

# IRS

## COLLECTION ACTIVITY

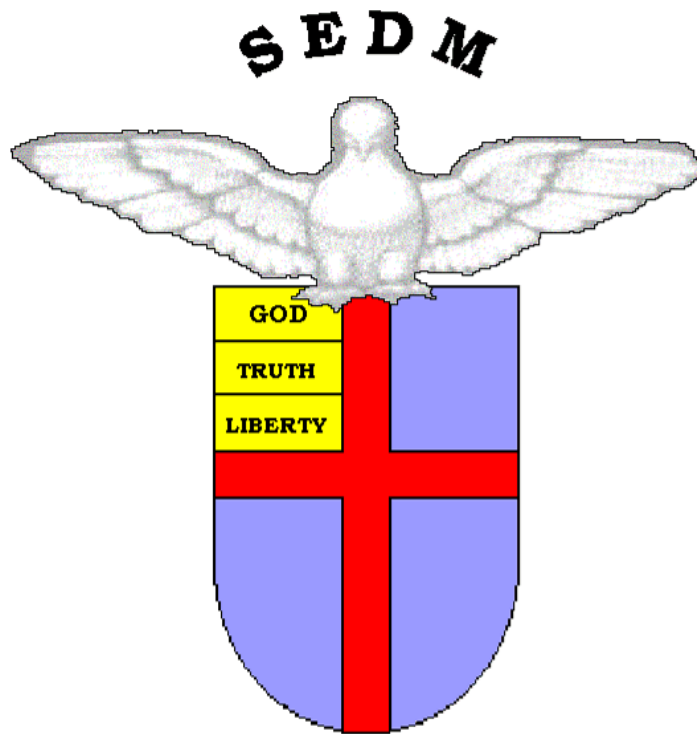
### "Notice of Levy"

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# Part 5

## Collection Activity

### Chapter 11

#### Notice of Levy

#### Section 1

### Background, Pre-Levy Actions & Restrictions on Levy

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Collection is Not in Jeopardy

### 5.11.1.1 (01-19-1999)

#### Background

1. This section contains background information.

### 5.11.1.1.1 (01-19-1999)

#### Legal Authority

1. The Internal Revenue Code (IRC) authorizes levies to collect delinquent tax. See IRC 6331. Any property or right to property can be levied, unless it is exempt. See 1.3. All references to property in this handbook include rights to property.

### 5.11.1.1.2 (01-19-1999)

#### Notice of Levy vs. Seizure

1. There is no legal distinction between levy and seizure.
  - Generally, use a notice of levy to take a taxpayer's property held by someone else, if it can be turned over by writing a check.

#### EXAMPLE:

Notice of Levy is often used to take a taxpayer's bank account, wages, or receivables.

- If the taxpayer is holding the property, use procedures in the seizure and sale handbook.

#### EXAMPLE:

Seizure procedures are often used to take a taxpayer's car, house, or business property.

- If a third party is holding property that can not be turned over by writing a check, use seizure procedures. Also, give a notice of levy to the person holding the property. This is the demand to turn over the taxpayer's property.

#### EXAMPLE:

If a taxpayer's car is seized in a commercial parking lot, use seizure procedures. Give the attendant a notice of levy to demand that the car be turned over.

2. There is no required sequence for levying. Generally, though, levy funds that are held by a third party first. This is usually less time consuming.

### 5.11.1.1.3 (01-19-1999)

#### Appeals

1. Taxpayers may be entitled to a "Due Process" hearing, or an equivalent hearing, under IRC 6330. See Chapter 9 (Taxpayer Rights) of IRM 5.1, General Handbook.
2. Notices of levy can also be appealed under the Collection Appeals Program (CAP), regardless of whether the taxpayer can appeal under IRC 6330. CAP was created to give taxpayers a chance for administrative review that is independent from the Collections function. See Chapter 9 (Taxpayer Rights) of IRM 5.1, General Handbook.

### 5.11.1.1.4 (11-05-1999)

#### Taxpayer Advocate Cases

1. Taxpayer Advocate Cases may be initiated because of notices of levy. See IRM 5.1 General for criteria and procedures.

### 5.11.1.2 (01-19-1999)

#### Pre-Levy Actions

1. This contains guidance on pre-levy actions.

### 5.11.1.2.1 (11-05-1999)

#### Required Notices

1. Before property can be levied, the taxpayer must be given a
  - a notice and demand,
  - a notice of intention to levy, and
  - a notice of a right to a hearing.

See Exhibit 5.11.1-4

#### NOTE:

When a notice of levy is issued, it is a third party contact. Section 3417 of the IRS Restructuring Act (IRC 7602(c)) says that taxpayers must be given reasonable notice that the Service plans to make such contacts to collect delinquent tax. Letter 3164 and Notice 1219, Notification of Potential Third Party Contact are used to give this notice. Prepare Form 12175 after the third party is contacted.

2. The notice and demand must be left at the taxpayer's home or business, or it must be mailed to the taxpayer's last known address. This is normally taken care of by a master file notice mailed shortly after there is an assessment. This is commonly referred to as the first notice. The taxpayer has ten days to pay the amount that is owed. See IRC 6331(a). If the taxpayer neglects or refuses to pay the amount due, a Federal tax lien arises.

#### NOTE:

On January 1, 1997, Taxpayer Bill of Rights 2 changed the interest free period for this notice. No interest is charged for 21 days after the notice and demand, if less than \$100,000 is owed. If at least \$100,000 is owed, no interest is charged for ten business days. These changes did NOT affect the ten day notice and demand period before issuing a levy.

3. In addition, the taxpayer must be given a notice of intention to levy. The taxpayer has thirty days to pay the amount that is owed before property can be levied. See IRC 6331(d). This notice must be:
  - given in person,
  - left at the taxpayer's home or business, or
  - sent to the taxpayer's last known address by certified or registered mail.

#### NOTE:

Use registered mail only if the taxpayer is outside the United States. There is no international certified mail.

#### EXCEPTION:

If collection is in jeopardy, only the notice and demand is required, and then property can be levied immediately. See Section 3.

4. For any levy served after January 18, 1999, the taxpayer must also be given a notice of a right to a hearing. See IRC 6330. The taxpayer has thirty days after this notice is given or mailed to ask for a hearing, before property can be levied. This notice is given to the taxpayer in the same manner as the notice of intent to levy, except that if it is mailed, a return receipt MUST be included. See 5.1.9 for instructions about the taxpayer's right to a hearing, including whether the TP can appeal, when the TP can appeal, and the consequences of asking for an appeal.

#### EXCEPTION:

The exception for jeopardy in (3) also applies to the notice of a right to a hearing. However, the taxpayer must still be given the opportunity for a hearing within a reasonable time AFTER the levy, if collection is in jeopardy. See Section 3.

**EXCEPTION:**

A taxpayer's state income tax refund can be levied, even though the TP may not have already been sent a notice of a right to a hearing. However, the taxpayer must be given the opportunity for a hearing within a reasonable time AFTER the levy.

5. When counting the ten day or thirty day periods, do not count the day that the notice is mailed or given to the taxpayer. Then, when the time to pay has run out, the next action can be taken on the following day.

**CAUTION:**

As long as a request for a hearing is correctly addressed and postmarked timely, it is timely. Allow at least fifteen additional days after the thirty day period ends, in case the taxpayer mails a request for a hearing on the thirtieth day. However, after thirty days if the taxpayer confirms that no hearing has been requested, there is no need to wait the additional fifteen days. Also, if the notice was unclaimed, returned undelivered, or if delivery was refused, there is no need to wait the additional fifteen days, as long as the notice has only been sent to one address. If multiple notices have been sent, as described in 1.2.1.1:(3), wait the additional fifteen days, unless all of them are returned undelivered, unclaimed or refused.

**EXAMPLE:**

A notice of a right to a hearing is given to the taxpayer on March 1. The taxpayer has until the close of business on March 31 to pay or request a due process hearing. On April 1, the Code allows property to be levied, unless something has happened to prevent it, e.g. payment, request for a hearing, installment agreement made, etc. However, counting the additional fifteen days, property will not be levied until April 16, except as explained in "Caution" above.

6. The required notices must be sent for each module included on a levy.

**CAUTION:**

If the required notices for a module have been sent, and then additional tax is assessed, new notices offering a due process hearing must be sent before that additional assessment may be included in a levy.

**EXAMPLE:**

The three notices have been sent for the tax owed on a taxpayer's 1996 income tax return, and nothing has happened to stop collection action for that assessment, e.g. a timely request for a due process hearing. A notice of levy can be issued to collect this tax. If a TC 290 posts on that module later, a notice and demand will be sent from the service center. However, a new notice of intent to levy and notice of a right to a hearing must also be sent for this additional assessment before it can be included in a notice of levy.

7. Also, see 6.11.2 when a levy is served on a non-liable spouse in a community property state.

**5.11.1.2.1.1 (11-05-1999)****Last Known Address**

1. Generally, the last known address is the master file address which posted from the most recently filed and properly processed return. A list of returns that are used to update this address is in Revenue Procedure 90-18. This Rev. Proc. also describes how a taxpayer can give a new address to the Service.
2. If a third party provides a new address for the taxpayer, this is not the taxpayer's last known address, unless the taxpayer verifies it.



3. When a Notice of Intent to Levy and Notice of Your Right to a Hearing (Letter 1058) is mailed to the taxpayer, it must be sent to the last known address. If other addresses have been received from third parties without the taxpayer verifying them, send a copy of the Notice and the enclosures to the taxpayer at these other addresses on the same date that the one is sent to the last known address. Use regular mail for the copies sent to unverified addresses.

**NOTE:**

There is no need to check for additional taxpayer addresses before sending the Notice, unless there is reason to believe that the last known address is not good, e.g. mail has already been returned undelivered, information gathered during a field call raises doubt that the address is good, etc. Checking third party sources that are reasonably available at the office where the case is assigned is a normal part of skip tracing to try to locate the taxpayer. Try to find a good address before sending the Notice to a last known address that is bad.

4. If the taxpayer has already been sent a 1058 and another address is found later, do not send an additional 1058 for the same TDAs to this new address, as long as the original notice was correctly sent to the address that was the last known one when it was mailed. If another written notice to the taxpayer at this new address is desirable, use Letter 3174(P). See Exhibit 1-3.

**EXAMPLE:**

The 1058 was mailed and was returned unclaimed, but it was correctly sent to the taxpayer's last known address. While working the account later, a new address for the taxpayer was found. Attempts to contact the taxpayer at the new address to demand payment are unsuccessful. Letter 3174(P) may be sent to try to get the taxpayer to pay the amount owed or to contact the revenue officer.

### **5.11.1.2.2 (11-05-1999)**

#### **Satisfying the Notice Requirements**

1. Generally, a notice and demand is sent before a revenue officer receives TDAs.
2. The service center sends the taxpayer the notice and demand, unless there is a jeopardy, quick, termination or prompt assessment.
3. The Notice of Intent to Levy and Notice of Your Right to a Hearing is issued only when the next planned action for ACS or a revenue officer is to levy, because offering an appeal to taxpayers for whom no levies will be issued would be inappropriate. However, when the levy is part of a computer matching program in which files of liabilities are matched against files of income/assets, the notice can be issued, although the levy is not necessarily the next planned action. This means that after January 18, 1999, there is no need to check whether IDRS issued a notice of intent to levy. Regardless of whether it did, ACS or Collection Field function (CFf) must issue a notice of intent to levy/notice of a right to a hearing, referred to above, before property is levied, unless collection is in jeopardy.

**CAUTION:**

Do not issue this notice if there is no levy source, or if there is a restriction that means no levies can be issued. See 1.3.

### **5.11.1.2.2.1 (11-05-1999)**

#### **Recognizing if ACS Issued a Notice of Intent to Levy/Notice of a Right to a Hearing**

1. ACS can issue a notice of intent to levy/notice of a right to a hearing.
2. If the ACS transcript shows action code LT11 on or after 1-19-1999 for the same liabilities that a revenue officer will be levying to collect, there is no need to issue this notice in CFf. An LT11 issued before this date was only a notice of intent to levy. It did not include the notice of a right to a hearing.

**EXCEPTION:**

The ACS transcript may show LT11, but the notice may have been stopped before it was sent.

<b>If</b>	<b>And</b>	<b>Then</b>
Action Code CLnn (nn is a two digit number) is on the ACS transcript.	This Code is the same date as the LT11.	The LT11 was not sent.
Action Code MCLT is on the transcript.	The LT11 is the most recent LTnn (nn is a two digit number) before the MCLT.	The LT11 was not sent.

3. Another way to recognize if the notice has been issued already is to see if there is a Transaction Code (TC) 971, Action Code (AC) 69 on the module. This is input after the service center mails the ACS notice. Then, the results of mailing the notice are shown by a second TC 971.

- AC 66 The return receipt was signed (not necessarily by the taxpayer) , so the notice was delivered.
- AC 67 Delivery was refused or the notice was unclaimed.
- AC 68 The notice was returned, undelivered.

**NOTE:**

Action Codes 66-69 can not be input on IRAF modules.

### 5.11.1.2.2.2 (11-05-1999)

#### Issuing Notice of Intent to Levy/Notice of a Right to a Hearing in CFf

1. When levy is the next planned action, the revenue officer must first issue a notice of intent to levy/notice of a right to a hearing before a notice of levy is issued, unless collection is in jeopardy or ACS already issued an LT11 for all of the periods included in the levy. Letter 1058(DO) Rev 1-1999 or the ICS version of this letter is used for this. These letters are both a notice of a right to a hearing and a notice of intent to levy. With these letters, include:
  - Publication 594 (Understanding the Collection Process),
  - Publication 1660 (Collection Appeal Rights),
  - Form 12153 (Request for a Collection Due Process Hearing), and
  - A copy of the letter.
  - An envelope.

**CAUTION:**

The date on the 1058 **MUST** be the date it is given to, left for, or mailed to the taxpayer.

**CAUTION:**

If the 1058 is sent but mistakenly is not sent to the taxpayer's last known address, issue another 1058, i.e. a substitute for the one that was not sent to the last known address. Release any levies that had been served for the liabilities included in the improperly mailed 1058. Also, see 1.2.1.1 and 2.3.

**REMINDER:**

If the taxpayer has an authorized representative, a copy of correspondence to the taxpayer must also be given to the representative. However, use regular mail for the copy.

2. For IMF taxpayers, also include Notice 609 (Privacy Act Notification) with the letter.
3. Issue the 1058 only after at least one attempt to contact the taxpayer in person or by telephone.

**Exceptions:** An attempt to contact the taxpayer before sending a 1058 is not necessary if

- the taxpayer is in another country,
- the taxpayer is dead (however, try to contact the administrator/executor of the estate, if one can be found),
- there has already been an attempt to contact the taxpayer, a 1058 or LT11 was sent, and then additional modules were received,
- the taxpayer can not be located,

- no telephone number can be found, and the taxpayer is either potentially dangerous or lives in a remote location, where field calls are rarely made, or
  - the levy is issued in a computer program in which files of liabilities are matched against files of income/assets (not merely a computer match to identify levy sources) e.g. levy on state tax refunds.
4. Because taxpayers only have the right to one Collection Due Process Hearing for each liability, avoid listing liabilities on Letter 1058 which have already been included in such a notice. Sending more than one notice for a liability may give taxpayers the impression they can have another Due Process Appeal for that liability.

**REMINDER:**

Input TC 971 Action Code 35 on the eleventh day after the letter is issued on modules that had no IDRS notice of intent to levy. This input is not necessary, if an IDRS 504 notice (status 58) was already issued for the module.

**REMINDER:**

None of the service center IDRS notices are notices of a right to a hearing.

**REMINDER:**

If the notice is mailed, it must be sent by certified or registered mail WITH A RETURN RECEIPT.

5. When the notice is mailed, input Transaction Code (TC) 971, Action Code (AC) 69 on modules that do not already have this on them. Then, when the results of the delivery are known, input Action Code 66, 67, or 68, as shown in 1.2.2.1. Ask the terminal operator to input the date the action took place rather than the date of the input.

**EXAMPLE:**

The 1058 is mailed on March 10. The TC 971, AC 69 is input on March 12. The date of the TC is March 10.

- A. If the notice is given in person instead of being mailed, input TC 971, AC 69 and TC 971, AC 66 on the same date to indicate this.
- B. If the notice is left at the taxpayer's home or business address instead of being mailed, input TC 971, AC 69, and TC 971, AC 67 on the same date to indicate this.

**NOTE:**

Using the AC 67 has nothing to do with delivery being refused. Inputting it the same date as the AC 69 is merely a way to show how the notice was delivered. Refused delivery is distinguished from this by the AC 67 being at a later date than the AC 69.

**5.11.1.2.2.3 (11-05-1999)**

**Issuing Notice of Intent to Levy/Notice of a Right to a Hearing for Joint IMF TDAs**

1. If there are TDAs for jointly filed income tax returns, prepare two copies of Letter 1058.
  - A. If they are not delivered in person or left at the taxpayers' home or business, mail them in separate envelopes to the taxpayers. Address one envelope to the primary taxpayer and one to the secondary, although both taxpayers' names will be on each of the notices. Do this regardless of whether the taxpayers live at the same address or different addresses. Do not use a window envelope. If there are changing name lines, be careful that taxpayers are not sent a notice for taxes they do not owe.

**EXAMPLE:**

John and Mary Doe owe tax for their 1996 joint income tax return. John Doe also owes tax for his single return for 1995. John must be sent a notice for both years, but only send Mary a notice for 1996.

- B. If the notices are going to different addresses, do not reveal one person's address to the other.

**EXAMPLE:**

William and Barbara White owe tax for a joint income tax return. They now have different addresses. One 1058 is printed with both names on it and William's address. This letter is put in a non-window envelope with only William's name and his address on it. A copy of the letter is printed for Barbara. Both names are also printed on her copy, but Barbara's address is used on it. Her copy of the notice is put in a non-window envelope with only Barbara's name and her address on it.

- C. Before sending the L1058 to joint taxpayers living at different addresses, try to contact both of them, so the letter is not a surprise to either of them. See 1.2.2.2:(3). If one of the taxpayers is living in a different jurisdiction, try to get a telephone number to call this person before sending the L1058s. If a number can not be found or the attempted call fails, the letters can still be sent.
2. Before sending the 1058 to the secondary taxpayer, check master file on-line to find out if this person has filed a return with a different address since the joint return(s) that generated the TDAs. This step is not necessary when there has been contact with the taxpayers confirming the secondary's address or when the TDAs are for the most recent tax year.

**EXAMPLE:**

There are TDAs for Steven and Marcia Brown for their joint income tax returns for 1996. The revenue officer has not been able to contact the taxpayers but has found a levy source, so two 1058s are going to be sent. Before sending them, the revenue officer uses master file on line to check Marcia Brown's social security number and finds that she has filed a more recent joint return with her second husband. The 1058 mailed to Marcia needs to be mailed to the address on her most recent return rather than the same address where Steven Brown's 1058 will be mailed.

3. If levy on one of the taxpayers' property is prohibited, do not send a separate notice to that person. Instead, prepare a notice with both taxpayers' names on it, and mail it in an envelope addressed to the taxpayer whose property will be levied as the next, planned action. When the condition that prohibits levy no longer exists, and a levy is the next planned action to collect from the person whose property previously could not be levied, send a 1058 to that person. Also, see 2.1.2:(4).

**EXAMPLE:**

John and Mary Doe owe tax for a joint return. They are separated, and Mary is making payment on an installment agreement for the joint liability. John is not a party to the agreement. The revenue officer identifies the bank where John has an account and plans to send a notice of levy to the bank. Before the bank account can be levied, John must be sent a 1058, if one has not already been sent for the liabilities that will be included in the notice of levy. The notice will have both names on it, but it will only be mailed to John. Mailing a 1058 to Mary would be improper, because her installment agreement prevents levy on her property. Later, Mary defaults on her agreement, and she has the right to appeal the default. When her property is going to be levied, though, she must first be sent a 1058 giving her the right to a due process hearing. During the waiting period for her 1058 and during her appeals, collection can continue against John.

**EXAMPLE:**

Joseph and Marcia Smith owe tax for a joint return. Nothing prohibits levy on their property. A levy source is found for Joseph but not Marcia. As long as a levy is about to be

served as the next planned action, and there is no restriction on being able to levy the property of both taxpayers, separate 1058s will be sent to both of them.

4. Input the TC 971 and ACs as explained in (3). However, when separate notices are sent for joint assessments, include the secondary taxpayer's social security number as, "X-Ref XXX-XX-XXXX," in the Remarks on the posting document for inputting the record of that person's notice. This will distinguish the primary and secondary taxpayers' ACs.

**EXAMPLE:**

John and Mary Doe's notices for their joint 1996 income tax return are both mailed on 1-29-1999. John's return receipt comes back signed, but Mary's is returned undelivered. There will be two TC 971s with AC 69 on 1-29-1999. One will have Mary's X-Ref SSN. The other will have no X-Ref SSN. There will also be a TC 971 AC 66 with no X-Ref SSN for John's notice and a TC 971 AC 68 with Mary's X-Ref SSN for Mary's notice.

5. When ACS issues an LT11, it will only issue one notice for joint IMF assessments, unless the taxpayers are known to be living at different addresses.. The Restructuring and Reform Act includes a standard for separate notices, "wherever practicable." Because of the volume and batch processing of these computer printed notices, ACS will not normally issue separate notices for joint assessments. The single ACS notice is, nevertheless, notice to both taxpayers. Additional, separate notices do not have to be sent when Cff is collecting the same liabilities for which ACS already issued its Notice of Intent to Levy/Notice of a Right to a Hearing.
  - A. While working the TDAs in Cff, however, the revenue officer may discover that the taxpayers were separated, and one of them was not living at the last known address when the LT11 was sent. As long as that was the person's last known address when the notice was sent, however, it was a legally valid notice of a right to a hearing. See 1.2.1.1. Nevertheless, it may be inequitable to take this person's property without notice. Give Letter 3174(P) to the taxpayer who was not living at the address before serving additional notices of levy on that person's property, and release notices of levy that have been served on that person's property. See Exhibit 1-3.

**EXAMPLE:**

ACS had TDAs on Joe and Janet Green. An LT11 was sent to the address shown on master file for them. The revenue officer then receives the TDAs in transfer from ACS and finds out that Janet Green was not living at that address when the LT11 was sent. However, she had not reported her address change, e.g. she had not filed a return showing a new address.

- B. ACS may have sent LT11 to the address shown on master file for the last joint return that the taxpayers filed. However, if they had separated, they were living at different addresses when the LT11 was sent, and the secondary had already reported a new address, that becomes that person's last known address. In this case, a 1058 (i.e., a substitute notice) needs to be sent to the secondary taxpayer before that person's property can be levied.

