
	Boston, Mass 02114		(Tel.) 912-353-2298
	(Tel.) 617-223-7205		(FTS) 8-353-2297
	(FTS) 8-223-7246		
REGION II		REGION VI	
NJ	Josue Diaz	AR	Sam Booker
NY	ARA (Acting)	LA	ARA
PR	Student Financial Assistance	NM	Student Financial Assistance
VI	Department of Education	OK	Department of Education
Panama	26 Federal Plaza	TX	1200 Main Tower Building
Canal Zone	New York, New York 10007		Dallas, Texas 75202
	(Tel.) 212-264-4045		(Tel.) 214-767-4359
	(FTS) 8-264-4045		(FTS) 8-729-4359
REGION III		REGION VII	
DE	Frank Williar	IA	Steve Dorssom
DC	ARA	KS	ARA
MD	Student Financial Assistance	MO	Student Financial Assistance
PA	Department of Education	NE	Department of Education
VA	P.O. Box 13716		324 East 11th Street
WV	3535 Market Street		Kansas City, MO 02114
	Philadelphia, PA 19101		(Tel.) 816-374-5875
	(Tel.) 215-596-1018		(FTS) 8-758-5875
	(FTS) 8-596-1018		
REGION IV		REGION VIII	
AL NC	C Kenneth Palmer	CO	Paul Tone
FL SC	ARA	MT	ARA
GA TN	Student Financial Assistance	ND	Student Financial Assistance
KY	Department of Education	SD	Department of Education
MS	101 Manetta Tower—Third	UT	11037 Federal Office
	Floor		Building
	Atlanta, GA 30323	WY	19th and Stout Streets
	(Tel.) 404-221-5008		Denver, CO 80294
	(FTS) 8-242-5008		(Tel.) 303-837-4128
			(FTS) 8-327-4128

Exhibit 5300-29 Cont.**United States Department of Education Regional Offices**

◊

(Reference: IRM 536(27))

**Assistant Regional Administrators
DIVISION OF CERTIFICATION AND PROGRAM REVIEW****REGION IX**

AZ CA

HI NV

AM. SAMOA

GUAM

TRUST TERR.

WAKE IS.

Robert Crummel

ARA

Student Financial Assistance

Department of Education

50 United Nation Place

San Francisco, CA 94102

(Tel.) 415-556-8382

(FTS) 8-556-8382

REGION X

AK

ID

OR

WA

Marcus Lowthorp

ARA (Acting)

Student Financial Assistance

Department of Education

2901 Third Avenue

Mail Stop 102

Seattle, Washington 98101

(Tel.) 206-442-0434

(FTS) 8-399-0434

Exhibit 5300-30

Letter 1629(P)

(Reference: IRM 535(15))

REVOCATION
OF CERTIFICATE OF RELEASE OF FEDERAL TAX LIEN

TO WHOM IT MAY CONCERN:

I certify that I am the appointed and qualified District Director of Internal Revenue charged by law with the duty of collecting and enforcing the collection of internal revenue taxes due the United States. I also certify that a certificate of (release) (nonattachment)* has been (erroneously) (improvidently)** issued for the Federal tax lien on all property and rights to property belonging to ____ (Name and address of taxpayer) _____ based on an assessment of _____ tax for the year _____ against _____.

Notice of lien in the sum of _____ dollars (\$ _____) was filed on _____ with the _____, State of _____, or with the Clerk of the United States District Court for the _____ District of _____ on _____, 19____; as provided by section 6323 of the Internal Revenue Code (** or the corresponding provisions of prior law).

The certificate identified above is revoked in accordance with the provisions of section 6325(f)(2) of the Internal Revenue Code, and the lien for those taxes is reinstated as provided by law.

Witness my hand at _____ this _____ day of _____, 19____.

District Director of Internal Revenue

By _____

(Signature and Title)

- * Delete inapplicable word.
- ** Include when applicable.

Manual Supplement

5G-305

Department of the Treasury
Internal Revenue Service

May 14, 1985

Expiration Date, May 14, 1987

Elimination of Collection Closed Files

Section 1. Purpose

The purpose of this Supplement is to advise Collection personnel that, with the exception of Currently Not Collectible (CNC/53) cases, Centralized Services (CSB) will no longer maintain Collection closed files.

Section 2. Background

01. TELEX instructions dated March 15, 1985 were issued to All Assistant Regional Commissioners (Collection) and All Assistant Regional Commissioners (Resources Management) advising them that effective immediately CSB would no longer maintain Collection closed files, with the exception of Currently Not Collectible. All closed cases will now be sent to the Special Procedures function (SPf) to perform the sorts noted below.

02. Existing closed files will remain in their present location with no CSB maintenance. Access to existing closed files in CSB will be permitted only with prior approval of the Collection Division Chief (or District Director in streamlined districts).

Section 3. District Office Procedures

01. In order to provide an orderly transition, the following procedures will be implemented:

1 all closed cases formerly shipped to CSB will now be shipped to SPf where the following sorts will be made and sent to CSB:

(a) cases selected, in and by SPf, for Collection quality review and 53 post-review (both formerly performed by CSB);

(b) cases requiring IDRS terminal input; and,

(c) all Currently Not Collectible cases. 2 cases not included in 3.011 will be boxed in SPf in a retrievable manner and remain in SPf.

3 CSB will, upon receipt of the sorts noted in 3.011, handle the cases in the following manner:

(a) perform all necessary terminal input;

(b) send previously selected and marked cases to quality and 53 post-review, as appropriate;

(c) send cases to the service center, as appropriate;

(d) retain and file all CNC cases, and,
(e) return all remaining cases to SPf.

4 Upon receipt of cases noted in 3.013(e), SPf will box and store in a retrievable fashion.

02. CSB will continue to handle CNC mandatory follow-up (MFU) cases in the previously established manner.

03. CSB will also no longer maintain a closed file of Forms 795, Report of Daily Collection Activity. The teller will return the initialed copy to the originating employee. The original will be forwarded to the respective group manager for filing.

04. After quality review, all cases, with the exception of 53 cases and Installment Agreements will be returned to SPf for boxing. CNC cases will be sent to CSB for filing. Installment Agreements will be returned to the appropriate service centers.

05. After post-53 review cases will be sent to CSB for filing.

Section 4. SPf Time Reporting

01. SPf time spent on tasks formerly performed by CSB such as case sorting, quality review/post 53 sample selection and files maintenance should be reported under Operation Code 510 on Form 5450-B, Special Procedures Function Monthly Activity Report. Unit counts are not required.

02. SPf's performing post 53 review should report actual review time under Operation Code 512 on Form 5450-B. If the post review is performed for more than one district, the time should be prorated to the respective districts.

Section 5. Effect on Other Documents

This amends and supplements IRM 51(10)1, 5244.21:(3), 5254.1:(7) and (8), 5254.2:(2), 5633:(4)(a), 5634:(2)(a), 5662.3.(2), 5(11)60, 5(14)50 and 5(17)50.

/s/ Grant A. Newman
Director,
Office of Field Operations

Distribution:
Part V

IR Manual