**EXAMPLE:**

ACS had TDAs on James and Sandra Jones. An LT11 was sent to the address shown on master file. The revenue officer then receives the TDAs in transfer and finds out that Sandra Smith was not living at that address when the LT11 was sent. She is filing jointly with her new husband, and they had already filed a return showing their address when the LT11 was sent.

6. By the same token, the revenue officer may send two 1058s for a joint TDA and discover later that one of the taxpayers was living at a different address when the letters were sent. Although the notice is legally valid if it is sent to the last known address, it has been administratively determined that Letter 3174(P) will be sent to this taxpayer before serving additional notices of levy on that person's property, and notices of levy that have already been served on that person's property will be released.

**NOTE:**



Because of procedures in (2), above, this should only be an issue if the secondary taxpayer has not reported a new address.

#### **5.11.1.2.2.4 (11-05-1999)**

##### **Timeliness of Notice**

1. The purpose of the Notice of Intent to Levy described in 1.2.1:(3) is to warn the taxpayer that continued failure to respond can be expected to result in imminent enforcement. However, when a long time passes after the notice is issued and there has not been enforcement, the notice loses its effectiveness as a warning.
2. If a notice of intent to levy is over 180 days old, it is legally valid to support subsequent collection action by levy. However, it has been administratively determined that the taxpayer will get a new warning of enforcement action before a notice of levy is issued.
  - A. This warning must be documented in the case file. It may be
    - given orally (in person or by phone) that there is a deadline (not necessarily thirty days) after which there will be enforcement, or
    - given in writing (see Exhibit 5.11.1-3), if the taxpayer can not be contacted.

##### **NOTE:**

Do not issue another Letter 1058 to give the taxpayer a timely warning. The taxpayer gets the opportunity only once for a pre-levy hearing described in that letter for each liability. Sending another 1058 will give the incorrect impression that the taxpayer can do this again.

##### **EXCEPTION:**

Collection may be jeopardized. This is the case if any of the conditions in Policy Statement P-4-88 exist. The group manager, and the next level manager, must approve the levy. In these situations, Counsel's approval may be requested but is not required, because the taxpayer has already been given the required notices, and the waiting periods after them have passed. The taxpayer can discuss the levy with the group manager, the Taxpayer Advocate, and the Appeals Officer.

##### **EXCEPTION:**

Computer matching programs in which files of liabilities are matched against files of assets/income resulting in immediate payment, e.g. levy on state tax refunds.

##### **EXCEPTION:**

Enforcement has taken place within the last 180 days. Enforcement only includes seizures and notices of levy, so the taxpayer should realize there has been enforcement. For example, if a notice of levy is sent to an employer, and it is returned because the taxpayer no longer works there, this notice of levy does not start the count for a new 180 day period. The taxpayer would have no way to realize there had been an attempt to enforce. On the other hand, if a levy were sent to a bank and a copy was sent to the taxpayer, even if there were no proceeds, the taxpayer would have been notified of the levy.

##### **EXCEPTION:**

The taxpayer is a trust fund repeater. See IRM 1.11:(1) & (2) of IRM 5.7, Trust Fund Compliance Handbook.

- B. This "timeliness" warning is in addition to the notices described in 1.2.1 (notice and demand/notice of intent to levy), which are required by law and must have been sent at some point. An oral warning to pay is not adequate to allow a notice of levy to be served if there has never been a thirty day notice of intent to levy and a notice of the right to a hearing.
- C. If the most recent warning of enforcement is over 180 days old, give the taxpayer a new one before taking enforcement. This means that over the life of the liability, there may be a need to give this warning more than once.

**EXAMPLE:**

A letter 1058 is sent to a taxpayer, followed by a notice of levy. After 180 days pass with no additional enforcement, a new warning needs to be given before another notice of levy or a seizure, unless one of the exceptions in a. exists. Then, a new 180 day count begins.

- 3. The notices described in 1.2.1 must have been sent for every module that is included in a notice of levy. However, the taxpayer has had timely notice as long as there has been recent warning of enforcement for at least one module included in a notice of levy within the last 180 days. In other words, the requirement for the notices in 1.2.1 must be met for each module included in a notice of levy, but the timeliness of warning is for the entity rather than each module.

**EXAMPLE:**

The notices described in 1.2.1 have been sent for all modules included in the notice of levy. They are over 180 days old, so the TP is given a new oral warning of enforcement. After the deadline passes, a new module is received for which a notice of intent to levy and notice of the right to a hearing had been sent more than thirty days ago, so the legal requirement for this module has been met. A new oral warning is not necessary, even if the notice of intent to levy and notice of the right to a hearing for this new module had been sent more than 180 days earlier, because the TP has been warned of enforcement within the last 180 days.

- 4. If the taxpayer can not be located, the notices described in 1.2.1 (notice and demand/notice of intent to levy) still must have been sent to the last known address. However, additional notices for these liabilities do not have to be sent to the last known address just to meet the timeliness requirement.

### **5.11.1.2.3 (11-05-1999)**

#### **Delegation Orders**

- 1. Regulations under IRC 6331 have delegated levy authority to district directors. To be most efficient, redelegate this to the lowest reasonable level.
- 2. See Exhibit 5.11.1-1 for suggested delegations.
  - A. Items in I of the Exhibit are suggested local delegation levels. If local conditions justify delegating otherwise, management has the discretion to address those needs by varying from the suggested delegation.

**EXAMPLE:**

A small post of duty (POD) has few employees at the suggested level for releasing levies. Local management, then, delegates authority to a Customer Service employee at the POD, so taxpayers who have been levied can get the levies released immediately when they bring payment to the POD.

- B. Items in II of the Exhibit, however, identify the lowest level that certain actions can be delegated. Local management will not delegate lower than this.

#### 5.11.1.2.4 (11-05-1999)

### Managerial Approval

1. Certain Notices of levy must be approved by managers. See Exhibit 5.11.1-1. Managers must approve the levies described in II of the Exhibit, as well as any levies issued by employees who have not been delegated authority to levy.
2. When the notice of levy is turned in for approval, include the following information:
  - a summary of any information the taxpayer has provided that may affect the decision to levy, e.g. claims that the assessment is wrong;
  - if the taxpayer has submitted such information, an explanation that the employee has reviewed the information, and why the notice of levy should still be served;
  - verification that the amount is still owed, e.g. IDRS has confirmed the amount is still unpaid;
  - an explanation that the notice of levy is appropriate, considering the amount owed and any circumstances that are known about the taxpayer and the liability.
  - other collection alternatives considered or rejected.
3. Some things that might influence how appropriate the levy is may include, among other things:
  - the taxpayer's responsiveness to attempts at contact and collection,
  - anything that is known about the taxpayer's financial condition,
  - the taxpayer's history of delinquency,
  - the taxpayer's effort to pay the tax,
  - whether current taxes are being paid,
4. This information must be written, but the format can be at local management discretion.

#### **EXAMPLE:**

A notice of levy that a group manager approves, may need no more than a history entry, and the case file can be turned in with the notice of levy. In ICS district, on the other hand, the history entry can be on ICS, and the notice of levy can include a note telling the group manager the date of the entry, so it can be retrieved on ICS.

5. The approval must also be written, but the method can be at local management discretion.

#### **EXAMPLE:**

The revenue officer and manager are at the same location, so the notice of levy is turned in to the group manager who signs the levy.

#### **EXAMPLE:**

The revenue officer and manager are at the same location, so the revenue officer signs the notice of levy and turns it in to the manager who initials it to show it has been approved.

#### **EXAMPLE:**

The revenue officer and manager are at different locations. The revenue officer writes an explanation of why the notice of levy should be approved, includes an "Approved" line on it, and faxes this to the manager. The manager signs on the "Approved" line, and faxes this back to the revenue officer who puts this in the case file to document the approval, and then the revenue officer signs the notice of levy.

#### **EXAMPLE:**

The revenue officer and manager are at different locations. The revenue officer faxes a copy of the first page of the notice of levy to the manager who signs it and faxes it back to the revenue officer. The revenue officer places this in the case file to document the approval, and then the revenue officer signs the notice of levy.

## **EXAMPLE:**

The revenue officer is in a district using the Integrated Collection System. The revenue officer sends an email message to the manager asking for approval of the notice of levy. The manager accesses the case and records the approval in the ICS history. The manager's access to the case generates a notification to the revenue officer who then accesses the case, sees that the levy is approved, prints the notice of levy, and signs it.

6. A notice of levy that requires the Director or Assistant Director's (DD/ADD) approval must include a memo explaining the information in (2). If all levels approve the notice of levy, but the DD/ADD rejects it, the rejection must be in writing and explain the reason(s). Keep a copy of memos asking for approval and the rejections with the case.
7. If a courtesy levy is involved, indicate that the required manager has approved of the notice of levy.

### **5.11.1.3 (11-05-1999)**

#### **Restrictions on Levy**

1. This contains restrictions on levy. See 9.3.3 of IRM 5.1, General Handbook, regarding restrictions on levy during Due Process Hearings.

### **5.11.1.3.1 (11-05-1999)**

#### **Property Exempt from Levy**

1. IRC 6334 describes property that is exempt from levy. Some are property that would be taken by seizure procedures, if not for the exemption. See seizure instructions about these. Others are income that would be taken by a notice of levy, if they were not exempt. The exempt income sources are:
  - Unemployment benefits,
  - Certain annuity and pension payments, including payments under the Railroad Retirement Act, Railroad Unemployment Insurance Act, Special Pensions for Medal of Honor Winners, and Retired Serviceman's Family Protection Plan and Survivor Benefit Plan,
  - Workers Compensation,
  - Judgment for support of minor children, if the judgment is before the date of the levy,
  - Minimum exemption for wages, salary, and other income,
  - Certain military service connected disability payments,
  - Certain public assistance payments,
  - Assistance under the Job Training Partnership Act.

## **NOTE:**

IRC 6331(h) allows for levy on 15% of certain previously exempt government payments. However, the intent of this provision was to make a computer match possible between tax liabilities and records of payments from the government's disbursing agencies, so a flat percentage of the payments could be attached. Continue refraining from issuing notices of levy on the payments listed above. The authority to levy under IRC 6331(h) has not been delegated to District or Service Center Directors. The computer matches are being arranged by National Office.

2. See IRC 6334 and the Legal Reference Guide for Revenue Officers for additional information about property exempt from levy.
3. Members of the military and Public Health Service employees may deposit money in a Special Treasury Fund. Money can be deposited while the employees are outside the U.S. and its possessions. This money can not be levied. See Subsection 1035 of Title 10 of the U.S. Code.
4. No other property is exempt from levy. No state or local law can exempt property from levy to collect federal tax.

## **EXAMPLE:**

Even if property is exempt under a state homestead exemption law, it is not exempt from federal levy.

### 5.11.1.3.2 (01-19-1999)

#### Property Exempt from Levies Used to Collect Child Support TDAs

1. When child support TDAs are being collected, three of the things in 1.3.1:(1) are not exempt from levy.
  - Unemployment benefits
  - Certain annuity and pension payments
  - Amount of income needed to pay a judgment for the support of minor children. However, income withheld for a judgment for child support is not levied, if the judgment is dated before the levy.
2. Use Letter 1696(P) to explain the exemptions that do not apply for child support levies. See Exhibit 5.11.1-2

### 5.11.1.3.3 (01-19-1999)

#### Property in the Hands of the Courts

1. Generally, do not levy assets in the hands of the courts. While the taxpayer is in bankruptcy or state insolvency proceeding, some assets may not be covered.

#### **CAUTION:**

Do not levy without getting advice from Special Procedures, when there is a current bankruptcy condition, or the taxpayer states taxes were discharged in a prior bankruptcy. Bankruptcy laws allow debtors to sue the Service for damages and attorney fees when the automatic stay or discharge injunction is violated.

2. Property may have been seized before the taxpayer began the court proceedings. This may affect whether the property can be sold.
3. IRC 6332 says that an attachment or execution in a judicial process may have priority over a levy.
4. When property is being used as evidence in a criminal court, it can be levied.
  - A. Serve the levy on the official responsible for holding and releasing the property, e.g. police property clerk.
  - B. Tell this person not to surrender the property, until the court releases it.

### 5.11.1.3.3.1 (11-05-1999)

#### Cash Deposited as Security for Bail

1. Levy cash deposited as security for bail only if collection is in jeopardy. Collection is only in jeopardy if one of the conditions allowing a jeopardy assessment exists. See Policy Statement P-4-88.
  - The group manager and the next level manager must approve the levy.
  - If the notices described in 1.2.1 have been sent, and the time periods for them have passed, the appeal process in 3.6 does not apply. The taxpayer can still discuss the levy with the group manager, the Taxpayer Advocate, or the Appeals Officer.
  - If the notice requirements have not been satisfied, however, see Section 3 for required procedures and approval level.
2. If a levy is served, tell the Court Clerk to respond when the taxpayer no longer requires a bond.
3. If collection is not in jeopardy, do not levy. Instead, ask the Court Clerk to notify IRS when the bond is no longer required. Then, decide whether to levy the bond before it is returned to the taxpayer.

### 5.11.1.3.3.2 (01-19-1999)

#### Forfeited Property

1. Sometimes, property used in a crime or acquired through crime is forfeited.

#### **EXAMPLE:**

Criminal Investigation may seize money used in violating the Internal Revenue Code. This may be subject to judicial forfeiture.

2. If property can be forfeited, it will not be levied. However, Criminal Investigation may alert Collection to levy property if the court declares it is not forfeited.



#### **5.11.1.3.4 (01-19-1999)**

### **Property Outside the United States**

1. Serve notices of levy only within the United States, including the District of Columbia and U.S. possessions and territories. All of these are referred to below simply as the U.S.
2. If the taxpayer is outside the U.S., but there are assets here, they can be levied.
3. Never serve a notice of levy outside the U.S. Also, never serve a levy at another country's embassies, consulates, or missions, even if they are within U.S. Borders. See 6.9 of this handbook for levies served at the United Nations.
4. A foreign bank may have branches in the U.S. A notice of levy can be served at U.S. branches and reach funds held there. It might also reach funds in branches outside the U.S. See 26 CFR 301.6332. Contact Special Procedures and District Counsel for advice.
5. Several countries, including Canada, now have reciprocal tax treaties with the United States. See 42.1.7.9 in IRM 5.1 General regarding the Mutual Collection Assistance Program.

#### **5.11.1.3.5 (11-05-1999)**

### **Appearance Date of Summons**

1. Do not levy on a day the taxpayer must appear for a summons that was issued to collect tax. For example, the taxpayer may be summoned for a Collection Information Statement. See IRC 6331(g).
2. Even if a summons is issued for another reason, though, do not levy on the appearance date. For example, there may be TDAs and TDIs on the same taxpayer. The summons could be issued for the unfiled return.
3. You are not expected to contact other divisions to ask if they have summoned the taxpayer.

#### **EXCEPTION:**

If collection is in jeopardy, a levy can be issued on the summons appearance date. Collection is only in jeopardy if one of the conditions allowing a jeopardy assessment exists. See Policy Statement P-4-88.

- The group manager and the next level manager must approve the jeopardy levy.
- If the notices described in 1.2.1 have been sent, and the time periods for them have passed, the appeal process in 3.6 does not apply. The taxpayer can discuss the levy with the group manager, the Taxpayer Advocate, or the Collection Appeals Officer.
- If the notice requirements have not been satisfied, however, see Section 3 for required procedures and approval level.

#### **5.11.1.3.6 (01-19-1999)**

### **Banks under FDIC (Formerly RTC) Control**

1. The Service made an agreement with the Resolution Trust Corporation (RTC) about amounts owed by banks under RTC control. A notice of levy will not be used to collect these amounts.
2. RTC has been abolished, and the Federal Deposit Insurance Corporation (FDIC) took over RTC's functions. The RTC agreement continues to apply to banks under FDIC's control.

#### **5.11.1.3.7 (01-19-1999)**

### **Repeated Levies on the Same Source**

1. If repeated levies on the same source are necessary to collect a liability, document managerial approval.
  - A. Manager's approval is required only if the same source has been levied before to collect the same liability. The age of the prior levy does not affect whether approval is needed, although it may affect how frequently the source can be levied without causing a hardship on the taxpayer.
  - B. Review the case file/ICS history to determine if the source has been levied before to collect the same liability. If an ACS transcript has been received with the case, review the transcript, too, to see if the source was already levied to collect the tax.
  - C. For cases that have been worked, closed, and then reactivated, there will not be an available file to review. For example, if the case is a reactivated CNC, there generally is no way to know whether a source was levied before to collect the same liability. There is no need to attempt to locate the earlier file in the Federal Records Center, since they are not retired in a manner that makes any given file retrievable. However, if the case was previously worked in ICS, the sources previously levied through ICS might be

retrievable from the archive, depending on how long ago it was reported CNC. If it is available through the archive, check that.

- D. If there are any new modules that were not included in the earlier levy to the same source, manager's approval is not required, because the levy is being used to collect a new liability.
- E. A continuous wage levy or a levy that otherwise reaches a series of future payments, e.g. retirement payments, is not a repeated levy requiring manager's approval.

2. See Policy Statement P-5-28.

### **5.11.1.3.8 (01-19-1999)**

#### **Government Training Allowances**

1. People attending government training programs develop skills, so they can get jobs. Except for payments under the Job Training and Partnership Act, these payments are not exempt from levy. However, levying them would defeat the purpose of the programs, so these payments will not be levied.
2. See Policy Statement P-5-33.

### **5.11.1.3.9 (11-05-1999)**

#### **Pending & Active Installment Agreements**

1. If the taxpayer makes an offer to pay a liability through installments, no levies can be served while the proposal is pending.

#### **NOTE:**

An unreversed transaction code 971, action code 43 means there is a pending installment agreement.

#### **EXCEPTION:**

A levy can be served if the taxpayer waives the restriction, in writing.

#### **EXCEPTION:**

A levy can be served if collection is in jeopardy. Collection is only in jeopardy if one of the conditions allowing a jeopardy assessment exists. See Policy Statement P-4-88.

- The group manager and the next level manager must approve the jeopardy levy.
  - If the notices described in 1.2.1 have been sent, and the time periods for them have passed, the appeal process in 3.6 does not apply. However, the taxpayer can still discuss the levy with the group manager, the Taxpayer Advocate, or the Appeals Officer.
  - If the notice requirements in 1.2.1 have not been satisfied, see Section 3 for required procedures and approval level.
2. In addition to the period that an offer of an installment agreement is pending, no levy can be served
    - for thirty days after an offer of an installment agreement is rejected
    - while a rejection of a proposed agreement is being appealed
    - while an agreement is in effect
    - for thirty days after notifying a taxpayer that an agreement has been defaulted and will be terminated, i.e. CPS23 or Pattern Letter 2975
    - for an additional thirty days after an agreement is terminated
    - while termination (or proposed termination) of an agreement is being appealed.

#### **CAUTION:**

Allow an additional fifteen days after each of these thirty day periods, as discussed in 1.2.1:(5).

#### **NOTE:**

Status 60 or an unreversed transaction code 971, action code 63 means there is an active installment agreement.

**EXCEPTION:**

The same as in (1), above.

3. By contrast, if a levy was issued BEFORE an installment agreement is made, it must be released, unless the agreement provides otherwise. See IRC 6343(a)(1)(C). However, if a levy was served and then the taxpayer offers to pay in installments, the levy does not have to be released while negotiations for the installment agreement are pending.
4. If an offer of an installment agreement is made merely to delay collection, levies can be served to collect the tax. The provisions, such as approval level (group manager and next level manager), appeal, etc., under the second exception in (1) apply, in this case.

**EXAMPLE:**

A taxpayer makes an offer to make installment payments. The agreement is rejected. The taxpayer, then, offers to increase the amount by \$1.

**5.11.1.3.10 (11-05-1999)**

**Refund Litigation**

1. Responsibility for refund litigation depends on who is suing and the type of tax involved.
  - A. Special Procedures is responsible for refund litigation if
    - the suit is filed by a third party, or
    - a trust fund recovery penalty is involved.
  - B. The service center refund litigation unit is responsible for all other refund litigation.
2. For tax periods that begin before January 1, 1999, if the taxpayer files a suit for a refund of divisible taxes, Special Procedures or the service center refund litigation unit determines whether collection is suspended during the suit. For further information about refund suits, see IRM 105.2, Litigation and Judgments Handbook.
  - A. Divisible taxes include
    - employment taxes
    - trust fund recovery penalties
    - excise taxes (except chapters 41-44 taxes)
    - abusive tax shelter penalties.
  - B. Unlike other taxes, the taxpayer can pay only a portion of the amount owed before filing suit for refund, so this refund litigation happens while there still is an amount owed.
3. Generally, however, for tax periods beginning after December 31, 1998, no levy can be served to collect divisible taxes that are included in a suit for refund.
  - A. This change only applies to employment taxes and trust fund recovery penalties for employment taxes.
  - B. For trust fund recovery penalties for other taxes, continue to follow (2), above.

**EXCEPTION:**

If collection is in jeopardy, levies can be issued to collect the tax.

- If the notice requirements of 1.2.1 have not been satisfied, see Section 3 for required procedures and approval level of the jeopardy levy.
- If the notice requirements of 1.2.1 have been satisfied, the jeopardy levy must be approved by the Chief Collection function and District Counsel (or Associate District Counsel), but the appeal process in 3.6 does not apply. The taxpayer can still discuss the levy with the group manager, the Taxpayer Advocate, or the Appeals Officer.

**EXCEPTION:**

If the taxpayer waives the restriction on levy in writing, levies can be issued to collect the tax.

**NOTE:**

If either of these exceptions applies, notify Special Procedures that collection is not being withheld.

4. A levy that was issued before the suit was filed does not have to be released. However, contact District Counsel for advice about whether to release the notice of levy. If necessary, tell the person who received the levy to delay sending any proceeds until counsel's advice is received.

**5.11.1.3.11 (11-05-1999)**

**Due Process for Lien Filing**

1. Generally, within five business days after a Notice of Federal Tax Lien (NFTL) is filed, Letter 3172(DO) is sent to taxpayers to tell them about the NFTL and allow them a chance for a Collection Due Process appeal about the lien. See Section 3 of IRM 5.12, Federal Tax Liens Handbook.
2. If the notice requirements in 1.2.1 have been satisfied, Letter 3172(DO) does not create a new waiting period before a Notice of Levy can be issued. However, once the taxpayer appeals the lien filing, generally, no Notices of Levy will be issued during the administrative or judicial appeal. See 9.3.3 of IRM 5.1, General Handbook, for a description of when property can be levied during the appeal process.

**EXAMPLE:**

On April 5, 1999, a Notice of Federal Tax lien is filed, and Letter 3172(DO) is sent to the taxpayer on April 7. The taxpayer appeals the NFTL on April 29. Until April 29, as long as the notice requirements in 1.2.1 have been satisfied, a Notice of Levy can be issued to collect the amount that is owed, including the periods that are included in Letter 3172(DO).

**Exhibit 5.11.1-1 (11-05-1999)**

**Delegations of Authority**

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(References IRM 5.11, sections 1.2.2.3, 1.2.3, 1.2.4, 1.3.3.1, 1.3.5, 1.3.7, 1.3.9, 1.3.10, 3.3, 6.2, 6.3.1, 6.3.5, 6.6.1, 6.6.4, 6.6.6, & 6.9; IRM 5.1.9)

I. Suggested local delegations to Branch/Section/Unit Chief ACS/CSf/FSU; Revenue Officers and Bankruptcy Specialists GS 9 & above; Dyed Diesel Compliance Officers GS 9 & above; Collection and Examination Managers of these Employees

- |    |  |
|----|--|
| A. | Notice of Levy, Form 668-A and 668-W<br>Benefit Income<br>Retirement Income<br>Social Security Income<br>All Other Types, unless listed in II, below |
| B. | Final Demand, Form 668-C/ACS LP-59   |
| C. | Release of Levy, Form 668-D/ACS LP-68  |
| D. | Notice to Exhibit Books and Records, Form 2270   |

II. Local delegations for the following will not be lower than the levels indicated. Portions of local or regional Delegation Orders that allow approval lower than the levels shown below are no longer valid as of the date of this transmittal. See Chapter 9 (Taxpayer Rights) of IRM 5.1, General Handbook, for the lowest delegation of levy during appeal.

- |    |  |
|----|--|
| A. | Customer Service, CSf and FSU; Grade 8 in 592 & 962 Series<br>1. Notices of Levy as described in I. A., except those in II. B., below.           |
| B. | Branch/ Section/Unit Chiefs Customer Service, CSf and FSU<br>1. Notices of Levy<br>Benefit Income<br>Retirement Income<br>Social Security Income |

- Repeated Levies on the Same Source
- C. Group Manager
    - 1. Cash Loan Value of Life Insurance Policies (See 6.3.1)
    - 2. Repeated Levies on the Same Source (See 1.3.7)
    - 3. Levy on Both Spouses' Incomes (See 5.4.3)
  - D. Chief, Collection Field function/Chief, Special Procedures function
    - 1. Relocation Act Payments (See 6.6.4)
    - 2. Foster Care Payments
    - 3. Jeopardy Levy without a Jeopardy Assessment, if the Notice Requirements in 1.2.1 have been met
      - a. Notice of Intent to Levy is over 180 Days Old (See 1.2.2.4)
      - b. Cash Deposited as Security for Bail (See 1.3.3.1)
      - c. Appearance Date of Summons (See 1.3.5)
      - d. Pending & Active Installment Agreements (See 1.3.9)
    - 4. Levy when an Offer of an Installment Agreement is made merely to Delay Collection (See 1.3.9)
  - E. Chief, Special Procedures Function/Chief, Collection function
    - 1. Medicare Payments (See 6.6.1)
    - 2. Collection of Taxes included in Refund Litigation for Tax Periods Beginning Before 1-1-99 (See 1.3.10)
  - F. **BOTH** the Chief, Collection function **AND** Regional Counsel (may be redelegated no lower than Associate District Counsel) must approve.
    - 1. Jeopardy Levy without a Jeopardy Assessment, if the Notice Requirements in 1.2.1 have not been satisfied (See 3.3)
  - G. **BOTH** the Chief, Collection function **AND** District Counsel (or Associate District Counsel) must approve.
    - 1. Jeopardy Levy without a Jeopardy Assessment, if the Notice Requirements in 1.2.1 have been satisfied, the Taxes are in Refund Litigation, and the Taxes are for Periods Beginning After 12-31-98 (See 1.3.10)
  - H. District Director/Assistant Director
    - 1. Funds Held in Pension and Retirement Plans, as well as IRAs (See 6.2)
    - 2. Death Benefits (See 6.3.5)
    - 3. United Nations Employees' Salaries (See 6.9)
    - 4. Restitution Payments for Japanese WWII Internment (See 6.6.6)

**Exhibit 5.11.1-2 (01-19-1999)**  
**Letter 1696(P) (Rev. 1-90)**

(Reference 1.3.2)

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 (Insert 4, if Form 668W(C)(DO) is enclosed. Insert 1, if Form 668A(C)(DO) is enclosed). of the levy 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) (Rev. 1-90)

**Exhibit 5.11.1-3 (11-05-1999)**

**Letter 3174 (P) (Rev 1-1999)**

(Reference ,1.2.1.1, 1.2.2.3 & 1.2.2.4 )

Letter Number:3174(P)

Letter Date:

Social Security Number or Employer

Identification Number:

Person to Contact:

Telephone Number:

Taxpayer Name

Address

Dear (name)

Although we previously sent you a notice of our intention to collect your unpaid tax through enforced collection, our records show that you still have not paid the amount you owe. Enforced collection may include placing a levy on your bank accounts, wages, receivables, commissions, etc. It could also involve seizing and selling your property, such as real estate, vehicles, or business assets.

To prevent collection action, please pay the amount you owe, now. Make your check or money order payable to United States Treasury, and write your social security number or employer identification number on it. Send your payment to us in the enclosed envelope with a copy of this letter. The amount you owe is:

Form Tax Unpaid Amount Additional

Number Period from prior Notices Penalty & Interest Amount You Owe

If you recently paid this or if you can't pay it, call as soon as you get this letter. Our telephone number is at the top of this letter. If you disagree with our taking enforcement action, you may be able to work out another solution.

Speak to the person whose name appears at the top of this letter, or ask for that person's manager. If you do not agree with the results, you may fill out Form 9423, Collection Appeals Request, to ask for Appeals consideration.

The unpaid amount from prior notices may include tax, penalties, and interest you still owe. It also includes credits and payments we have received since our last notice to you.

Sincerely

Title

Enclosures:

Copy of Letter

Envelope

**Exhibit 5.11.1-4 (11-05-1999)**

**Minimum Pre-Levy Notices**

**Collection is Not in Jeopardy**

# Part 5 Collection Activity

## Chapter 11 Notice of Levy

### Section 2 Serving Levies, Releasing Levies and Returning Property

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- 5.11.2 Serving Levies, Releasing Levies and Returning Property
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    - 5.11.2.3.6 Effect on Penalty & Interest
  - 5.11.2.4 Returning Wrongfully Levied Property
- Exhibit 5.11.2-1 Pattern Letter P-548

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#### 5.11.2.1 (05-05-1998)

#### Serving Notices of Levy

1. This provides procedures for serving notices of levy.

#### 5.11.2.1.1 (05-05-1998)

#### General

1. Serve a levy only when there is reason to believe the third party is holding the taxpayer's property.
  - If the taxpayer owns property with a person not liable for the tax, consider using another source.
  - Sometimes property can be levied even though someone not liable for the tax owns it, at least in part. This can come up, for example, in a community property state. However, suits and wrongful levy claims can be reduced by avoiding this, if another source is known.

2. Consider the effect that the notice of levy may have on innocent third parties.

### 5.11.2.1.2 (11-05-1999)

#### Preparing the Notice of Levy

1. Prepare the appropriate notice of levy form.
  - Use Form 668-W(C)DO to levy an individual's wages, salary or other income.
  - Use Form 668-A(C)DO to levy other property that a third party is holding. For example, this is often used for bank accounts and business receivables.
2. Include all appropriate TINs on the notice of levy. For example, include both the SSN and EIN of a sole proprietor, if they are known.
3. If additional information will help identify the taxpayer's property, include it on the levy. This may include:
  - Contract Number
  - Franchise Number or Operator
  - Consignor's Name
  - Royalty Owner
  - Location of the branch where the taxpayer works
  - Any other descriptive information
4. If there is a joint assessment, and there is a restriction that prevents levy against one of the taxpayers' property, include both taxpayers' names on the notice of levy.
  - A. However, also state on it, "This levy attaches the property and rights to property of (taxpayer's name). It does not attach the property and rights to property of (taxpayer's name)."

#### **EXAMPLE:**

Fred and Janice Blue filed a joint return and owe \$3,000. They are divorced now. Janice has filed bankruptcy and the automatic stay prohibits levy on her property. Fred is not a party to the bankruptcy. His property can be levied. When a notice of levy is prepared to collect from Fred, the taxpayer name line will still include both taxpayers' names. However, the notice of levy will also state, "This levy attaches the property and rights to property of Fred Blue. It does not attach the property and rights to property of Janice Blue."

- B. In some states, the taxpayer whose property rights are being levied may have a community property interest in the property of a spouse, and there may be a restriction which prevents levy on that spouse's property. See 6.11 of IRM 5.11. In the example above, other language may need to be added to the notice of levy explaining that Fred Blue's property rights which are being levied include Fred's community property interest in Janice Blue's property, although her property rights are not being levied. The result is similar to what would be levied if there were an assessment only against Fred, but his community property interest in Janice's property is being levied.

### 5.11.2.1.3 (05-05-1998)

#### Serving Notices of Levy in Person

1. Have the person who gets the notice of levy sign for it. Write, "Receipt Acknowledged," on the form, and have the person sign after this. If the person will not sign it, leave the form anyway. Document the case file to show the levy was served. An acknowledgment is desirable, but it is not critical.
2. If the levy source is a partnership or a corporation, try to serve the levy on someone in authority.

#### **EXAMPLE:**

A partner or a corporate officer.

3. Try to find out how much to expect for the levy. Ask for payment when the levy is served, unless there is a reason for a delay.

#### **EXAMPLE:**

IRC 6332(c) requires banks to wait 21 days. A levy on wages is not paid until the taxpayer's usual pay day.

4. If payment must be sent later, give the person a business reply, self-addressed envelope. Give the person more envelopes, if there will be several payments.
5. If the person owes nothing to the taxpayer, have this written on the form. Ask the person sign it and write a title, e.g. "Partner."

#### **5.11.2.1.4 (05-05-1998)**

### **Serving Notices of Levy by Mail or FAX**

1. Treasury Regulation 301.6331-1(c) requires notices of levy to be accepted by mail.
  - Print, "Notice of Levy," on the envelope used to mail levies. This helps large employers and banks route the levy to the right office.
  - Include a business reply, self-addressed envelope.
2. When a levy must be served quickly, a FAX can be used. First, confirm the person has FAX equipment and will accept the levy this way.

#### **5.11.2.1.5 (11-05-1999)**

### **Addresses for Mailing Notices of Levy**

1. Some large companies and government agencies identify one address for serving all levies. The company or agency must notify the district director. Consider keeping a central index in the district for these addresses. Then, they can be distributed to all collection employees in the district.
2. Consider whether other districts and service centers need to know the address. Some large companies and government agencies may get levies from all over the country. A Notice of Levy Address Directory (Document 6408) lists these levy sources. Use the address in the directory, if you are sending a levy to one of these sources.
  - If a company or agency needs to be in the Directory, ask for its Employer Identification Number (EIN).
  - If a bank gives an address for its levies, ask for its EIN and its American Bankers Association (ABA) transit number.
  - Send the requests, including the EIN and ABA number, to the regional office. If the region agrees the company or agency belongs in the Directory, it will be sent to the National Director, Collection Operations, OP:CO:C, Attn: Systemic Levy Analyst. The region will also send all requests from banks to this address, even though these are generally not included in the Directory.
3. A computer program uses the EIN and ABA number to insert these addresses for many levy sources. However, it is not always able to do this. This depends, for example, on IDRS having the levy source's EIN or ABA number. Some levy sources do not have these numbers, so sources must still be checked against the Directory.

#### **5.11.2.1.6 (05-05-1998)**

### **Levy in Other Districts**

1. A taxpayer may have property in another district.
2. When this is the case, either
  - Mail the notice of levy,
  - Go to the other district, if it is nearby, or
  - Attach the notice of levy to a Courtesy Investigation, if service in person is needed. Include the date of the notice of intent to levy on the Form 2209.
3. The receiving district may find other levy sources. If so, other levies may be served after checking with the originating district.

#### **5.11.2.1.7 (11-05-1999)**

### **Notifying the Taxpayer After Serving the Levy**

1. After serving a levy in person or FAXing it, mail a copy to the taxpayer. Form 668-A(C)DO includes two taxpayer copies. Mail Part 4 to the taxpayer. Leave Part 2 with the person who receives the levy. ACS uses Form 668-A(C) and mails Form 8519 to the taxpayer.
2. If the levy is mailed, do not send the taxpayer copy immediately. Wait long enough, so the taxpayer does not get the levy before the levy source does.

**NOTE:**

This is not necessary for a levy on wages, salary, or other income. The statement of exemptions and filing status notifies the taxpayer of the levy.

- Also, see 6.11.2 of IRM 5.11 when a levy is served on a non-liable spouse in a community property state.

### 5.11.2.1.8 (05-05-1998)

#### Examination of Books and Records

- Records about taxpayers' property must be provided when a levy is served or is about to be served. See IRC 6333. A summons could be used, but it may be unnecessary. Sometimes, a cooperative person will show the records if something in writing is given.
- Use Form 2270, Notice to Exhibit Books and Records. Do not describe this as a summons. Note the date and time the Form is served. Also, note the person who gets it.
- IRC 7605(c) requires 30 days' notice before examining records of churches, church conventions, and church associations. This is only for determining a liability.
- 

If	And	Then
Tax has already been assessed.	A levy is served or is about to be served.	IRC 6333 allows records of churches', conventions' and associations' property to be examined without the 30 days' notice.

### 5.11.2.1.9 (05-05-1998)

#### Refusing to Comply with a Levy

- If a person refuses to surrender the property, discuss IRC 6332. This section of the IRC
  - requires the property to be surrendered,
  - discharges the person from any liability to the taxpayer and anyone else, and
  - describes the person's liability if the levy is not honored.
- If the person still refuses, serve Form 668-C, Final Demand.
- A Notice of Federal Tax Lien is not required before serving a Final Demand. However, if a suit to enforce the levy is likely, file the lien.
- Try to serve the Final Demand on the same person who got the levy. Fill out the Certificate of Service on Part 1. Try to get a signature at the bottom of the form to acknowledge it was received.

### 5.11.2.2 (05-05-1998)

#### Releasing Levies

- The authority to release levies is not intended to weaken the levy.

### 5.11.2.2.1 (09-04-1998)

#### Legal Basis for Releasing Levies

- IRC 6343 requires levies to be released in several circumstances.
  - The liability is no longer owed.
  - The statutory collection period has run out.
  - The release will facilitate collection of the amount that is owed.
  - The levy is creating an economic hardship.
  - The fair market value of the levied property is much more than the amount owed. A portion can be released without risking collection.
  - The taxpayer makes an installment agreement, unless the agreement allows for the levy.
- Release the notice of levy as soon as one of the conditions in (1) is identified to prevent payments from being received after the notice of levy should have been released. This will avoid the need to return levied property and the inconvenience this may cause for the taxpayer.

#### EXAMPLE:

After a notice of levy has been sent to a taxpayer's employer, the taxpayer responds and shows that the notice of levy prevents her from paying for basic necessities for her family.

Because the levy is causing an economic hardship, release it immediately, so the employer will not send a levy payment on the next pay day.

3. Section 362(a) of the Bankruptcy Code (Title 11) prohibits levy on the property of a taxpayer in bankruptcy. A levy on this property is generally illegal and must be released. Contact Special Procedures for advice if you inadvertently levy on property of a taxpayer in bankruptcy.
4. Any notice of levy that violates the Internal Revenue Code or regulations must also be released.

#### **5.11.2.2.2 (08-16-2000)**

### **Releasing Wrongful and Erroneous Levies**

1. A wrongful levy is one that attaches property the taxpayer has no rights to. IRC 6343 authorizes release of wrongful levies. When a claim is received, call Special Procedures, about the taxpayer's rights to the levied property.
2. See 4.5 and 6.15 of IRM 5.10 Seizure and Sale Handbook regarding wrongful levy claims. Also, see 15.8 of IRM 5.1, General Handbook.
3. If a notice of levy is served erroneously, release it immediately. Send Pattern Letter P-548 to the taxpayer. See Exhibit 5.11.2-1. The taxpayer can give this to people who received levies. See 4.8 about reimbursing bank charges for erroneous levies.

#### **EXAMPLE:**

A notice of levy is served, although the amount owed has been paid. The taxpayer shows a canceled check used to pay the tax. When IDRS is researched, the check is found among unidentified remittances.

#### **5.11.2.2.3 (05-05-1998)**

### **Serving Releases of Levy**

1. Generally, levy releases are mailed to save resources. Sometimes, though, they may be served in person.
2. When a levy must be released quickly, it can be FAXed. Confirm that the person has a FAX machine and is willing to accept the release this way.

#### **5.11.2.2.4 (05-05-1998)**

### **Forms Used to Release Levies**

1. Use Form 668-D to release a levy served on Form 668-A or 668-W. Form 668-E is also a release of levy. However, it is used to release seizures when Form 2433 can not be used.
2. Form 668-D can be used to release the levy in part or fully.

#### **EXAMPLE:**

The taxpayer has defaulted on an installment agreement, and his wages are levied. The amount being levied creates a hardship, but a smaller amount would not. A release of wages **less than** \$X allows the taxpayer to receive an amount that will not cause a hardship. Anything earned more than that amount is sent as levy proceeds each pay day.

#### **EXAMPLE:**

The taxpayer agrees to an amount for an installment agreement. A payroll deduction agreement is desirable to avoid a default, but the employer is reluctant to agree. A wage levy with a partial release of wages **more than** \$X, sets a fixed amount that will be sent as levy proceeds each pay day. Anything more than that is paid to the taxpayer.

#### **5.11.2.3 (05-05-1998)**

### **Returning Levied Property to the Taxpayer**

1. Before July 30, 1996, once levy proceeds were deposited:



2.

If	And	Then
The money was really owed.	The right person's property was levied.	There was no authority to return the money, regardless of the circumstances.

### 5.11.2.3.1 (11-05-1999)

#### Authority for Returning Levied Property

1. On July 30, 1996, Taxpayer Bill of Rights 2 (TBOR2) was enacted. This added subsection (d) to IRC 6343.
2. Now, levy proceeds can be returned if:
  - The levy is premature.
  - Procedures are not followed.
  - An installment agreement is made for a liability included on the levy, unless the agreement provides otherwise.
  - Returning the payment facilitates collection.
  - With the consent of the taxpayer or the Taxpayer Advocate, returning the payment is in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the government.
3. This gives IRS **discretion** to return levy proceeds. It never **requires** levy proceeds to be returned.

#### EXAMPLE:

Some companies notify the Service of an address for serving notices of levy. See 2.1.5. A levy is sent to another address by mistake. The company forwards it to the correct address, and a levy payment is sent. The taxpayer may claim the payment **must** be returned, because procedures were not followed. This is not the case. The error is trivial, and returning the payment is unwarranted.

#### EXAMPLE:

An installment agreement form gets lost and does not get loaded onto IDRS. Because of this, the liability becomes a TDA. The taxpayer's bank account is then levied. If the error is found before payment is received, the levy must be released. However, it may be found after the payment is received and deposited. Before TBOR2, there was no authority to return this payment. Now, there is authority to correct the error, and return the money.

4. The taxpayer can file a claim up to nine months after the levy.

#### NOTE:

The Service can refund levy proceeds without a claim from the taxpayer. The decision to refund the payment must be within nine months of the levy. The money can, then, be refunded after nine months.

### 5.11.2.3.2 (05-05-1998)

#### Factors to Consider Before Returning a Levy Payment

1. There are no rigid rules for deciding whether to return a levy payment. The decision is on a case-by-case basis. At least one of the conditions in 2.3.1:(2) must exist, however. Some things to consider include:
  - How significant is a procedural error? In the first example in 2.3.1:(3), the error is harmless and insignificant.
  - Did the notice of levy violate a law?
  - Did the person who received the levy get bad instructions about how much to send?
  - Is there an error that affects whether the levy should have been issued?
  - Is there an inequity in keeping the payment?
  - Would the levy have been released if all facts were known before the payment was received?
  - Is the taxpayer a pyramiding, delinquent trust fund repeater?

### **5.11.2.3.3 (05-05-1998)**

#### **Rejecting Claims**

1. When a claim is rejected, give the taxpayer a written rejection. The group manager will sign this. Include in the rejection letter:
  - the reason(s) for rejection,
  - the right to appeal, and
  - how to appeal.
2. A written rejection is not required, unless a written claim is filed.

### **5.11.2.3.4 (05-05-1998)**

#### **Delegation of Authority to Return Levy Payments**

1. Until a delegation order is approved, returning levy proceeds must be approved by either:
  - District Director
  - Service Center Director
  - Assistant Commissioner (International)
2. This authority can be redelegated to:
  - Chief, Collection function
  - Chief, Collection Field function
  - Chief, Special Procedures function
  - Chief, Automated Collection Branch
  - Chief, Customer Service Branch
3. The authority may not be redelegated any further.

### **5.11.2.3.5 (11-05-1999)**

#### **Getting the Money Refunded**

1. See Chapter 15 of IRM 5.1 General for procedures to get a manual refund issued to the taxpayer.
2. Unlike money that has been wrongfully levied, no interest is paid on the refund.

### **5.11.2.3.6 (08-16-2000)**

#### **Effect on Penalty & Interest**

1. When levy proceeds are returned, the delinquent tax is not forgiven. The taxpayer is still obligated to pay the amount owed, and the Service is obligated to collect it.
2. However, the taxpayer will not be charged failure to pay penalty and interest during the period that the Service held the money. After the payment is returned to the taxpayer, though, penalty and interest start to accrue, again. These must be manually assessed as payments are received.

#### **EXAMPLE:**

The taxpayer owed \$10,000.

On April 10, 1998, \$2,500 was collected as levy proceeds.

On May 4, 2000, the \$2,500 was returned.

- A. Compute accrued interest on \$10,000 through April 10, 1998. Then, compute interest on \$7,500 for the period April 11, 1998, through May 4, 2000. Assess the total interest from these two steps using transaction code (TC) 340. Have the 340 input with the COMP-INT-AMT and INT-TO-DT fields complete. The COMP-INT-AMT is the amount still owed, so IDRS and master file should continue computing interest on this. In this example, it would be the amount still owed on May 4, 2000. The INT-TO-DATE is the date that the interest has been computed through, i.e. in this example, May 4. This will allow IDRS and master file to compute interest after that, so it will not have to be done manually.
- B. Compute the failure to pay penalty that accrued from April 11, 1998, through May 4, 2000, on \$2,500. Input this amount using TC 271 with Reason Code 62. This will allow IDRS and master file to compute the penalty after that, so it will not have to be done manually.

## 5.11.2.4 (08-16-2000)

### Returning Wrongfully Levied Property

1. See 15.8 of IRM 5.1 General Handbook for manual refunds of wrongfully levied bank accounts.
2. See 5.11 of IRM 5.10 Seizure and Sale Handbook for other wrongful notices of levy.

#### Exhibit 5.11.2-1 (05-05-1998)

#### Pattern Letter P-548

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(Reference 2.2.2)

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

# Part 5

## Collection Activity

### Chapter 11

#### Notice of Levy

#### Section 3

### Jeopardy Levy without a Jeopardy Assessment

#### Contents

- 5.11.3 Jeopardy Levy without a Jeopardy Assessment
  - 5.11.3.1 Background
  - 5.11.3.2 Conditions that Mean Jeopardy
  - 5.11.3.3 Getting Approval
  - 5.11.3.4 Forms and Pattern Letters for a Jeopardy Levy without a Jeopardy Assessment
  - 5.11.3.5 After the Jeopardy Levy is Approved
  - 5.11.3.6 Appealing the Jeopardy Levy
  - Exhibit 5.11.3-1 Pattern Letter 2439(P) (Rev.1-99)
  - Exhibit 5.11.3-2 Pattern Letter 2438(P) (Rev. 1-99)

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#### 5.11.3.1 (01-19-1999)

##### Background

1. Normally, the notices and waiting periods described in 1.2 are required before property can be levied. However, if collection is in jeopardy, property can be levied sooner.
2. Generally, if collection is in jeopardy, there is a jeopardy assessment. Then, there is an immediate notice and demand which is followed by a jeopardy levy. Sometimes, however, there may already be an assessment before jeopardy is known.

##### EXAMPLE:

There may be a prompt assessment. Then, the taxpayer starts moving property to hide it. Property can be levied, even though the usual waiting periods after notices have not passed.

3. A jeopardy levy without a jeopardy assessment can happen:
  - after tax is assessed, but before the notice and demand is issued,
  - after the notice and demand is issued, but before ten days have passed,
  - after the ten day notice and demand period ends, but before the thirty day notice of intent to levy and notice of a right to a hearing have been issued, or
  - after the notice of intent to levy and notice of a right to a hearing have been issued, but before the thirty days have passed.

#### 5.11.3.2 (01-19-1999)

##### Conditions that Mean Jeopardy

1. A jeopardy levy requires a condition which would have allowed a jeopardy assessment.
2. See Policy Statement P-4-88.

### 5.11.3.3 (08-16-2000)

#### Getting Approval

1. If collection of assessed tax is in jeopardy, prepare a report to the Chief, Collection function. In the report, ask the Chief to sign an attached notice of levy. Include the same information in the report that is needed for a jeopardy assessment. See IRM 5.1 General. Do not include Form 2644. Send the report through the group manager and field branch chief.
2. Until the Chief signs the levy form, do not include the:
  - date
  - accruals
  - date that accruals have been computed to.
3. Also, include Pattern Letters 2438(P) and 2439(P) for the Chief's signature. See Exhibits 5.11.3-1 and 5.11.3-2.
- 4.

#### If

#### Then

The notice and demand has not been issued, or it has been issued and ten days have not passed yet.

The taxpayer must be given an immediate notice and demand for payment. See note under subsection 1.2.1:(2).

For joint IMF returns, prepare two Pattern Letters 2439(P). If an immediate notice and demand is required, prepare two of them, also. Put both taxpayers' names on the Pattern Letter and on the notice and demand. See 3.5:(5). Use Parts 3&4 of a Prompt Assessment Billing Assembly, Form 3552, to make immediate notice and demand. If a blank Form 3552 is not available, copy the text of one on IRS letterhead stationary. Have the Chief sign this, too, when the notice of levy is approved.

- On Parts 3 and 4, cross out, ". . .within 10 days from the date of this notice. . ."
- Insert, ". . .which is due and payable immediately. . ."
- Also, cross out, ". . .Please return this copy with your payment to the address shown above. . .," at the bottom of the form.

#### NOTE:

The 1997 revision of Form 3552 does not say, "within 10 days of this notice." If this version of the form is used, cross out, ". . .upon receipt of this notice. . .," and insert, ". . .which is due and payable immediately. . ."

Only the Chief, Collection function, or someone above this level, can approve a jeopardy levy. See Sections 1.3.5, 1.3.9, and 1.3.12 of IRM 5.11 for certain jeopardy levies that do not require the approval of the Chief, Collection function, as long as the notice requirements in 1.2.1 have been met. Instead, these jeopardy levies can be approved by one management level above the group manager. The Chief can approve the levy by telephone, if there is not enough time for written approval. The Chief can authorize someone else to sign the forms and letters, when this happens. Write a memo to file explaining the information that would have been in the report described in (1). Send a copy to the Chief, Collection function and the person who signed the levy form and letters. Put a copy in the case file. In addition, IRC 7429(a)(1)(A) requires Counsel approval, in writing, for a jeopardy levy described in subsection 3.1:(3). This can be redelegated no lower than the Associate Field Counsel.

#### NOTE:

The authority is also delegated to the Associate Field Counsel (International) who may redelegate the authority no lower than Branch Chief.

### 5.11.3.4 (01-19-1999)

#### Forms and Pattern Letters for a Jeopardy Levy without a Jeopardy Assessment

1. The forms and letters that are needed depend on the timing of the jeopardy levy. In addition to notice of levy and lien forms, the Forms and Pattern Letters needed for jeopardy levies are:
- 2.

#### If

#### And

#### Then

Tax has been assessed.

The notice and demand normally required by IRC 6331(a) has not been issued.

1. IMMEDIATE NOTICE AND DEMAND (Altered Form 3552). 2. PATTERN LETTER 2439 WITH INSERT (a) IN THE FIRST PARAGRAPH. 3. PATTERN LETTER 2438. 4. PUBLICATION 1. 5.

Tax has been assessed.	The notice and demand has been issued, but ten days have not passed.	PUBLICATION 594. 6. PUBLICATION 1660. 7. FORM 12153. 8. NOTICE 609 (IMF ONLY) 1. IMMEDIATE NOTICE AND DEMAND (Altered Form 3552). 2. PATTERN LETTER 2439 WITH INSERT (a) IN THE FIRST PARAGRAPH. 3. PATTERN LETTER 2438. 4. PUBLICATION 594. 5. PUBLICATION 1660. 6. FORM 12153. 7. NOTICE 609 (IMF ONLY).
The notice and demand has been issued.	Ten days have passed, but the Notice of Intent to Levy and Notice of a Right to a Hearing have not been issued.	1. PATTERN LETTER 2439 WITH INSERT (a) IN THE FIRST PARAGRAPH. 2. PATTERN LETTER 2438. 3. PUBLICATION 594. 4. PUBLICATION 1660. 5. FORM 12153. 6. NOTICE 609 (IMF ONLY)
The Notice of Intent to Levy and Notice of a Right to a Hearing have been issued.	Thirty days have not passed.	1. PATTERN LETTER 2439 WITH INSERT (b) IN THE FIRST PARAGRAPH. 2. PATTERN LETTER 2438. 3. PUBLICATION 594. 4. PUBLICATION 1660. 5. FORM 12153.

### 5.11.3.5 (11-05-1999)

#### After the Jeopardy Levy is Approved

1. If an immediate notice and demand is required, give the altered Form 3552 to the taxpayer and demand immediate payment. If personal delivery is not practical, send it by certified mail to the last known address. If a field visit to deliver the form reveals the address is not good, check IDRS for a new one.
2. When the immediate notice and demand is issued, or if it is not required:
  - File a Notice of Federal Tax Lien, and
  - Serve the Notices of Levy.
3. Include a Pattern Letter 2438(P) with each notice of levy. This letter asks the person who gets the levy to delay sending payment for 45 days. This allows time to see if the taxpayer appeals. If the taxpayer successfully appeals, the levy can be released rather than issuing a manual refund.
4. The taxpayer must be told the reason collection is in jeopardy. Pattern Letter 2439(P) does this. Avoid saying anything in the letter that could identify a confidential informant.
- 5.

<b>If</b>	<b>Then</b>
Form 3552 is required.	Give the taxpayer Pattern Letter 2439(P) at the same time.
Form 3552 is not required.	Give Pattern Letter 2439(P) to the taxpayer within five days of serving the jeopardy levy.

Try to give the Pattern Letter to the taxpayer in person. If personal delivery is not practical, send it to the taxpayer's last known address by certified mail with a return receipt. See 1.2.2.2:(5) & 1.2.2.3:(4) . If a field visit to deliver the letter reveals the address is not good, check IDRS for a new one.

#### **NOTE:**

For joint IMF returns, try to deliver Pattern Letters 2439(P) to each taxpayer in person. Also, if an immediate notice and demand is required, deliver Form 3552 to each taxpayer. If this is not practical, mail the notices as described in 1.2.2.3.

#### **REMINDER:**



If the taxpayer has an authorized representative, a copy of correspondence to the taxpayer must also be given to the representative. However, use regular mail for the copy.

### 5.11.3.6 (01-19-1999)

#### Appealing the Jeopardy Levy

1. Within thirty days after the Pattern Letter 2439(P) is given, or should have been, the taxpayer can appeal under IRC 7429. The issue is whether collection is truly in jeopardy. If the appeal is rejected, the taxpayer can also file a civil suit in District Court. If any of the liabilities on the jeopardy levy are being considered in Tax Court, the taxpayer can file a civil suit there.
2. In addition, the IRS must notify the taxpayer of appeal rights under IRC 6330 within a reasonable time after the levy. Thirty days after a jeopardy levy is generally a reasonable time within which to send the notice. However, since Pattern Letter 2439(P) is used to tell the taxpayer about appeal rights under IRC 6330 as well as IRC 7429, it will be delivered within five days. See 3.5:(4). The taxpayer has thirty days from the date of the notice within which to request a Collection Due Process hearing. See Chapter 9 (Taxpayer Rights) of IRM 5.1, General Handbook, and Exhibit 5.11.3-1 for additional information about taxpayers' rights to appeal under IRC 6330.
3. If the taxpayer appeals or says a suit is being filed, contact Special Procedures. Also, get advice from counsel, as needed. The local Appeals Office will handle the administrative appeal. Tell the people who received the levies to delay paying over the funds while the appeal is considered.

#### Exhibit 5.11.3-1 (01-19-1999) Pattern Letter 2439(P) (Rev.1-99)

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Letter Number: 2439(P)

Letter Date:

(Type on Appropriate Letterhead. Should contain IRS Address)

#### NOTICE OF JEOPARDY LEVY AND RIGHT OF APPEAL

Dear (taxpayer name):

As required by Section 6331 of the Internal Revenue Code (IRC), I am notifying you that I have found that you are (insert reason for the jeopardy levy) thereby putting our collection of the (insert type of tax) you owe for the tax period(s) \_\_\_\_\_ --7in jeopardy. Therefore, based on the information available to me at this time, I have approved the issuance of a levy to collect the amount you owe, although (*choose insert {a}* we have not provided you a notice of intent to levy and/or notice of your right to a hearing, generally required by Sections 6330 and 6331 of the IRC or *{b}* the 30 days we told you in our previous notice of intent to levy and/or notice of your right to a hearing that you had before we would issue a levy has not run out).

Your now owe:

Tax Period(s)	Tax	Penalty	Interest	Total
---------------	-----	---------	----------	-------

Under IRC Section 7429, you are entitled to request an administrative review of this action. For this review, you must file a written protest with the District Director at the above address within 30 days from the date of this letter, requesting a redetermination of whether the levy is reasonable under the circumstances.

Also, under IRC Section 6330, you are entitled to request a Collection Due Process (CDP) hearing with the IRS Office of Appeals at which you may bring up issues in addition to whether our decision that collection is in jeopardy is reasonable. For this hearing, you must submit a request in writing to the District Director within 30 days from the date of this letter. See the enclosed Publication 594, Understanding the Collection Process; Publication 1660, Collection Appeal Rights; and Form 12153, Request for A Collection Due Process Hearing. The references to notice of intent to levy in these Publications and this Form do not apply, because such notice is not required when collection is in jeopardy. If you request a hearing under both provisions, we may handle both at one hearing. We may proceed with enforced collection action during any administrative review or appeal process, unless you make arrangements regarding collection of the amount you owe. To make such arrangements, or if you have other questions about this letter, please contact (*name of appropriate district office official*) at (*appropriate telephone number*).

Under IRC Section 7429, you may request a judicial review of whether the determination that collection is in jeopardy is reasonable, by bringing a civil suit against the United States in the U.S. District Court in the judicial district in which you live, or in which your principal office is located. However, if you filed a timely petition with the Tax Court for a redetermination of a deficiency under IRC Section 6213(a) before we served the levy, and at

least one of the taxes for one period included on the levy is also included in that petition, the Tax Court (in addition to the U.S. District Court) also has jurisdiction for a judicial review of the levy for all tax periods on the levy. You may also request a judicial review under IRC Section 6330 after the CDP hearing as explained in the enclosed Publication 1660.

In order to receive a judicial review of the levy under IRC Section 7429, you must first request an administrative review under that provision within 30 days from the date of this letter. You must file your suit within 90 days after the earlier of (1) the day the Service notifies you of its decision on your protest, or (2) the 16th day after you make the protest. The court will make an early determination of the same points raised in your protest to decide whether the determination that collection was in jeopardy was reasonable under the circumstances. The court's determination is final and not reviewable by any other court.

In order to receive a judicial review under IRC Section 6330, you must first request a CDP hearing under that provision within 30 days from the date of this letter. You must request the judicial review within 30 days from the date of the Notice of the Determination issued by the IRS Office of Appeals at the conclusion of the hearing, as explained in Publication 1660.

Sincerely,

Chief Collection Function  
Enclosures  
Publication 594  
Publication 1660  
Form 12153

**Exhibit 5.11.3-2 (01-19-1999)**  
**Pattern Letter 2438(P) (Rev. 1-99)**

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(Reference 3.3)

(Type on Appropriate Letterhead)

Dear (Person to Whom Levy Was Sent)

The enclosed Form ("*668A, Notice of Levy, or 668W, Notice of Levy on Wages, Salary, and Other Income,*") attaches the property and rights to property of the taxpayer named on the Form. However, because this person is entitled to certain appeal rights, do not send us any payment in response to this levy sooner than 45 days from the date on the enclosed Form (*add "*, regardless of the reference to the 21 day period on the Form." *if Form 668A is used*).

During this 45 day period, do not let the taxpayer have the funds that have been attached, or you could be held liable for the amount that should have been surrendered plus a penalty described in section 6332 of the Internal Revenue Code (IRC). See the back of Part ("*1 of the Form 668A" if 668A is used, or "4 of the Form 668W" if 668W is used*) for an excerpt of this section of the IRC and certain other IRC sections concerning levies.

If the taxpayer files an appeal with us, we will notify you to continue to hold any funds that this levy has attached until the taxpayer's appeal has been considered. If we determine that you should not send any funds to us, we will give you levy release. Otherwise, after 45 days, please send us the amount that this levy has attached.

If you have any questions, please contact (*name*) at (*telephone number*).

Sincerely,

Chief, Collection Function

# Part 5

## Collection Activity

### Chapter 11

#### Notice of Levy

#### Section 4

##### Bank Levies

#### Contents

- 5.11.4 Bank Levies
  - 5.11.4.1 Holding Period
  - 5.11.4.2 Bank Liaison in the District Office
  - 5.11.4.3 Amount that Must be Surrendered
    - 5.11.4.3.1 Interest on Levy Proceeds
    - 5.11.4.3.2 Methods Banks May Claim to Avoid Paying Interest
    - 5.11.4.3.3 Fees for Processing Levies
  - 5.11.4.4 Crediting Levy Payments
  - 5.11.4.5 Income Deposited in a Bank Account
  - 5.11.4.6 Mortgage Escrow Accounts
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  - Exhibit 5.11.4-2 Pattern Letter 2179(P)
  - Exhibit 5.11.4-3 Pattern Letter 2180(P)

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#### 5.11.4.1 (05-05-1998)

##### Holding Period

1. When a bank levy is issued, the bank must wait 21 calendar days before sending payment. Then, on the next business day, it must turn over the taxpayer's money. "Bank" includes credit unions, savings and loan associations, trust companies, and others described in IRC 408(n).
2. During the holding period, a levy might be released, or the amount owed could change.

**NOTE:**

If the bank receives no release, it must send the payment after the holding period. No additional notice is required.

3. Consider the holding period before deciding how long to project the accruals on a bank levy.

---

#### 5.11.4.2 (05-05-1998)

##### Bank Liaison in the District Office

1. The holding period was created to settle disputes about ownership of bank accounts before money is sent.
2. Assign a bank liaison in each district to settle these issues quickly.

**NOTE:**

Coordinate with the Region before deciding how to tell the banks who this person is. This can be especially important when ACS call sites cover several districts.

3. Sometimes, ownership is not settled before the holding period ends. If this happens, call the bank to ask for more time.

---

**5.11.4.3 (05-05-1998)**

**Amount that Must be Surrendered**

1. The bank must send the amount in the taxpayer's accounts. However, it must send no more than the amount shown on the notice of levy.
2. The notice of levy only reaches the amount on deposit when the levy is received. Money deposited later is not surrendered, including deposits during the holding period. Another levy must be served to reach this money. Also, the levy only reaches deposits that have cleared and are available for the taxpayer to withdraw.

**5.11.4.3.1 (05-05-1998)**

**Interest on Levy Proceeds**

1. The bank must turn over the interest earned on the account(s) during the holding period. It uses the same method for figuring interest it normally would. Even so, the amount paid is no more than the amount shown on the levy.
- 2.

If	And	Then
A bank levy for \$10,000 is served.	The taxpayer has \$5,000 in the bank.	The bank sends \$5,000 plus interest earned during the holding period.
A bank levy for \$10,000 is served.	The taxpayer has \$25,000 in the bank.	The bank sends \$10,000. No interest is sent. Only \$10,000 is frozen during the holding period.
A bank levy for \$10,000 is served.	The taxpayer has \$9,999 in the bank.	The bank sends \$10,000 if at least \$1 interest is earned on the account during the holding period.

The date the bank normally credits interest to accounts does not matter. If interest is earned, it must be paid over as shown in (3). To compute the interest, the bank treats the Service as though:

- The Service is the depositor.
- The money is left on deposit during the holding period.
- On the day the money is being sent, the depositor closes the account.

**5.11.4.3.2 (05-05-1998)**

**Methods Banks May Claim to Avoid Paying Interest**

1. Before interest was paid on levies, some banks:
  - moved the levied money from the depositor's account to another account while the depositor was notified, and
  - paid the depositor no interest while the money was in this "holding" account.
2. Some banks have rules that they will not pay interest to depositors during holding periods for levies.
3. Both of these are changing the terms of the account because of the levy. These are not grounds for avoiding interest on levy proceeds.

**5.11.4.3.3 (05-05-1998)**

**Fees for Processing Levies**

1. Many banks charge their customers a fee for processing levies. The bank is not entitled to reduce the levy proceeds to collect the fee.
- 2.

If	And	Then
A levy is served for \$1000.	The taxpayer has \$1500 in the bank.	The bank must send \$1000 and collect its fee from the other \$500.
A levy is served for	The taxpayer has \$800 in the	The bank must send \$800 (plus interest).

\$1000.

bank.

---

#### **5.11.4.4 (05-05-1998)**

### **Crediting Levy Payments**

1. Credit the levy payment on the date it is received.
2. Credit the money in the most advantageous way to the government. Generally, apply the money to the oldest assessment, first. The taxpayer can not designate how the money is applied.
3. Use designated payment code (DPC) 05 for levy payments. Use DPC 15 for other payments caused by a levy, if they are not levy proceeds.

#### **EXAMPLE:**

A bank levy is served. When the taxpayer receives a copy, she pays the amount owed. Code this with DPC 15.

---

#### **5.11.4.5 (05-05-1998)**

### **Income Deposited in a Bank Account**

1. Part of taxpayer's income is exempt from levy. See 5.4. Once income is deposited in a bank, there is no exempt amount. On the other hand, unlike a levy on wages and salary, a bank levy does not continue to reach the taxpayer's money.
2. When an entire paycheck is deposited, however, a hardship may exist because all of the money is levied. If this happens, release enough of the levy to avoid creating hardship.

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#### **5.11.4.6 (05-05-1998)**

### **Mortgage Escrow Accounts**

1. Banks generally require a portion of property taxes and insurance to be paid with each mortgage payment. This is held in escrow until the tax and insurance are paid. As long as the taxpayer can not withdraw money in these accounts, a levy can not reach it.
2. Sometimes, though, the account is overpaid. The taxpayer may have the option to get this refunded. A levy can reach this.
3. Also, when property is sold, there may be escrow money that will be refunded to the taxpayer. A levy can reach this, too.

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#### **5.11.4.7 (05-05-1998)**

### **Schools' Bank Accounts**

1. Banks accounts may be levied to collect taxes that colleges, universities, and other schools owe. These schools' accounts may include money belonging to the Department of Education (ED). ED gives money to some schools for student aid. This is not the school's money.
2. The bank might honor the levy. If it does, process the payment.
  - A. Call the regional ED office, and tell them about the levy. See Exhibit 5.11.4-1. Mail a copy of the levy to the regional office.
  - B. Allow ED 60 days to look into this and certify its interest in the money. Another period can be agreed on.
  - C. ED will send a notice of the amount and nature of its money in the account. The letter will explain how it determined this.
  - D. Refund ED's money.
3. The bank might not honor the levy because of ED funds in the account.
  - A. Call the regional ED office, and tell them about the levy. Mail a copy of the levy to the regional office.
  - B. Allow ED at least 60 days to look into this.
  - C. Release or enforce the levy after ED certifies its interest in the account.
4. A bank might not honor a levy on a school official because of ED's interest in an account. Handle this as in (3).

#### **5.11.4.8 (05-05-1998)**

### **Reimbursing Bank Charges Because of Erroneous Levies**

1. Policy Statement P-5-39 says taxpayers will be reimbursed for bank charges caused by erroneous levies.
  - The Service must have caused the error.
  - Taxpayers must not have contributed to continuing or compounding the error.
  - Before the levy, taxpayers must have responded timely to contacts and given information requested to establish their position.

#### **EXAMPLE:**

The taxpayer paid the amount owed, but the payment was not posted timely.

#### **EXAMPLE:**

An installment agreement was made, but it was not loaded on IDRS timely.

2. Reimburse the taxpayer for fees the bank charged for
  - processing the levy and
  - bad check charges directly caused by the levy.

#### **REMINDER:**

See IRM 5.1 General for Reimbursement of Bank Charges Due to Service Loss or Misplacement of Taxpayer Checks.

#### **5.11.4.8.1 (05-05-1998)**

### **Filing the Claim**

1. The claim must be filed within one year after the fees are charged.
2. The claim is filed on Form 8546.

#### **5.11.4.8.2 (05-05-1998)**

### **Processing the Claim**

1. Approving officials are in the Handbook of Delegation Orders.
2. The approving official may ask for a memo to explain what happened. This may not be needed, though.
  - The case file may be readily available.
  - An employee familiar with the case can orally brief the approving official.
  - The claim may be too small to warrant a memo.
3. A claim may be missing some of the required information. Rather than just rejecting it, try to get the missing information from the taxpayer.

#### **EXAMPLE:**

Proof of the bank charges must be included with the claim.

4. Regional Counsel (General Legal Services) must review all claims and recommend:
  - approval
  - rejection
  - compromise.

#### **5.11.4.8.3 (05-05-1998)**

### **After the Claim is Approved**

1. Prepare Form SF1145 and three copies of Form SF 1145a.
  - A. Cross out the word, "**TORT**," at the top of the form and the block where the approving official signs.
  - B. Insert the word, "**SMALL**," so it reads, "Small Claims Act."
  - C. Cross out, "**28 U.S.C. 2672**," where the approving official signs.
  - D. Insert, "**31 U.S.C. 3723**."



2. Send Form SF 1145 to the taxpayer with Pattern Letter 2179(P). See Exhibit 5.11.4-2.
3. When the taxpayer returns the signed form, have the approving official sign:
  - Form SF 1145
  - Form SF 1145a (three copies)
  - Pattern Letter 2180(P), See Exhibit 5.11.4-3.

**Exhibit 5.11.4-1 (05/05/98)**

**Department of Education Regional Offices**

(Reference 4.7)
Region I: CT, MA, ME, NH, RI, VT
Regional Director/Institutional Review Branch Chief
Student Financial Assistance
Department of Education
J.W. McCormack Post Office and Courthouse
Rm. 502, MS 01-0070
Boston, MA 02109
(617) 223-9333
Region II: NJ, NY, PR, VI, Panama Canal Zone
Regional Director/Institutional Review Branch Chief
Student Financial Assistance
Department of Education
26 Federal Plaza
Rm. 3954, MS 02-1081
New York, New York 10278
(212) 264-4022
Region III: DE, DC, MD, PA, VA, WV
Regional Director/Institutional Review Branch Chief
Student Financial Assistance
Department of Education
3535 Market Street, Room 16200
Philadelphia, PA 19104
(215) 596-1018
Region IV: AL, FL, GA, KY, MS, NC, SC, TN
Regional Director/Institutional Review Branch Chief
Student Financial Assistance
Department of Education
101 Marietta Tower, Suite 2203
Atlanta, GA 30323
(404) 331-0556
Region V: IL, IN, MI, MN, OH, WI
Regional Director/Institutional Review Branch Chief
Student Financial Assistance
Department of Education

401 South State Street
Room 700-D, MS 05-4080
Chicago, IL 60605
(312) 353-0375
Region VI: AR, LA, NM, OK, TX
Regional Director/Institutional Review Branch Chief
Student Financial Assistance
Department of Education
1200 Main Tower, Room 2150, MS 06-5080
Dallas, TX 75202
(214) 767-3811
Region VII: IA, KS, MO, NE
Regional Director/Institutional Review Branch Chief
Student Financial Assistance
Department of Education
Northpointe Tower, 9th Floor
10220 N.W. Executive Hills Boulevard
Kansas City, MO 64153-1367
(816) 891-8055
Region VIII: CO, MT, ND, SD, UT, WY
Regional Director/Institutional Review Branch Chief
Student Financial Assistance
Department of Education
1244 Speer Boulevard, Suite 310, MS 08-7089
Denver, CO 80204-3582
(303) 844-3676
Region IX: AZ, CA, HI, NV, AM. SAMOA, GUAM, TRUST TERR., WAKE IS.
Regional Director/Institutional Review Branch Chief
Student Financial Assistance
Department of Education
50 United Nations Plaza
Room 268, MS 09-8080
San Francisco, CA 98102-4987
(415) 556-8382
Region X: AK, ID, OR, WA
Regional Director/Institutional Review Branch Chief
Student Financial Assistance
Department of Education
915 Second Avenue
Room 3388, MS 10-9081
Seattle, WA 98174-1099
(206) 220-7820

**Exhibit 5.11.4-2 (05/05/98)  
Pattern Letter 2179(P)**

(Reference 4.8.3)	
	Date of this letter:
	Person to Contact:
	Contact Telephone No.:
	Date:
Dear [Name of Taxpayer]:	
We have received your claim under the Small Claims Act for \$[amount] and are allowing \$[amount] for reimbursement of bank charges.	
Please sign the enclosed voucher and return it to us within ten days. You should receive a check in nine to twelve weeks.	
We regret our error and apologize for the inconvenience.	
If you have questions about this letter, please contact the person whose name and telephone number are shown above.	
	Sincerely yours,
	District/Service Center
	Director
Enclosure:	
Voucher	

**Exhibit 5.11.4-3 (05/05/98)  
Pattern Letter 2180(P)**

(Reference 4.8.3)	
	Person to Contact:
	Contact Telephone No.:
	Date:
Judgment Fund Group	
Department of the Treasury	
Financial Management Service	
Prince George's Metro Center 2	
3700 East-West Highway Mailstop 6D37	
Hyattsville, MD 20782	

Dear Sir or Madam:	
An original SF 1145 and three copies are enclosed for payment. They indicate acceptance of \$[ ] in settlement of a \$[ ] claim filed by [ ] against the IRS arising from bank fees.	
The claimants have signed the voucher and I approved it on behalf of the IRS Commissioner under the Small Claims Act.	
Please process the voucher and return a completed copy to this office so we can close the case.	
Sincerely yours,	
District/Service Center	
Director	
Enclosure:	
Voucher	

# Part 5 Collection Activity

## Chapter 11 Notice of Levy

### Section 5 Levy on Wages, Salary, and Other Income

#### Contents

- 5.11.5 Levy on Wages, Salary, and Other Income
  - 5.11.5.1 Introduction
  - 5.11.5.2 Employer Threatens to Fire Taxpayer Because of a Levy
  - 5.11.5.3 Continuous Effect of Levy
  - 5.11.5.4 Exempt Amount
    - 5.11.5.4.1 Claiming the Exempt Amount
    - 5.11.5.4.2 Employers with Centralized Payrolls
    - 5.11.5.4.3 Joint Liabilities
    - 5.11.5.4.4 Taxpayers with More Than One Source of Income
    - 5.11.5.4.5 Taxpayer's Payroll Deductions
    - 5.11.5.4.6 Severance Pay
  - 5.11.5.5 Levy Payments
- Exhibit 5.11.5-1 Pattern Letter 1697(P)

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#### 5.11.5.1 (05-05-1998)

##### Introduction

1. An individual's wages, salary, and other income can be levied. Wages and salary include payment for personal services in a work relationship.

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#### 5.11.5.2 (05-05-1998)

##### Employer Threatens to Fire Taxpayer Because of a Levy

1. Sometimes an employer threatens to fire an employee to avoid handling a levy. This might be a violation of 15 USC 1674.
2. If the employer fires the taxpayer because of this, the employer might be fined \$1000. There may also be a one year prison term.
3. Refer the taxpayer to the Wage and Hour Division of the Department of Labor (DOL). DOL, not IRS, must decide if the employer violated the law.

---

#### 5.11.5.3 (09-04-1998)

##### Continuous Effect of Levy

1. Unlike other levies, a levy on wages and salary has a continuous effect. It attaches future paychecks, until the levy is released. Wages and salary include fees, bonuses, and commissions. All other levies only attach property and rights to property that exist when the levy is served.

##### **EXAMPLE:**

If a bank account is levied, it only reaches money in the account when the levy is served. It does not affect money deposited later.

- When other income is levied, the levy only reaches money the taxpayer has a fixed and determinable right to. Also see 6.1, about retirement and benefit income.

**EXAMPLE:**

A levy is served to take an author's royalties. The author has a fixed and determinable right to royalties for books that have already been published. The levy reaches royalties for sales of those books in the future. The levy does not reach royalties for books that are written and published later. A new levy must be served to take those royalties.

- Also, see 6.11.1 when a levy is served on a non-liable spouse in a community property state.

**5.11.5.4 (05-05-1998)**

**Exempt Amount**

- Part of the taxpayer's wages, salary, and other income is exempt from levy.
- The weekly exempt amount is:
  - The total of the taxpayer's standard deduction and the amount deductible for exemptions on an income tax return for the year the levy is served.
  - Then, this total is divided by 52.
- Income that is not paid weekly is prorated, so the same amount is exempt.
- In addition, the amount the taxpayer needs to pay court ordered child support is exempt. However, the order must be before the date of the levy.

**NOTE:**

The support order can be from a court or administrative process under the laws and procedures of a state, territory or possession.

**REMINDER:**

If support is allowed, the same child can not be claimed as an exemption for figuring the exempt amount. See (2)a.

<b>If</b>	<b>Then</b>
The taxpayer has already shown proof of the required child support payment.	Write, "Under section 6334(a)(8) of the Internal Revenue Code, \$ __ is exempt from this levy."
The taxpayer shows proof of the child support after the levy is served.	Release enough of the levy, so the support can be paid.

The taxpayer is not entitled to the support exemption, unless the support is being paid.

- Consider getting the taxpayer to have the payment withheld and sent directly to the person with custody.
- Instead, the taxpayer may make the payment through the Service, which will forward the payment. When there is no open assignment, have the payments sent through Special Procedures. This may happen if the payments are being monitored in the service center.

**5.11.5.4.1 (05-05-1998)**

**Claiming the Exempt Amount**

- The Notice of Levy on Wages, Salary, and Other Income includes a Statement of Exemptions and Filing Status. The employer gives this to the taxpayer to complete and return within three days. If it is not received by then, the amount is figured as if the person is married filing separate with one exemption. The taxpayer can give the statement to the employer later to change the exempt amount.



**NOTE:**

The employer needs to use this Statement rather than the employee's W-4. Taxpayers may claim different exemptions for withholding from those claimed on their return.

- 2. Publication 1494 is sent with the levy to help figure the exempt amount.
- 3. The taxpayer can give a new statement to the employer later to have the exempt amount computed again.

**EXAMPLE:**

The taxpayer's filing status or personal exemptions may change.

**EXAMPLE:**

There may be a change in exempt rates in a new year.

- 4. The statement is completed under penalty of perjury. Generally, accept the information on the statement, unless there is reason to question it. If it is disallowed, notify the employer and the taxpayer in writing. The taxpayer can show evidence that the statement is right and ask for a manager's review.

**5.11.5.4.2 (05-05-1998)**

**Employers with Centralized Payrolls**

- 1. Some employers have a centralized payroll, so the payroll is not handled where most employees work.
- 2. Consider mailing the statement of exemptions and filing status directly to the taxpayer. This avoids the delay of the employer remailing it.
  - A. Send Part 1 of the levy and Notice 484 to the employer.
  - B. Send the other parts of the levy and Notice 483 to the taxpayer.

**5.11.5.4.3 (05-05-1998)**

**Joint Liabilities**

- 1. For joint liabilities, generally, levy the income of the spouse with the larger income.
- 2. Levy both incomes only in flagrant cases of neglect or refusal to pay. Get manager's approval to do this. If taxpayers are separated, consider collecting from the second spouse before allowing the entire amount to be paid by levy on one person's income.
- 3.

If	And	Then
The taxpayers are filing as married filing jointly.	Both taxpayers' incomes are levied.	Only one of them can claim the standard deduction for figuring the exempt amount.
The taxpayers are filing with any other filing status.	Both taxpayers' incomes are levied.	Both can claim the standard deductions for their filing status.
The taxpayers are remarried and filing as married filing jointly with the new spouses.	Both taxpayers' incomes are levied.	Both can claim the standard deductions for their filing status.

When both spouses' incomes are levied, neither spouse can claim the other one as a personal exemption.

**5.11.5.4.4 (05-05-1998)**

**Taxpayers with More Than One Source of Income**

- 1. Consider income from all sources when a taxpayer has more than one source.
- 2.

If	And	Then
The taxpayer is getting the exempt amount from one source of income that is levied.	Another source of income is levied, too.	Include Letter 1697(P) with the second levy to tell the employer not to allow any exempt amount.
If the taxpayer has a source of income that is not levied.	That source of income is at least as much as the exempt amount.	Letter 1697(P) can be included with a levy on another source of income to tell the employer not to allow the exempt amount.

See Exhibit 5.11.5-1, for a copy of Letter 1697(P).

### 5.11.5.4.5 (05-05-1998)

#### Taxpayer's Payroll Deductions

1. A levy legally attaches the taxpayer's gross income minus the exempt amount. However, see Policy P-5-29. By policy, a levy only attaches the taxpayer's usual take home pay.

**EXCEPTION:**

Voluntary deductions can be disallowed, if they are so large they defeat the levy.

2. Generally, allow the taxpayer to maintain deductions they already have when the levy is served. Notify the employer and the taxpayer of deductions that must stop while the levy is in effect. The taxpayer can ask for a manager's review of this.

**EXAMPLE:**

The taxpayer has a deduction used to buy shares in a mutual fund.

3. Generally, employer's should not allow new voluntary deductions after receiving the levy. Exceptions can be allowed on a case by case basis, with the Service's approval.

**EXAMPLE:**

The taxpayer can not join the company insurance plan, until he is on the job six months. The levy is served before then. The amount of the premium is not unreasonable.

4. The method that the taxpayer is paid is not relevant to take home pay. Direct deposit is not a payroll deduction.

### 5.11.5.4.6 (05-05-1998)

#### Severance Pay

1. The taxpayer may leave a job and get severance pay.
- 2.

If	Then
Severancy pay is attributable to pay for a period of time.	The exempt amount is based on that time period.
Severance pay is not attributable to pay for a period of time.	The amount exempt for one pay period is used.

**EXAMPLE:**

Severance pay is one week's pay for each year on the job. A taxpayer on the job for ten years gets ten weeks' severance pay. The taxpayer gets a paycheck every two weeks for ten weeks. Two weeks' exempt amount is subtracted from each check, just like the person was still working for ten weeks.

**EXAMPLE:**

The same facts as above, but the taxpayer gets the amount in one payment. The payment is attributable to ten weeks' pay. The employer is just making an "advance" payment, instead of writing a series of checks. The taxpayer gets ten weeks' exempt amount.

**EXAMPLE:**

A taxpayer gets a lump sum that is not attributable to a period of time. This could be, for example, an incentive payment to retire early. The exempt amount is based on the taxpayer's regular pay period. If there is no regular pay period, use one week's exempt amount. Similarly, if the taxpayer gets \$1000 for each year on the job, this is not attributable to pay periods. A person getting \$10,000 for being on the job ten years does NOT get ten years' exempt amount.

This assumes the person is not already getting the exempt amount for a pay period at the same time. If both are being received, the taxpayer does not get the exempt amount twice.

**EXAMPLE:**

The taxpayer is paid for both the last pay period worked and severance on the last pay day. The taxpayer only gets the exempt amount once.

**5.11.5.5 (05-05-1998)**

**Levy Payments**

1. Credit levy payments on the date they are received. Apply the money in the most advantageous way to the government. Generally, apply it to the oldest assessment, first. The taxpayer can not designate how to apply the money.
2. Use designated payment code (DPC) 05 for levy payments. Use DPC 15 for other payments caused by a levy, if they are not levy proceeds.

**EXAMPLE:**

A wage levy prompts the taxpayer to pay the amount owed, to get the levy released. Code this payment with DPC 15.

3. Payments for these levies may be small. Decide if the amount owed should be paid from the levy proceeds. When the payments are small compared to the amount owed, though, consider other enforced collection.
- 4.

If	And	Then
Payments are being monitored in Cff.	One more payment is expected to pay off the amount owed.	Use Form 668-D to give the employer a payoff figure and release the levy after that is paid.
At least two payments are received.	No additional collection is warranted.	Consider transferring the case to the service center for monitoring. Get management approval, first. See 2.4.9 and 4.3.3.5 of IRM 105.1 Collecting Contact Handbook.

**Exhibit 5.11.5-1 (05/05/98)  
Pattern Letter 1697(P)**

(Reference 5.4.4)	
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 under section 6334(a)(9) of the Internal Revenue Code. Therefore, please disregard the instructions about the exemptions under that Code	

section on the back of Part 1 of the notice. Parts 4 and 5 of the notice have been removed, and the Table for figuring the amount exempt from levy is not enclosed.

This levy attaches the taxpayer's take-home pay. Please attach Part 3 to the check you send us. There is no need for your employee to complete the statement of exemptions on Part 3.

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

# Part 5

## Collection Activity

### Chapter 11

#### Notice of Levy

#### Section 6

#### Notice of Levy in Special Cases

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  - 5.11.6.11 Levy on Non-Liable Spouse in a Community Property State

- [5.11.6.11.1 Wages & Salary](#)
- [5.11.6.11.2 Notice to the Non-Liable Spouse](#)
- [Exhibit 5.11.6-1 Addresses often used for Levy on Federal Contracts](#)
- [Exhibit 5.11.6-2 Social Security Levy Payment](#)

### 5.11.6.1 (11-05-1999)

#### Retirement Income

1. A notice of levy is continuous for wages and salary. Other levies only reach property a third party is holding when the levy is received.

**REMINDER:**

References to property include rights to property.

2. As long as the taxpayer has a fixed and determinable right to property, a levy attaches that right. Therefore, a levy on retirement income can reach payments in the future when the taxpayer would have received them, although the taxpayer has not begun receiving payments yet when the levy is served. This often means that a levy on retirement income reaches future payments.
3. If the taxpayer has the right to receive future payment but has not opted to do so, the levy attaches that right.
4. Use discretion before levying retirement income.
5. A levy served while the taxpayer is receiving periodic payments reaches payments due then, as well as payments as they become due later, as long as there is already a fixed and determinable right to the future payments.

### 5.11.6.1.1 (05-05-1998)

#### Social Security

1. The Social Security Administration (SSA) makes payments for:
  - Retirement, Survivors, and Disability Insurance (RSDI) and
  - Supplemental Security Income (SSI).
2. RSDI is based on social security taxes during a person's working years. RSDI payments are not based on need, and they can be levied. SSI payments are for needy people who are elderly, blind, or disabled. These payments are exempt from levy.
3. Send Part 1 of Form 668-W to the SSA office that issued the taxpayer's social security number. Include Notice 484. See Document 6408, Notice of Levy Address Directory. Send the other parts of the levy to the taxpayer with Notice 483. Make appropriate changes to Notice 483 and 484.
4. Once a levy is served, SSA will continue honoring it, until the levy is released. However, the taxpayer's eligibility for benefits could change. This might stop the levy proceeds. If this happens, SSA will notify the office that issued the levy not to expect more payments. However, SSA is not allowed to explain why. This would violate the privacy laws that restrict who SSA can disclose benefit information to.

**EXAMPLE:**

The taxpayer may get full benefits when the levy is served. Later, the person starts working. This may reduce the benefits to less than the exempt amount, so there will be no levy proceeds. If the person stops working and gets full benefits again, SSA will not automatically start sending levy payments. A new levy must be served.

5. There is limited space on the check for information to identify the payment. Each line is limited to 22 characters. The check is sent in a window envelope with information in Exhibit 5.11.6-2 showing through the window. There is no need to send a supply of reply envelopes with the levy.

### 5.11.6.1.2 (11-05-1999)

#### Military Retirement

1. See Document 6408 for addresses for mailing levies on military retirement.
2. Expect the first payment two to three months after the notice of levy is sent.
- 3.

<b>If</b>	<b>Then</b>
-----------	-------------



The levy is received by the 15th of the month.	The first payment is sent on the first business day of the second month after that.
The levy is received after the 15th of the month.	The first payment is sent on the first business day of the third month after that.

**EXAMPLE:**

A levy is received on September 12. The first payment is sent on the first business day of November.

**EXAMPLE:**

A levy is received on September 19. The first payment is sent on the first business day of December.

**5.11.6.1.3 (11-05-1999)  
Civil Service Retirement**

1. See Document 6408 for the address for these levies.
2. If the civil service account number is known, include it on the levy.
3. Expect the first payment in two to three months. See 6.1.2:(2).

**5.11.6.1.4 (05-05-1998)  
Railroad Benefits, Medal of Honor Winners, and Annuities for Military Families and Survivors**

1. Certain annuity and pension payments are exempt from levy. See IRC 6334.
2. The exempt payments include:
  - Railroad Retirement and Unemployment
  - Special Pensions for Medal of Honor Winners
  - Annuities under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan

**5.11.6.2 (03-13-2000)  
Funds in Pension or Retirement Plans**

1. These instructions cover money accumulated in a pension or retirement plan, as well as Individual Retirement Arrangements (IRAs). They do not deal with levying retirement income. See section 6.1 of IRM 5.11.
2. There are many employer and self-sponsored retirement vehicles that are not exempt from levy. However, because these provide for the taxpayer's future welfare, levy on the body of funds in a retirement account (as contrasted with income from the account), only in flagrant cases. These plans include, for example:
  - Qualified Pension, Profit Sharing, and Stock Bonus Plans
  - IRAs
  - Retirement Plans for the Self-Employed (such as SEP-IRAs and Keough Plans)
3. The taxpayer may be able to withdraw money in a lump sum from a plan. If the taxpayer has the right to do so, a levy can reach that right. However, remember that a levy only reaches the taxpayer's present rights.

**EXAMPLE:**

The taxpayer has \$10,000 in a plan but can only withdraw it later. The taxpayer may have a present right to the money, although it can not be withdrawn immediately. A levy may reach that right, but the money can be not paid over until the taxpayer can withdraw it. At that time, there may be \$30,000 in the plan. Without a new levy, though, only \$10,000 could be paid over.

**EXAMPLE:**

The taxpayer has money in a plan. The terms of the plan do not allow for any lump sum withdrawal. The plan provides a right in the future to receive monthly payments, but the taxpayer has not paid into it long enough yet to qualify for any future payments. A notice of levy attaches nothing, because the taxpayer has no present property rights.

4. The notice of levy form says it does not attach money in pension or retirement plans. However, in an exception, these funds can be levied. To do this, sign the Notice of Levy in the block to the left of, "Total Amount Due."

**NOTE:**

If the Form 668-A revision date is before July 1992, there is no signature block for this. Instead, cross out the word "not" in the sentence to the left of, "Total Amount Due." Then, initial above this change.

5. See Exhibit 5.11.1-1, for approval level and section 1.2.4.
6. Discuss the case with the Employee Plans Group before issuing the levy. Special Procedures and Counsel advice may be needed to determine the present right to property. Often, a levy is served before the taxpayer's precise rights are determined. Try to get a copy of the plan instruments as soon as possible to determine the taxpayer's interests in the plan.
7. When money is withdrawn from a retirement account, the taxpayer may be liable for income tax on the withdrawal. If the taxpayer is less than 59½ years old, there may also be 10 percent additional tax on early distributions. However, there are several exceptions that can relieve the taxpayer from the 10 percent additional tax on early distributions.
  - A. On January 1, 2000, a new exception was added to the Internal Revenue Code. If the money was withdrawn, because a notice of levy was served on the retirement account, the taxpayer does not owe the 10 percent additional tax on early distributions. There may still be income tax owed for the amount withdrawn, however.
  - B. Send Letter 3257 (DO) with the notice of levy and Letter 3258 (DO) with the taxpayer's copy of the notice of levy. These letters say that the withdrawal is not subject to the tax on early distributions, even if the taxpayer is under 59 ½ years old. These letters are available as macros on the Integrated Collection System.

**5.11.6.2.1 (09-08-1998)**

**Thrift Savings Plan**

1. Federal employees may contribute to the Thrift Savings Plan (TSP). Generally, distributions cannot be paid from taxpayer's accounts before they have left federal service, so there may be no immediate right to withdraw money from the TSP account.
- 2.

If	Then
The taxpayer is a current federal employee.	The levy attaches to the taxpayer's TSP account. However, the TSP will not have to send money until the taxpayer could withdraw it.
The taxpayer is receiving regular payments of money from the TSP.	The levy attaches these payments.
The taxpayer has left federal employment and still has funds in the TSP to continue growing.	A levy attaches the taxpayer's account.

The TSP is administered by the Thrift Investment Board (TIB) which has contracted with the Department of Agriculture's National Finance Center in New Orleans to be the TSP record keeper. See Doc. 6408 for the address. TIB's position is that money in the TSP can not be levied. This includes funds that have accumulated in the Plan, as well as periodic payments that are being made to taxpayers. Counsel is discussing this with TIB's counsel. Because of this, get advice from District Counsel before issuing a levy to TIB.

**5.11.6.3 (05-05-1998)**

**Insurance**

1. This contains instructions on insurance.

### **5.11.6.3.1 (05-05-1998)**

#### **Cash Loan Value of Life Insurance**

1. The cash loan value of life insurance and endowment contracts can be levied. The policy does not have to be surrendered. See IRC 6332(b).

### **5.11.6.3.1.1 (09-08-1998)**

#### **Serving the Levy**

1. Generally, do not levy this if the taxpayer has:
  - few assets,
  - small income, and
  - policies with a face value below \$1000.
2. Include these on the levy, if they are known:
  - policy number(s) and, "and any other policies this person owns on his/her life,"
  - date of birth, or
  - taxpayer's approximately age and spouse's name.
3. See Exhibit 5.11.1-1, for approval level and section 1.2.4. See Document 6408 for addresses.
4. The insurance company does not have to turn over money until 90 days pass.
  - A. Project accruals for this long.
  - B. Above the taxpayer's name and address, write, "I certify that a copy of this notice was mailed on (insert date) to the taxpayer's last known address."
  - C. Sign this statement.
  - D. Mail Part 3 to the taxpayer before sending the levy to the insurance company.

### **5.11.6.3.1.2 (05-05-1998)**

#### **Payment for a Levy on the Cash Loan Value of Life Insurance**

1. If the amount owed is paid before 90 days, send the insurance company Letter 980(DO) with a release.
2. The taxpayer can ask the insurance company to pay before 90 days to save penalty and interest. A new payoff figure may be needed.
3. If the amount is not paid within 90 days, send Letter 980(DO) to the insurance company. This tells them the amount still owed. Send the Letter even if the amount has not changed.
4. The insurance company must pay over the amount the taxpayer could have gotten as a loan. This is computed to the 90th day after the levy. Automatic premium loans and contractual interest is not paid over, if they keep the contract in force. However, an agreement to do this must be before the insurance company knew of the tax lien.

### **5.11.6.3.1.3 (05-05-1998)**

#### **Actual Knowledge of the Tax Lien**

1. The insurance company may have to pay more than the amount in 6.3.1. Actual knowledge of the tax lien gives it priority over the insurance company if there are loans later. This means these policy loans (and contractual interest) must be paid over, too, if a levy is served.
2. Give the insurance company a copy of the lien or a letter to give actual notice of the lien. This stops the taxpayer from taking loans as equity builds up in the policy.

#### **NOTE:**

Do not try to give notice by serving a new levy. This starts the 90 day period again.

### **5.11.6.3.2 (05-05-1998)**

#### **Foreclosure on the Policy**

1. There is also a right to foreclose on the policy, if necessary. Consult Special Procedures and Counsel for advice.

### **5.11.6.3.3 (05-05-1998)**

#### **Veterans Administration Insurance Policies**

1. Dividends payable in cash and the cash loan value of Veterans Administration (VA) insurance policies can be levied.

#### **EXCEPTION:**

If the dividends are applied to pay future premiums, they can not be levied.

### **5.11.6.3.3.1 (05-05-1998)**

#### **Levy on Dividends of VA Policies**

1. Before serving a notice of levy on VA insurance policy dividends, use Form 2876 to get:
  - Insurance File Number
  - Policy Number
  - Anniversary Date of the Policy
  - Office that Pays Dividends

#### **NOTE:**

The P.O. Box for Philadelphia on Form 2876 is wrong. Use Box 42954, instead.

2. Dividends are payable on:
  - United States Government Life Insurance Policies
  - National Service Life Insurance Policies

#### **EXCEPTION:**

Policies with a number preceded by RH do not pay dividends.

3. To levy dividends, mail Form 668A(C)(DO) thirty days before the policy's anniversary date.
  - A. Write, "Levy is only on dividends," on the levy.
  - B. Write, "Policy Number \_\_\_\_\_," above the taxpayer's name and address.

#### **EXCEPTION:**

If the policy number and file number are different, write, "Policy No. \_\_\_\_\_ (File No. \_\_\_\_\_)," on the levy.

### **5.11.6.3.3.2 (05-05-1998)**

#### **Levy on Cash Loan Value of VA Insurance Policies**

1. Many VA insurance policies have cash loan value. This can be levied like other life insurance policies. Some policies are term life insurance. These have no cash loan value.
2. Write, "Cash Loan Value: \$ \_\_\_\_\_," in the Remarks block of Form 2876 to find out this amount. If the policy is term, VA will write, "Term Policy," in this space, instead of an amount.
3. Write, "Levy is only against cash loan value," on the levy. Also, include the policy number. Use other procedures in 6.3.1 above. For example, send Letter 980(DO) after 90 days.

### **5.11.6.3.4 (05-05-1998)**

#### **Insurance Company Employees**

1. To levy an insurance company employee's income, send Form 668W(C)DO. Write on the form that it is levying the person's income. This may prevent confusion between these and levies on policies.
2. The addresses in Document 6408 may not be right for these levies.

### 5.11.6.3.5 (09-08-1998)

#### Death Benefits

1. Death benefits from an insurance company or a government agency (Veterans Administration, Social Security Administration, etc.) can be levied. However, only use this source in flagrant cases. Consider whether the levy will cause a hardship and whether it may prevent the taxpayer from paying the funeral expenses of the person who died.
2. Because of the sensitive nature, the district director or assistant director must approve the notice of levy. See section 1.2.4 of IRM 5.11.

### 5.11.6.4 (05-05-1998)

#### Government Employees

1. The income of federal, state and local government officers and employees can be levied. This includes:
  - Civilian Employees
  - Military Personnel
  - Elected Officials
  - Appointed Officials
2. If the taxpayer increases voluntary deductions after a levy is served, tell the employer that this is not allowed.

**NOTE:**

Comptroller General's Decision B-45105 explains this to federal payroll offices. This decision is dated January 21, 1955, and amended April 18, 1955.

### 5.11.6.4.1 (11-05-1999)

#### Military Personnel on Active Duty

1. A levy on the income of active military personnel does not attach just wages and salary. It also attaches:
  - Payments for Quarters
  - Subsistence
  - Travel
  - Clothing and uniform Allowances
  - Personal Money and Overseas Allowances
  - Reimbursement for Shipment of Household Goods
  - Lump Sum Leave Payments
  - Retirement Income (Including Disability Payments)
  - Re-enlistment Bonuses
  - Severance Pay
  - Mustering Out Pay
  - Savings Deposits

**EXCEPTION:**

See 1.3.1:(3) of this handbook.

2. See Document 6408 for addresses to mail these notices of levy.
- 3.

If	And	Then
The taxpayer is in the Air Force or Marines.	The taxpayer is on active duty or is in the reserves.	Include the taxpayer's military service address on the levy, if it is known, e.g. Andrews Air Force Base.

Use Letter 1096(DO) to follow up on military levies.

If	Then
The taxpayer is overseas.	Follow up 10 weeks after the levy is acknowledged.
The taxpayer is in the United States, except for Air Force.	Follow up four weeks after the levy is acknowledged.

The taxpayer is in the United States and is in the Air Force.

Follow up eight weeks after the levy is acknowledged.

A response should be received to Letter 1096(DO) within 30 days. If not, call the finance center or send a new notice of levy. The taxpayer may pay the amount owed before the levy proceeds are received. If the release does not stop the proceeds in time, a payment for the levy will be received. Do not return the check to the finance center. Credit the money, so the overpayment will generate a refund. If a hardship exists, request a manual refund. See IRM 5.1 General.

#### **5.11.6.4.2 (05-05-1998)**

### **Military Class Q Allotments**

1. Class Q allotments are for dependents of military personnel. They can be levied to collect tax from the dependent.

#### **5.11.6.4.3 (05-05-1998)**

### **Health and Human Services Employees**

1. The Department of Health and Human Services maintains a central payroll office. See Document 6408. These payroll records include:
  - HHS in metropolitan Washington, DC
  - HHS Regional Offices
  - Public Health Service
  - Food and Drug Administration

#### **REMINDER:**

The Social Security Administration is no longer part of HHS.

2. Send the Statement of Exemptions and Filing Status directly to the taxpayer. See 5.4.2.

#### **5.11.6.4.4 (11-05-1999)**

### **Postal Service Employees**

1. For levies on postal employees, include the following, if they are known:
  - Postal Service Employee Number,
  - Type of employment, and
  - The town where the employee works, if it is different from where the employee lives.
2. For joint liabilities, put the primary SSN to the right of "Identifying Number(s)" on the levy. Put the secondary SSN below the primary one. Do this even if the postal employee is the secondary taxpayer.
3. Do not send notices of levy on postal employees to the address in the 11-1998 revision of Document 6408. Instead, send them to U.S. Postal Service  
Minneapolis Information Service Center  
Involuntary Deduction Unit  
2825 Lone Oak Pkwy.  
Eagen, MN 55121-9650

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#### **5.11.6.5 (05-05-1998)**

### **Federal Contractors**

1. Use Form 668A(C)(DO) to take payments owed to federal contractors. The levy has no continuing effect. It only reaches payments owed to the contractor when the levy is received.
  2. The contract number must be included on levies sent to the Defense Department. If the number is known, include it on levies sent to other federal agencies, too. This can help them find the contract and honor the levy.
    - Current federal contracts can be found on the Currency and Banking Retrieval System. Contract numbers are on the Federal Contract Information screen.
    - Sources may also be found on IDRS using cc LEVYS. The contract number may appear on the levy source's name line after, "CONTRACT #." "FC" to the right of the number means this is a federal contract.
    - See IRM 5.1 General.
  3. See Exhibit 5.11.6-1 for contract levy addresses at several agencies.
-



### 5.11.6.6 (05-05-1998)

#### Levy on Other Government Payments

1. This contains instructions for levy on other government payments.

### 5.11.6.6.1 (09-08-1998)

#### Medicare Payments

1. Levy Medicare payments only in flagrant cases. Use Form 668A(C)(DO).
2. An insurance company is an intermediary or carrier contracting with Health Care Financing Administration (HCFA). The insurance company makes the Medicare payments. Serve the levy on this company, and send a copy to the HCFA Regional Office. See Document 6408 for the Regional Office addresses.
3. Payments are made directly to hospitals, home health agencies, and extended care facilities. Doctors and other medical services and supplies can be paid directly, too. However, the beneficiary may pay these and get reimbursed by Medicare, later.
4. See Exhibit 5.11.1-1, for approval level, and Section 1.2.4.

### 5.11.6.6.2 (05-05-1998)

#### U.S. Savings Bonds--Series H Interest Payments

1. Series H savings bonds pay interest semi-annually.
2. To levy the interest, use Form 668W(C)(DO). See Document 6408 for the address to mail these levies. With the levy, send a copy of the lien. Also, send a letter with the levy. Include in the letter:
  - bond series,
  - serial number(s),
  - bond denomination(s), and
  - bond issue date(s).

### 5.11.6.6.3 (05-05-1998)

#### Agricultural Stabilization and Conservation Service (ACSC) Payments

1. Serve levies on ACSC county offices to attach these payments.
- 2.

If	And	Then
The taxpayer is eligible for payment.	ACSC is authorized to pay the taxpayer.	A levy payment will be sent.
The taxpayer is eligible for payment.	ACSC is not authorized to pay the taxpayer, yet.	ACSC will complete the back of the levy, to say when and how much the taxpayer will get. When a payment is authorized, ACSC will send the amount the taxpayer was eligible for on the date of the levy. No new levy is needed.
The taxpayer is not eligible for payment.		ACSC will send the levy back saying no money is owed. If they know when the taxpayer will be eligible, they will say so. Then, another levy can be served, later.

### 5.11.6.6.4 (09-08-1998)

#### Relocation Act Payments

1. Relocation Act payments pay for displaced people's:
  - moving costs,
  - related expenses, and
  - cost of replacement housing.
2. Levy these payments only in flagrant cases. See Exhibit 5.11.1-1 for approval level, and Section 1.2.4.

### 5.11.6.6.5 (05-05-1998)

#### Fees for Attorneys of Social Security Claimants

1. Records of attorneys for Social Security claimants are with the claimant's files. To levy an attorney's fees, attach a list of claimants' names and SSNs. If the SSNs are not known, give anything else to identify the claimant.

#### EXAMPLE:

Include the claimants' address and date of birth, if these are known.

2. Avoid sending these levies without claimants' SSNs. SSA's files, like those of IRS, are very large. There are many people with the same name.
3. A separate levy is not needed for each claimant's fees.

### 5.11.6.6.6 (09-08-1998)

#### Restitution Payments for Japanese Internment in World War II

1. The Civil Liberties Act of 1988 authorizes payment to people of Japanese ancestry interned in World War II. Each eligible person may receive \$20,000.
2. These payments are not exempt from levy. However, the payments are restitution for injustices that were done. Levy the payments only in flagrant cases. The District Director must sign the levy.
3. See Exhibit 5.11.1-1 and Section 1.2.4.

### 5.11.6.6.7 (05-05-1998)

#### State Income Tax Refunds

1. In many states, computer tapes of IRS liabilities are matched with state refund tapes. The state tax agency sends payment with a list (or tape) of taxpayers whose refunds were taken.
2. These payments have a designated payment code 04. If the taxpayer says a state refund paid the amount owed, check IDRS for the payment. If it has not posted, ask for a copy of the state's letter showing the refund was taken. If the refund only pays part of the amount owed, collect the rest.
3. Correspondence letter 2167C on IDRS is used to respond to inquiries about these levies.

### 5.11.6.7 (05-05-1998)

#### Receivables

1. Receivables and other debts owed to the taxpayer can be levied.
2. A notice of levy reaches future payments, only if the taxpayer already has a right to them.
3. If receivables can be sold, consider seizing and selling them.

### 5.11.6.7.1 (05-05-1998)

#### Billing Services

1. Some taxpayers use billing services for receivables. The service may only prepare bills, or it may also receive payments.
- 2.

If	Then
The billing service only prepares and sends bills.	Use a summons or Form 2270 to get records of the taxpayer's receivables, so they can be levied.
The billing service receives payments and forwards them to the taxpayer.	Serve a levy on the billing service.

Tapes may include records of many of the billing service's customers. Use a summons or Form 2270 to get only the taxpayer's records. The ten day response period for summonses may need to be extended to get the records extracted. The billing service may deduct a fee and send the difference to the taxpayer. In this case, this is all the service needs to pay for the levy. If it normally sends the entire receivable to the taxpayer, then this should be paid in response to the levy.

### 5.11.6.8 (05-05-1998)

#### Securities--Stocks, Bonds, Mutual Funds, etc.

1. A person receiving a notice of levy may be holding a taxpayer's securities. The person may ask if the levy attaches these.

**EXAMPLE:**

Stocks, Bonds, money market funds, mutual funds, debentures, etc.

2. The notice of levy attaches these. If you do not want these turned over, release the levy. If you want the securities or their cash value, either:
  - Ask the taxpayer to tell the person to sell the securities and satisfy the levy.
  - Have the third party ask the taxpayer to authorize this.

**NOTE:**

The taxpayer may have an incentive to do this. The securities will probably yield more money than if they are seized and sold. Also, the sale expenses are deducted from the proceeds. Weigh this against the cost of the third party selling the securities. For many mutual funds and money market funds, the third party charges no sale fees.

3. If the taxpayer will not authorize the sale, release the securities or seize and sell them. See 35(19):(3) of IRM 57(16)0, Legal Reference Guide for Revenue Officers. To seize the securities, either:
  - Tell the third party to send them. Then, seize them.
  - Arrange to meet the person who has the securities, so they can be seized.
4. Service Center Collection Branch (SCCB) sometimes receives securities for ACS levies. SCCB sends these to the district to decide what to do with them.

---

### 5.11.6.9 (11-05-1999)

#### United Nations (UN) Employees' Income

1. Legal processes can be served at the UN:
  - with the Secretary General's approval
  - in conditions the Secretary General approves.

**NOTE:**

This authority comes from a joint resolution of the 80th Congress.

2. Consider a levy on UN employees' salary only after all other sources have failed. Send the Form 668-W(C)(DO) from the district director to the Assistant Commissioner (Collection) OP:CO. Include a memo from the director to the Assistant Commissioner. Explain attempts to collect the tax and any other relevant information. See Exhibit 5.11.1-1 and Section 1.2.4 of IRM 5.11.
3. The National Office will forward the levy to the State Department, and notify the district that the levy was sent.
4. Because of the restriction on legal process, the levy is used to counsel the employee.

---

### 5.11.6.10 (11-05-1999)

#### Mutilated Currency

1. Mutilated currency may be redeemed at the Department of Treasury. It can also be turned in to a bank which will send it to Treasury for redemption. This can be levied.
  2. The fact that mutilated currency was turned in may be found out through routine investigation. Also, if the amount is \$5000 or more, the Office of Currency Standards reports the request to IRS. Then, this may be reported to the district where the redemption was requested.
  3. See Document 6408 for the address for these notices of levy.
-

### 5.11.6.11 (09-08-1998)

#### Levy on Non-Liable Spouse in a Community Property State

1. In some states, community property laws may mean that people who are liable for delinquent tax have a community property interest in their spouse's property and rights to property. In this case, the delinquent taxpayers' property rights in their spouses' property and rights to property might be subject to levy.

**EXAMPLE:**

Taxpayers who are liable for delinquent tax may have a community property interest in their spouses' wages, so the wages of the spouse who is not liable for the tax might be subject to levy to pay it.

2. Community property laws vary from state to state. This may affect how much of a non-liable spouse's property can be attached by a levy. State law may have other effects, too. Contact Special Procedures for advice on any special language or inserts/cover letters needed with the levy, unless local instructions have already been issued for how to handle these levies. Special Procedures will consult with District Counsel, as needed. In multi-district states, the same procedures need to be used in all districts, so Regional Counsel may need to give advice on standard instructions for this type of levy.

### 5.11.6.11.1 (09-08-1998)

#### Wages & Salary

1. Although a non-liable spouse's wages or salary might be subject to levy, the levy does not have a continuous effect. This is because the Internal Revenue Code says that a levy on a taxpayer's wages and salary is continuous. However, if the non-liable spouse's wages or salary are levied, the levy is not actually on the taxpayer's wages or salary.
2. Although a levy on a non-liable spouse's wages or salary is not continuous, the exempt amount can still be claimed.
  - A. However, because the levy might attach only part of the non-liable spouse's income, the portion that is not attached can be treated like an income source that is not being levied when the exempt amount is figured. See 5.4.4.

**EXAMPLE:**

A non-liable spouse's weekly take home pay is \$500. Assume this person is in a state where a levy attaches half of a non-liable spouse's wages, and this is the only source of income that is levied. This means \$250 is not attached by the levy. If this levy is served in 1998, and the person is filing jointly with two exemptions, \$240.48 is exempt from levy. Since the exempt amount is less than the amount that is not levied, no exempt amount is subtracted from the \$250 that the levy attaches. The employer should send a weekly check of \$250. The \$240.48 exempt amount has been accounted for by the other \$250 that is not attached.

**EXAMPLE:**

Take the same facts as the prior example, but the person claims four exemptions, so the weekly exempt amount is \$344.23. Because this is more than the \$250 that is not attached, the person needs to be allowed an additional exempt amount from the \$250 that is attached. This is figured.

\$344.23 Exempt from Levy

-\$250.00 Not Attached by the Levy

\$ 94.23 Additional Exempt Amount to be Allowed

The employer, then, figures:

\$250.00 Attached by the Levy

-\$ 94.23 Additional Exempt Amount  
\$155.77 Weekly Levy Proceeds

- B. As a practical matter, in this example, a simpler explanation may be to tell the employer to send half of the person's take home pay if the exempt amount is less than half of that, but follow the instructions on the levy form if the exempt amount is more than half of the take home pay. This will lead to the same amount of levy proceeds:

\$500.00 Take Home Pay  
-\$344.23 Exempt Amount  
\$155.77 Weekly Levy Proceeds

### **5.11.6.11.2 (11-05-1999)**

#### **Notice to the Non-Liable Spouse**

1. When a taxpayer's community property interest in a non-liable spouse's property or right to property is levied, the notices in Section 1.2.1 must have been sent to the taxpayer. However, do not send these notices to the non-liable spouse.
2. After serving the notice of levy, the non-liable spouse is notified of the levy same way the taxpayer is notified of a levy. See section 2.1.7.
  - A. If a Notice of Levy is served, e.g. on a bank account, a copy of the levy is sent to the taxpayer. Part 4 of Form 668A(c)(DO) is generally used for this. In this case, though, also send a photocopy of the taxpayer's copy of the levy to the non-liable spouse.
  - B. If a levy is served on wages, salary, or other income, the statement of exemptions and filing status notifies the taxpayer of the levy. Similarly, the non-liable spouse will get these copies of the levy to claim the exempt amount, and this is the notification that a levy has been served.

#### **Exhibit 5.11.6-1 (10-05-1998)**

##### **Addresses often used for Levy on Federal Contracts**

---

(Reference 9.5)

#### **Exhibit 5.11.6-1 (10-05-1998)**

##### **Addresses often used for Levy on Federal Contracts**

---

#### ***Administrative Conference of the U.S.***

Administrative Conference of the U.S.  
2120 L Street NW, Suite 500  
Washington, DC 20037

Norma B. Smith, Administrative Officer,  
Tel: 102-254-7020

#### ***Agency for International Development***

320 Virginia Ave., Rm 1438  
Washington, DC 20523-1424

Terry Payne, Chief OP/CIMS,  
Tel: 703-875-0016

#### ***Agriculture, Department of***

1400 Independence Ave. SW  
Washington, DC 20250-9303

Maurice W. Thompson, Computer  
Specialist, Tel: 202-720-3035

***Air Force, Department of***

Department of the Air Force (Headquarters  
USAF)  
SAF/AQCP, 1060 AF Pentagon  
Washington, DC 20330-1060

Tel: 703-545-6700

***Appalachian Regional Commission***

1666 Connecticut Ave NW, Rm 730  
Washington, DC 20235

Polly Law, Financial Manager,  
Tel: 202-884-7730

***Army***

Commander  
U.S. Army Finance & Accounting Center  
Attn: FINCY  
Indianapolis, IN 46249

Defense Logistics Agency  
DFAS-CO-JXF; Attn: Director  
P. O. Box 182317  
Columbus, OH 43218-2317

Defense Mapping Agency  
OUSD (A&T) DP/CPA, 3060 Defense  
Pentagon  
Washington, DC 20301-3060

Dir, CPA; Tel: 703-285-9370

Department of the Army  
Exc Corps of Engineers Civil Program Fin  
DFAS-IN-FV  
8899 E. 56th Street  
Indianapolis, IN 46249-0001

Dir, Vendor Pay

Department of the Army  
Headquarters U.S. Army Material  
Development and Readiness Command  
5001 Eisenhower Ave.  
Alexandria, VA 22333  
Attn: DRCGC-S

USA MDW Finance & Accounting Office  
Forrestal Bldg, Rm. GA270  
1000 Independence Ave., S.W.  
Washington, DC 20314  
Attn: ANFINW-AAP



***Army, Cont'd***

Chief, U.S. Army Signal Finance and  
Accounts Office  
U.S. Army Strategic Communications  
Command  
Office of the Comptroller  
Washington, DC 20315

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Washington, DC 20581

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***Consumer Product Safety Commission***

4330 East-West Highway, Rm 522A  
Washington, DC 20207

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***Corporation for National Service***

1201 New York Ave NW, Room 7209  
Washington, DC 20591

David Spevacek; Dir, Office of Financial  
Management Services  
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***Education, Department of***

7th & D Streets SW, Rm 3616  
Washington, DC 20202

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***Energy, Department of***

1000 Independence Ave SW  
Washington, DC 20585-0001

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***Environmental Protection Agency***

401 M St SW, Mail Code 3303F  
Washington, DC 20460

Ronald H. Bachand; Director, FSD; Tel: 202-260-5105

***Equal Employment Opportunity Commission***

Financial Management Div.  
1801 L Street NW  
Washington, DC 20507

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***Federal Aviation Administration***

Financial Systems Branch, ABA-320  
800 Independence Ave SW  
Washington, DC 20591

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***Federal Communications Commission***

1919 M Street NW #852  
Washington, DC 20354

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***Federal Election Commission***

999 E Street NW, Rm 819  
Washington, DC 20463-0001

Larry D. McCoy, Administrative Officer, Tel: 202-219-3570

***Federal Emergency Management Agency***

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Washington, DC

Jon T. Wolz, Accounting Officer,  
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***Federal Energy Regulatory Commission***

888 1st Street NE, Room 42-73  
Washington, DC 20426

Lawrence E. Carter, Supervisory  
Accountant, Tel: 202-219-2910

***Federal Labor Relations Authority***

500 C Street SW, Room 225  
Washington, DC 20424-0001

Andrew B. Chepega, Director Fin. Mgt.  
Div.,: Tel: 202-482-6640

***Federal Maritime Commission***

800 North Capitol Street  
Washington, DC 20573-0001

Michael H. Kilby; Director, Administrative  
Services; Tel: 202-523-5900

***Federal Mine Safety and Health Review Commission***

1730 K Street NW, Room 640  
Washington, DC 20006-3868  
Regina M. Clark, Administrative Officer,  
Tel: 202-653-5633

***Federal Reserve System***

Room M-1200, Mail Stop 152  
20th & Constitution Ave NW  
Washington, DC 20551

Dorothy Vereb, Superv. Accounts Payable,  
Tel: 202-452-2312

***Fish and Wildlife Service, U.S.***

Department of the Interior  
U.S. Fish and Wildlife Service  
FWS MS2544-MIB  
Washington, DC 20240

Howard H. Hulbert; Chief, Division of  
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***General Accounting Office***

U.S. General Accounting Office  
Claims Division  
Washington, DC 20548

***General Services Administration***

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Office of General Counsel  
1500 East Bannister Rd  
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***Government Printing Office***

North Capitol & H Streets, N.W.  
Washington, DC 20401  
Attn: Comptroller (Stop FME)

***Health and Human Services (PRS), Department of***

200 Independence Ave, SW Rm 519D S4  
Washington, DC 20201

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***Indian Affairs, Bureau of***

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Fiscal Services PMD-F MS5257-MIB  
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Denver Federal Center  
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(ADM-AQC)  
College Park, MD 20740-6001

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***National Bureau of Standards***

Washington, DC 20234  
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***Social Security Administration***

6401 Security Blvd, 2F7 Annex  
Baltimore, MD 21235-0001

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***State, Department of***

M/COMP/FO/OFO  
PO Box 9487  
Arlington, VA 22209

Robert S. Byrnes, Director,  
Tel: 202-647-4000

***Surface Mining, Reclamation, and Enforcement, Office of***

Department of the Interior  
Office of Surface Mining, Reclamation, and  
Enforcement  
Denver Federal Center  
PO Box 25065  
Denver, CO 80225-0065

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***Tennessee Valley Authority***

400 W Summit Hill Drive  
Knoxville, TN 37902-1499

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Tel: 423-632-4796

***Transportation, Department of***

400 7th Street SW, Rm 9401  
Washington, DC 20590

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Tel: 202-366-4974

***Treasury, Department of***

15th & Pennsylvania Ave NW, Rm 6100  
Annex  
Washington, DC 20220

Annelie M. Kuhn, Procurement Analyst,  
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***U.S. Arms Control and Disarmament Agency***

320 21st Street NW  
Washington, DC 20451

William S. Amoroso, Financial Manager,  
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***U.S. Information Agency***

301 4th Street SW, Rm 668  
Washington, DC 20547

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***U.S. Trade & Development Agency***

SA-16, Room 3009  
Washington, DC 20523-1602

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***United States Enrichment Corporation (USEC)***

6903 Rockledge Drive  
Bethesda, MD 20817

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***Veterans Affairs, Department of, OSDDBU***

P.O. Box 149973  
Austin, TX 78714-9575

Harlan Hively; Director, VA AFC  
Tel: 512-389-5000

**Exhibit 5.11.6-2 (10-05-1998)  
Social Security Levy Payment**

(Reference 6.1.1)			
Information printed on a Social Security check will look like this:			
			123-45-6789
		Inter Rev Ser--LEVY	
		Re: John Beneficiary	
		123456789 999-999-9999	

		123 Any Street
		Anytown, Anystate Zipcode
<b>Note:</b>	The SSN that the benefits are based on appears above and to the right of, "Inter Rev Ser--LEVY." This is not necessarily the delinquent taxpayer's TIN. It is outside of the address field and does not show through the window of the envelope.	
<b>Example:</b>	The taxpayer may be receiving survivor or spousal benefits based on someone else's social security account.	
1) The check is payable to, "Inter Rev Ser--LEVY."		
2) The social security beneficiary's name is on the second line.		
3) The first number on the third line is the first TIN on the levy. The second number on the third line is the telephone number of the SSA office that handled the levy.		
<b>If</b>	<b>Then</b>	
The TIN is an SSN.	There will be no hyphens in the TIN. There will be a space between the TIN and the telephone number.	
The TIN is an EIN.	There will be a hyphen after the second digit to distinguish it from an SSN. There will be no space between the TIN and the telephone number.	
4) The address on the check is the return address on the levy.		
<b>Note:</b>	Each line is limited to 22 characters, including spaces. There may not be room for, "ATTN," and a revenue officer's name. Consider including the last four digits of the RO's TSIGN in the return address on the levy, instead.	

# Part 5 Collection Activity

## Chapter 11 Notice of Levy

### Section 7 Automated Levy Programs

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    - 5.11.7.1.4 SITLP Correspondence Letters
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    - 5.11.7.1.7 State Agreement
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  - Exhibit 5.11.7-1 Exclusion Criteria
  - Exhibit 5.11.7-2 State Income Tax Levy Program (SITLP)
  - Exhibit 5.11.7-3 Criteria of Entities or Modules Not Selected For FPLP
  - Exhibit 5.11.7-4 CP 90 / 297 (Final Notice, Notice of Intent to Levy and Notice of Your Right To A Hearing)
  - Exhibit 5.11.7-5 Document Locator Number (DLN) Format of Federal Payment Type
  - Exhibit 5.11.7-6 Federal Payment Agency Identifier Code List



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### **5.11.7.1 (07-21-2000)**

## **State Income Tax Levy Program**

### **5.11.7.1.1 (07-21-2000)**

#### **Background Legal Authority**

1. The State Income Tax Levy Program (SITLP) matches a database of delinquent taxpayers against a database of participating states' tax refunds. The program is administered pursuant to Section 6331 of the Internal Revenue Code (IRC). This is not an offset program.
2. As a result of the implementation of The IRS Restructuring and Reform Act of 1998 (RRA 98), the SITLP program was completely revised. The SITLP program has been divided into two major program areas:
  - A. State Income Tax Levy Program (SITLP) -- an automated levy against state tax refunds, prior to issuance of a Collection Due Process (CDP) notice, if applicable. The taxpayer has a right to a hearing after levy action has taken place, IRC 6330(f)(2).
  - B. Automated Levy Program (ALP) -- an automated levy against property other than state tax refunds. Types of property include, but are not limited to, Alaska Permanent Fund Dividends, unclaimed property, lottery payments and vendor payments. The taxpayer has a right to a CDP hearing, if applicable, prior to any levy action.
  - C. With the exception of the Alaska Permanent Fund Dividend Levy Program, which may operate during 2000, implementation of the Automated Levy Program is scheduled for January 1, 2001. Procedures for the Automated Levy Program will be contained in IRM 5.11.7.3.

### **5.11.7.1.2 (07-21-2000)**

#### **How the Program Works**

1. The participating states are provided with a Notice of Levy (Form 668-A) or a memorandum citing the authority to levy under IRC 6331, along with magnetic tape files to be matched against state files of taxpayers due a refund. New tapes are sent by Martinsburg Computing Center to the state agencies on a biweekly basis.
2. Due to the numerous tax law changes resulting from the implementation of RRA 98, various safeguards have been built into the new SITLP program. These consist of transaction codes, action codes and status codes that eliminate certain taxpayers from the SITLP levy. Refer to Exhibit 1-1 for a list of the exclusion criteria.
3. Each biweekly tape sent to the state agency eliminates taxpayers by entity, or for specific tax period(s), depending on the exclusion criteria present. (For example: A TC 480, offer in compromise pending, would exclude the entire entity from the SITLP levy. A TC 470, taxpayer claim pending, would only exclude the specific tax periods affected by the TC 470).
4. When matches occur, the state agency forwards the levy proceeds and a corresponding data cartridge to the Service for processing. At that time, the proceeds are applied to delinquent modules. A second review is conducted at the service center to determine whether exclusion criteria are now present on the modules. If so, Service Center Collection Branch (SCCB) determines the proper case resolution.
5. Participating states are required to mail the taxpayer a letter indicating that the refund has been levied by the Service and applied to a Federal tax liability. The letter explains the amount of the refund levied, and advises the taxpayer to contact the IRS at 1-800-829-7650 for information regarding the SITLP levy.

### **5.11.7.1.3 (07-21-2000)**

#### **Master File and IDRS Indicators**

1. When it is determined that a taxpayer is not excluded from the SITLP levy, a TC 971 AC 600 is generated onto every tax period affected by the levy. The taxpayer is then included on the biweekly tape sent to the state agency.
2. When a match occurs and levy proceeds are received from the state, a TC 670 Designated Payment Code (DPC) 20 will post to any tax period(s) where the SITLP payment was systemically applied. If the payment is applied manually by deposit operation, a TC 670 DPC 21 will post to the tax period(s).

#### **5.11.7.1.4 (07-21-2000)**

### **SITLP Correspondence Letters**

1. As a result of the implementation of RRA 98, two new *post levy* notices were developed. The notices are CP 92, "Notice of Levy on Your State Tax Refund Notice of Your Right to a Hearing," for IMF accounts, and CP 242, "Notice of Levy on Your State Tax Refund Notice of Your Right to a Hearing," for BMF accounts.
2. The notices advise the taxpayer of the amount levied from his/her state tax refund. In addition, the notices explain the procedure for requesting a Collection Due Process (CDP) hearing or equivalent hearing, if applicable. The notices also advise the taxpayer of any remaining balance due, procedures to follow if a balance due remains, and the amount of any potential refund, if no other balance due exists.
3. The enclosed Publications 1660, Collection Appeal Rights and 594, IRS Collection Process, explain other avenues of appeal such as the Collection Appeals Program (CAP).
4. The toll free number 1-800-829-7650, is shown on the notices to provide assistance to the taxpayer.
5. A separate CP 92/CP 242 is mailed certified mail, for each tax period affected by the SITLP levy. The notice is mailed to the last known address. A notice is sent to each spouse individually, when the known address is different for each spouse. On BMF accounts, the notice is mailed certified mail to the last known office of record.
6. A separate notice is also mailed by regular mail to a valid Power of Attorney listed on the taxpayer entity.

#### **5.11.7.1.5 (07-21-2000)**

### **Appeal Procedures**

1. The notice will include Form 12153, Request for Collection Due Process Hearing, Publication 1660, Collection Appeal Rights, and Publication 594, IRS Collection Process. This information will provide guidance on the appeal process and how to request a hearing. If a taxpayer wants to request a hearing he/she will send the request to the service center address shown on the notice.
2. The taxpayer must request the CDP hearing in writing. Form 12153 may be used for this purpose. The Service representative handling the inquiry will attempt to resolve the issues with the taxpayer. This process may result in the taxpayer not wanting to pursue the CDP hearing. If the issue is resolved, the taxpayer has the option to withdraw the CDP hearing request. The withdrawal must be in writing, Form 12256, Withdrawal of Request for Collection Due Process Hearing, can be used for this purpose.
3. If the representative is unable to resolve the issues, a CDP hearing request file will be initiated, and forwarded to the District Appeals office that services the taxpayer.
4. If the taxpayer has previously received his/her CDP rights for any tax period, as evidenced by a TC 971 AC 69 on the module, he/she will be prohibited from requesting another CDP hearing for that tax period, unless an additional tax assessment is present after the TC 971 AC 69. The taxpayer may still be entitled to appeal under the Collection Appeals Program (CAP).

#### **5.11.7.1.6 (07-21-2000)**

### **Handling Inquiries**

1. If a taxpayer inquires about a SITLP levy:
  - Determine whether the taxpayer received notification from the state, date of the notice, and amount of the state tax refund levied.
  - Review IDRS for a TC 971 AC 600 and a TC 670 DPC 20 or 21 on any module(s).
  - If TC 971 AC 600 is present on the module(s) without a corresponding TC 670 DPC 20/21, either the levy proceeds may not have posted to Master File, but is forthcoming, or there were no proceeds or insufficient proceeds to satisfy all open modules.
  - If both TC 971 AC 600 and TC 670 DPC 20/21 are present, then SITLP proceeds were applied to the tax module(s).
  - If the taxpayer did not receive the CP 92 and/or the CP 242, have him/her send you a copy of any notification received from the state.
  - Determine whether the refund is sufficient to satisfy the total balance due on all open tax periods. If not, discuss payment of the balance due, and attempt to resolve the account.
2. Refer to Exhibit 1-1 for a list of exclusion criteria. If the criteria are present on any module(s) affected by SITLP, procedures for initiating a refund may be necessary. Refer to the Customer Service IRM 21.4.4 for procedures on Manual Refunds.

### 5.11.7.1.7 (07-21-2000)

#### State Agreement

1. Beginning 04/01/2000, one master SITLP agreement will be utilized by the IRS and all participating states. The agreement was finalized after soliciting input from any states interested in participating in the SITLP program.
2. The agreement addresses the following:
  - Purpose
  - Authority
  - Overview of the SITLP program
  - Rights and responsibilities
  - Coordination
  - Concurrence
3. A copy of the signed agreement will be kept by a representative from the state agency and by the SITLP program analyst at: Internal Revenue Service  
Office of Field Programs  
Attn: National SITLP Coordinator OP:CO:C:FP  
1111 Constitution Ave, NW  
Washington, DC 20224

### 5.11.7.1.8 (07-21-2000)

#### Program Coordination

1. To ensure that communication is maintained and the provisions of the SITLP program are adhered to, coordination between the National Office, service centers, Martinsburg Computing Center, various Fed/State representatives, district coordinators and state representatives is essential to the success of this program. The focal point for coordination will be the National Office Collection/Compliance SITLP coordinator.

### 5.11.7.1.9 (07-21-2000)

#### Exclusion Criteria

1. Due to the implementation of RRA 98, it is imperative that every precaution is taken to avoid erroneous or wrongful levies. The SITLP program has incorporated exclusion criteria into the two most sensitive parts of the program.
  - Prior to sending data tapes to the states
  - Upon receipt of data cartridges from the states
2. It is essential to review the exclusion criteria in Exhibit 1-1 whenever handling a SITLP inquiry. If any transaction code, TC 971 with a corresponding action code or status code listed in the exclusion criteria is present on any module(s), ensure that the proper action is taken to avoid a wrongful or erroneous levy.
3. Procedures for Customer Service employees are located in IRM 21.9.9, Automated Levy Programs.

### 5.11.7.2 (10-27-2000)

#### Federal Payment Levy Program

1. The Federal Payment Levy Program (FPLP) is an automated levy program the IRS has implemented with the Department of Treasury, Financial Management Service (FMS).
2. The FPLP is a means by which the IRS will systemically levy federal disbursements using a paperless process.

### 5.11.7.2.1 (10-27-2000)

#### Background and Authority

1. Internal Revenue Code (IRC) Section 6331(h) as prescribed by the Taxpayer Relief Act of 1997 (Public Law 105-34) Section 1024, authorizes the Internal Revenue Service to issue *continuous* levies on certain federal payments.
2. The law allows up to fifteen percent of *specified payments* to be levied. *Specified payments* include any federal payment other than a payment for which eligibility is based on the income and/or assets of a payee.
3. FMS disburses some of the federal payments that are available for levy under this new law.
4. Although the law also allows levy on some payments that are exempt pursuant to IRC Section 6334(a), the Service will *not* pursue those payment sources at this time.
5. The FPLP will be phased in over a two to three year timeframe.

### 5.11.7.2.1.1 (10-27-2000)

#### Interagency Agreement

1. The interagency agreement between the IRS and FMS provides for the following payments to be systemically levied during the first phase of the FPLP:
  - Office of Personnel Management (OPM) Retirement Income
  - Federal contract/Vendor payments
2. The interagency agreement will be appended to include federal employee salaries and Social Security Administration benefit income as these payment types are included in the FMS payment stream.

### 5.11.7.2.1.2 (10-27-2000)

#### Delegation Authority

1. Delegation authority to issue an IRC 6331(h) levy and levy release through the FPLP remains the same as outlined in IRM 5.11.1.2.3, Notice of Levy, Background, Pre-Levy Actions & Restrictions on Levy, Delegation Orders.

### 5.11.7.2.1.3 (10-27-2000)


#### Third Party Notification

1. Third Party notification provisions under IRC 7602 (c) do not apply to this levy process as contact is made between electronic database(s).

### 5.11.7.2.2 (10-27-2000)

#### Criteria

1. The following modules can be selected for levy through the FPLP:
- 2.

Master File Tax Code (MFT)	01-06, 09-13, 15, 16, 30, 31, 33, 34, 36, 37, 44, 50, 51, 52, 55, 60, 63, 64, 67, 77, 78
	22, 26 30, with closing codes 03, 06, 09, 10, 12, 13, 39

#### 5.11.7.2.2.1 (10-27-2000)

##### Exclusions

1. Entities and tax modules with certain condition codes will be excluded from selection.
2. Those include pending and approved installment agreements; pending Offers in Compromise; Taxpayer Assistance Orders; open bankruptcies and litigation; pending claims; and imminent CSEDs.
3. See Exhibit 5.11.7-3 for the Criteria of Entities or Modules Not Selected for FPLP.

#### 5.11.7.2.3 (10-27-2000)

##### FPLP Process

1. All delinquent cases that meet selection criteria will be transmitted to FMS to be matched with federal disbursements.
2. If FMS identifies a match, and the taxpayer **has not** previously received a Final Notice, Notice of Intent to Levy and Notice of Your Right to a Hearing, then IRS will systemically generate one. (See Exhibit 5.11.7-4 for CP 90-IMF/CP 297-BMF). If the taxpayer does not appeal or resolve their case, IRS will notify FMS to start a continuous levy of fifteen percent of the disbursements due to the taxpayer.
3. If FMS identifies a match, and the taxpayer has previously received a Final Notice, Notice of Intent to Levy and Notice of Your Right to a Hearing, then FMS will immediately begin to levy fifteen percent of the disbursements due to the taxpayer.
4. FMS will transmit the proceeds to IRS and send the remaining disbursement to the taxpayer with a notice indicating the amount levied.

#### 5.11.7.2.4 (10-27-2000)

##### Notice and Appeal

1. Prior to electronically levying a federal disbursement, IRS will systemically issue a Final Notice, Notice of Intent to Levy and Notice of Your Right to a Hearing (CP 90 or CP 297) with collection due process appeal rights, if one has not already been sent.
2. The notice will have the ACS contact phone number (1-800-829-7650) for taxpayers to resolve the case or exercise their appeal rights.
3. The taxpayer may exercise appeal rights through:
  - Collection Appeals Program (CAP)
  - Collection Due Process (CDP)
  - Equivalent Hearing (Appeals request made *after* the 30 day CDP period)
4. Service personnel are to process and resolve such contact in accordance with appeals procedures in IRM 5.1, General Handbook, Chapter 9, Taxpayer Rights.
5. It may be necessary to block or release the case from the FPLP, using the procedures in IRM 5.11.7.2.6, if resolution is pending and no other exclusionary criteria exist.

##### REMINDER:

If a Final Notice, Notice of Intent to Levy and Notice of Your Right to a Hearing was issued prior to the last 180 days, a new warning of enforcement action does not have to be issued since this is a computer matching levy program. See IRM 5.11.1.2.2.4.

#### 5.11.7.2.5 (10-27-2000)

##### How to Recognize and Handle A FPLP Case

1. Revenue officers must recognize modules that have been selected for the FPLP and determine if this process will be part of their strategy to resolve the case.
2. If revenue officers decide that modules should not be part of FPLP, then they will need to place a block on the modules using procedures in IRM 5.11.7.2.6.

#### 5.11.7.2.5.1 (10-27-2000)

##### FPLP Indicators

1. Modules selected for the FPLP will remain in their original Master File status codes.

2. Master File (I/BMFOL) will display the indicator FMS LEVY>1 or FMS-CD>1, if the module has been selected in the FPLP.
3. IDRS (cc ENMOD) will display the indicator FMS>1 on the entity screens, if at least one module has been selected in the FPLP.
4. Each tax module (cc TXMOD, I/BMFOLT) will also display the following:
- 5.

FMS LEVY/CD > 1	Currently not included in FPLP; however, at one time the module was included in FPLP.
FMS LEVY/CD > 3	Currently included in the FPLP.
FMS LEVY/CD > <i>other numeric or alpha code</i>	Current or pending block from FPLP.

Integrated Collection System (ICS) will display "**FPLP**" in red on the case summary and module summary screens.

### 5.11.7.2.5.2 (10-27-2000)

#### TC 97X Action Codes

1. The following TC 97X action codes are associated with the FPLP:
- 2.

TC 971 AC 060	Module selected for FPLP.
TC 972 AC 060	Reversal of module selected for FPLP (computer generated only).
TC 971 AC 061	Block/release of module from FPLP.
TC 972 AC 061	Reversal of <i>block</i> on module.
TC 971 AC 062	Module <i>matched or levied</i> under FPLP with identifying DLN.
TC 971 AC 069	Final Notice (Notice of Intent to Levy & Notice of Your Right to a Hearing) issued. -CP 90/297 FPLP issued -LT 11 : ACS issued -L1058(c): District Office issued

If a module is selected for the FPLP, then a TC 971 AC 060 will be posted. Once a federal disbursement is matched or levied, a TC 971 AC 062 will post. Master File will systemically verify if a Final Notice, Notice of Intent to Levy and Notice of Your Right to a Hearing, has been indicated (TC 971 AC 069).

### 5.11.7.2.5.3 (10-27-2000)

#### Document Locator Number (DLN)

#### (TC 971 AC 062)

1. The DLN associated with TC 971 AC 062 will include information about:
  - Federal payment agency source
  - Type of federal payment matched for levy
  - If the module was matched or levied

See Exhibits 5.11.7-5 and 5.11.7-6 to identify the DLN format for federal payment agencies and federal payment type codes.

### 5.11.7.2.5.4 (10-27-2000)

#### FPLP or Form 668

1. Whenever the FPLP indicator is present on a module, revenue officers may decide to levy the federal payment source through the FPLP -- attaching up to 15% of the disbursement; or issue Form 668A or Form 668W, levying the federal payment source directly and attaching the maximum amount allowed.
2. Revenue officers cannot close a case as a continuous FPLP levy. This is because continuous levies are placed in Status 60 and FPLP will systemically exclude Status 60 cases. Continuous levies may still be issued on Form



668W, and placed in Status 60. IN order to close a case as a continuous levy on a federal payment source for wages, salary or other income, revenue officers must issue a paper levy directly to the federal payment source.

3. If a federal payment source is levied with Form 668A or Form 668W, the revenue officer must input the TC 971 AC 061 to block the module from the FPLP.

**CAUTION:**

**Electronic levies through the FPLP and paper levies cannot be issued or in effect simultaneously on the same federal payment source.**

### **5.11.7.2.6 (10-27-2000)**

#### **Blocking and Releasing FPLP Levy (TC 971 AC 061)**

1. The criteria and delegation authority for release of levy will not change for the FPLP levy. See IRM 5.11.2.2.
2. When the revenue officer determines that a module should be excluded from FPLP, input TC 971 AC 061 to **block** or **release** a tax module from the FPLP. TC 971 AC 061 must be input for each module that will be blocked.
3. If cases should not be selected for the FPLP or if the levy needs to be released, revenue officers will **immediately** request input of TC 971 AC 061 on each tax module using Form 4844. Form 4844 will indicate
  - Taxpayer's name
  - TIN
  - Address
  - MFT and tax period(s)
4. Do not send Form 668D, Release of Levy/Release of Property from Levy, to FMS or the federal payment source. The FPLP levy can only be released electronically.

**REMINDER:**

TC 971 AC 061 must be input on all modules in order to avoid levy action. Once the TC 971 AC 061 is input to IDRS, it may take up to 3 cycles before a levy is released. In certain situations it may be necessary to work with the FPLP coordinator to immediately release the levy.

### **5.11.7.2.6.1 (10-27-2000)**

#### **Emergency Release of FPLP Levy**

1. Situations will arise when a FPLP levy must be released immediately (e.g. bankruptcy, Taxpayer Assistance Orders, extreme economic hardship). The FPLP levy will need to be released directly from the FMS system.
2. Prepare and sign Form 4844 and fax it to the FPLP coordinator. The FPLP coordinator will have on-line computer access to the FMS system in order to expedite release of a FPLP levy.
3. Indicate on Form 4844
  - **"FPLP Levy Release"**
  - Taxpayer's name and address
4. Call the FPLP coordinator to ensure receipt.
5. Keep a copy of the Form 4844 with the file.
6. A copy of the Form 4844 used to input the TC 971 AC 061 to block the modules may be sent/faxed to the FPLP coordinator. Indicate **"FPLP Levy Release"** on the form.

**CAUTION:**

Do not send Form 668D, Release of Levy/Release of Property from Levy to FMS or the federal payment source.

**REMINDER:**

If the FPLP levy is released through the FMS system, a TC 971 AC 061 using Form 4844 must also be input to block the modules. See IRM 5.11.7.2.6.



#### **5.11.7.2.6.2 (10-27-2000)**

##### **FPLP Coordinator Duties**

1. The FPLP coordinator will have on-line computer access to the FMS system to release a case from the FPLP.
2. Revenue officers, SPf, and FPLP liaisons from other functions will prepare and send Form 4844 to their FPLP coordinator to input the release of a FPLP levy. Form 4844 may be faxed, if necessary.
3. Form 4844 will serve as the input document for the FPLP coordinator. The coordinator will sign onto the FMS system and release all the modules from levy.
4. Requests for release of FPLP levies must be input within 24 hours of receipt.
5. The FPLP coordinator will not be responsible for authorizing the release. Only delegated officials authorized to release levies will release FPLP levies.
6. Coordinators will provide support for all functions in the district and Customer Service call sites.

#### **5.11.7.2.6.3 (10-27-2000)**

##### **Bankruptcy**

1. If a taxpayer files bankruptcy and modules have been included in the FPLP, SPf will input the TC 520 and contact the FPLP coordinator to release the FPLP levy through the FMS system.

#### **5.11.7.2.6.4 (10-27-2000)**

##### **Other Cases to be Released Through the FPLP Coordinator**

1. There may be other situations where it has been determined release of the FPLP levy through the FPLP coordinator is appropriate.
2. Those cases include, but are not limited to:
  - Appeals Determinations
  - Wrongful levies
  - Erroneous levies on the taxpayer's property
3. The revenue officer will
  - Prepare, sign and send/fax Form 4844 to the FPLP coordinator for release of levy using the FMS system. See IRM 5.11.7.2.6.1.
  - Prepare and sign Form 4844 to request input of TC 971 AC 061 to block the modules from the FPLP.

##### **REMINDER:**

**Upon closure of a case, the revenue officer should reverse the block with TC 972 AC 061 on Form 4844.**

#### **5.11.7.2.6.5 (10-27-2000)**

##### **Reversing the FPLP Block (TC 972 AC 061)**

1. Most tax modules that come from ACS will be systemically blocked from the FPLP.
2. If a tax module is blocked from the FPLP process with TC 971 AC 061, and a decision is made to include the module in the FPLP, then revenue officers should request input of TC 972 AC 061, using Form 4844 to reverse the block on each module.
3. Upon closing a case, revenue officers must reverse the block, allowing those cases that meet the criteria in the FPLP in the future.

#### **5.11.7.2.7 (10-27-2000)**

##### **Manual Refunds**

1. FPLP levy payments are identified with a TC 670 DPC 18.
2. In situations where the levied proceeds have been transmitted by FMS, and it is determined that the levy should be released, then a manual refund may be issued to the taxpayer in accordance with IRM 5.11.2.3, Returning Levied Property to the Taxpayer, and IRM 5.1 Chapter 15, General Handbook.

#### **Exhibit 5.11.7-1 (07-21-2000)**

##### **Exclusion Criteria**

TC 470 -- Claim Pending  
TC 480 -- Offer in Compromise pending  
TC 488 -- Installment and/or Manual Billing  
TC 500 -- Military Deferment  
TC 520 -- IRS Litigation Instituted  
TC 524 -- Collateral Agreement pending  
TC 530 -- Closing Codes 04, 05, 07, 08  
TC 534 -- Expired Balance Write-Off Accrued or Assessed  
TC 540 -- Deceased Taxpayer  
TC 570 -- Additional Liability Pending and/or Credit Hold  
TC 608 -- Statute Expiration Clearance to Zero Balance and Remove  
TC 780 -- Master File Account Compromised  
TC 788 -- All Collateral Conditions of the Offer Completed  
TC 910 -- Intelligence Hold  
TC 914 -- Active Criminal Investigation  
TC 916 -- Active Criminal Investigation Refund Schemes Freeze  
TC 918 -- Criminal Investigation Refund Schemes 918

**Exhibit 5.11.7-1 (07-21-2000)**

**Exclusion Criteria**

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TC 971 with the following Action Codes:

TC 971 AC 18 -- Congressional/ PRP Indicator  
TC 971 AC 31 -- Full Bankruptcy Discharge  
TC 971 AC 32 -- Fully Accepted OIC  
TC 971 AC 35 -- A Manual Trigger to start FTP at 1% (less than 7 cycles)  
TC 971 AC 043 -- Pending Installment Agreement  
TC 971 AC 063 -- Installment Agreement in Effect  
TC 971 AC 65 -- Form 8857 filed  
TC 971 AC 69 -- (less than 7 cycles)  
TC 971 AC 71 -- Injured Spouse Claim  
TC 971 AC 86 -- Disaster Processing  
TC 971 AC 87 -- Additional Disaster Processing  
TC 971 AC 99 -- Taxpayer Assistance Order

Installment Agreement Status Codes -- Status 60, 61, 63 and 64

**NOTE:**

The majority of these transaction codes will be present on all taxpayer modules, meaning the entire entity will be excluded from SITLP levy.

If the exclusion criteria are only present on certain modules, then it is possible that the SITLP levy may be valid for the other open modules. ( .

**EXAMPLE:**

TC 470 only present on 1 of 3 modules. The SITLP levy may apply to the other two modules).

It will be necessary to determine the exact status of the case, and make the determination necessary to resolve the account.

**Exhibit 5.11.7-2 (07-21-2000)**

**State Income Tax Levvy Program (SITLP)**

**Exhibit 5.11.7-3 (10-27-2000)**

**Criteria of Entities or Modules Not Selected For FPLP**

Any *entity* that includes one or more of the following codes in any module, will not be selected for FPLP:

**Exhibit 5.11.7-3 (10-27-2000)**

**Criteria of Entities or Modules Not Selected For FPLP**

TRANSACTION OR FREEZE CODE	REMARKS
Unreversed TC 500 or --C Freeze	Military deferment
Unreversed TC 910, 914, 916, 918 or --T or Z Freeze	CID hold
Unreversed TC 480 or TC 780 or --Y Freeze	OIC pending
Unreversed TC 976 or 977 or --A Freeze	Duplicate return freeze
Unreversed TC 530 CC 24-32	CNC hardship
F Unreversed TC 530 CC 08	CNC Deceased
Unreversed TC 540	Deceased taxpayer
Unreversed TC 971 AC 043	Pending IA
I Unreversed TC 971 AC 063	Current IA
J Unreversed TC 971 AC 099	Taxpayer Assistance Order (TAO)
Unreversed TC 524	Collateral Agreement pending
Unreversed TC 971 AC 086 OR 087	Open Disaster Case
Unreversed TC 520 all CCs	Bankruptcy, Litigation, Collection Due Process Appeals
Unreversed TC 470	Taxpayer claim pending

Any *module* in an entity that has one of the following, will not be selected for FPLP:

**Exhibit 5.11.7-3 (10-27-2000)**

**Criteria of Entities or Modules Not Selected For FPLP**

TRANSACTION OR FREEZE CODE	REMARKS
If the earliest CSED is within 3 months of expiration	
Unreversed TC 971 AC 061	Block from FPLP
Unreversed TC 971 AC 065	Innocent Spouse module
Unreversed TC 971 AC 071	Injured Spouse module

**Exhibit 5.11.7-4 (10-27-2000)**

CP 90 / 297 (Final Notice, Notice of Intent to Levy and Notice of Your Right To A Hearing)

Exhibit 5.11.7-4 (Cont.) (10-27-2000)

CP 90 / 297 (Final Notice, Notice of Intent to Levy and Notice of Your Right To A Hearing)

Exhibit 5.11.7-4 (Cont. 3) (10-27-2000)

CP 90 / 297 (Final Notice, Notice of Intent to Levy and Notice of Your Right To A Hearing)

Exhibit 5.11.7-4 (Cont. 4) (10-27-2000)

CP 90 / 297 (Final Notice, Notice of Intent to Levy and Notice of Your Right To A Hearing)

**Exhibit 5.11.7-5 (10-27-2000)**

**Document Locator Number (DLN) Format of Federal Payment Type**

**FPLP Document Locator Number Positions**

**Exhibit 5.11.7-5 (10-27-2000)**

**Document Locator Number (DLN) Format of Federal Payment Type**

1	2	3	4	5	-	6	7	8	--	9	10	11	12	13	--	14
2	8	2	7	7	--	9	0	1	--	0	8	0	2	0	--	0

The values for positions 7, 8, 9, & 10 identify the Federal Payment Agency .

**NOTE:**

See Exhibit 5.11.7-5 for a complete list of the Federal Payment Agency identifier codes.

**EXAMPLE:**

Office of Personnel Management: 0108

The values for positions **11 & 12** identify the **Federal Payment Type** :

- **01** - Social Security Administration (SSA) retirement income
- **02** - Office of Personnel Management (OPM) retirement income
- **03** - Vendor payment
- **04** - Federal salary payment

The value for position **13** identifies whether FMS matches a record for the taxpayer or if funds were levied:

- **0** -- Federal disbursement **matched**
- **1** -- Federal disbursement **levied**

*The DLN listed above would indicate that FMS matched (position 13 = 0) records with OPM (positions 7,8,9 & 10) on an OPM payment (positions 11, 12 & 13). Other examples:*

**EXAMPLE:**

TC 971 AC 062 DLN 28277-901-08020-0  
FPLP match with OPM on OPM retirement payment.

**EXAMPLE:**

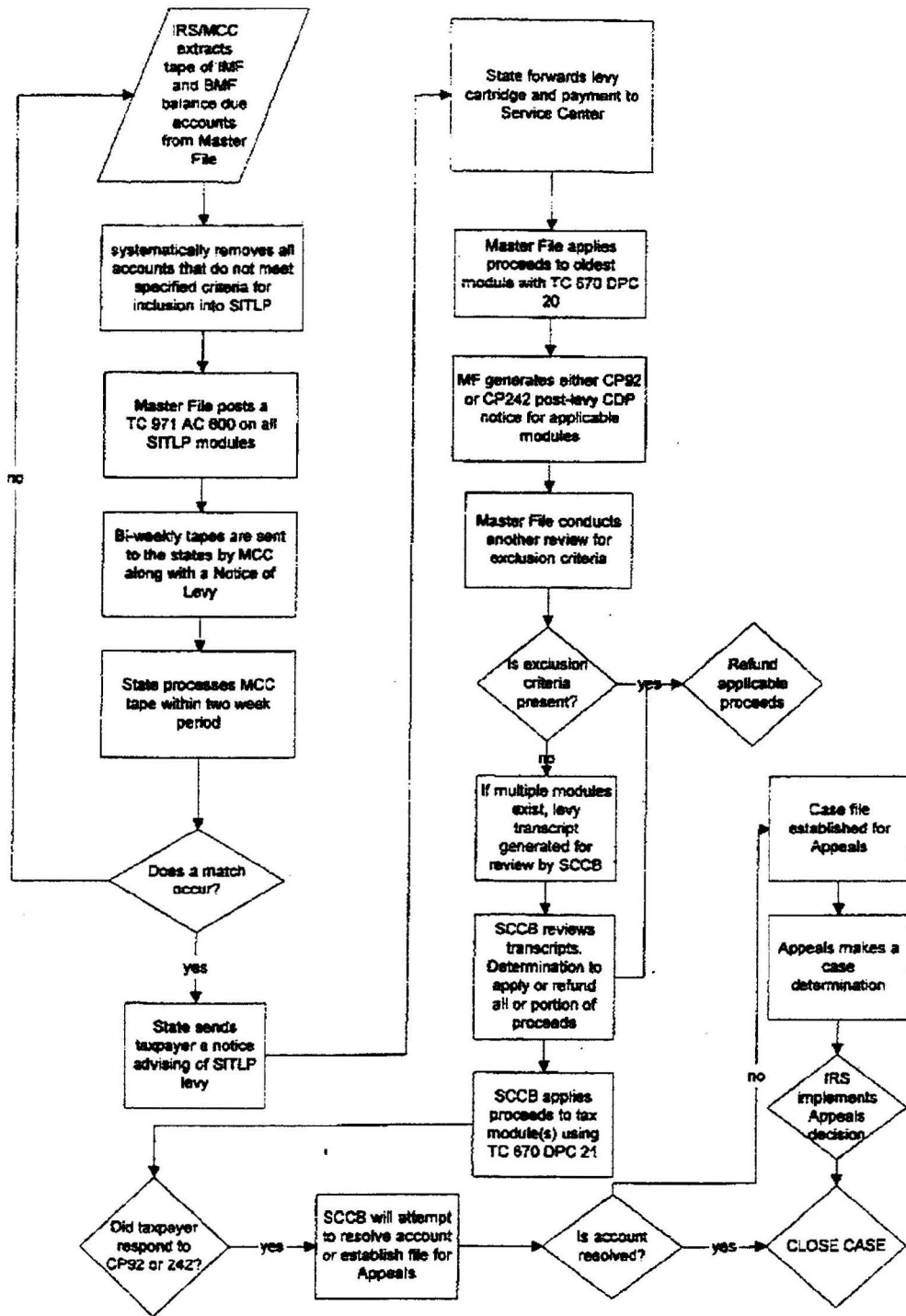
TC 971 AC 062 DLN 28277-902-07011-0  
FPLP levied SSA on SSA payment.

Exhibit 5.11.7-6 (10-27-2000)

Federal Payment Agency Identifier Code List

Exhibit 5.11.7-6 (Cont.) (10-27-2000)

Federal Payment Agency Identifier Code List



Department of the Treasury  
Internal Revenue Service

Notice Number: CP90  
Notice Date:  
Social Security Number:

CERTIFIED MAIL - RETURN RECEIPT

**Collection Assistance:**  
1-800-829-7650

**FINAL NOTICE**  
**NOTICE OF INTENT TO LEVY AND NOTICE OF YOUR RIGHT TO A HEARING**  
**PLEASE RESPOND IMMEDIATELY**

Your federal tax is still not paid. We previously asked you to pay this, but we still haven't received your payment. This correspondence is your notice of our intent to levy under Internal Revenue Code (IRC) Section 6331 and your right to receive Appeals consideration under IRC Section 6330.

We may file a Notice of Federal Tax Lien at any time to protect the government's interest. A lien is a public notice to your creditors that the government has a right to your current assets, including any assets you acquire after we file the lien.

If you don't pay the amount you owe, make alternative arrangements to pay, or request Appeals consideration within 30 days from the date of this letter, we may take your property, or rights to property, such as real estate, automobiles, business assets, bank accounts, wages, commissions, and other income. We've enclosed Publication 594 with more information, Publication 1660 explaining your right to appeal, and Form 12153 to request a Collection Due Process Hearing with Appeals.

To prevent collection action, please send your full payment today. Make your check or money order payable to United States Treasury. Write your social security number on your payment. Send your payment to us in the enclosed envelope with a copy of this letter. The amount you owe is shown on the next page.

If you have recently paid this tax or you can't pay it, call us immediately at the telephone number shown at the top of this letter and let us know.

The assessed balance may include tax, penalties, and interest you still owe. It also includes any credits and payments we've received since we sent our last notice to you.

Enclosures:  
Copy of this letter  
Pub 594  
Pub 1660  
Form 12153  
Envelope

CP90 (07-2000)

Form Number	Tax Period	Assessed Balance	Statutory Additions	Amount You Owe



Department of the Treasury  
Internal Revenue Service

Notice Number: CP297  
Notice Date:  
Employer Identification Number:

CERTIFIED MAIL - RETURN RECEIPT

**Collection Assistance:**  
1-800-829-7650

**FINAL NOTICE**  
**NOTICE OF INTENT TO LEVY AND NOTICE OF YOUR RIGHT TO A HEARING**  
**PLEASE RESPOND IMMEDIATELY**

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If you don't pay the amount you owe, make alternative arrangements to pay, or request Appeals consideration within 30 days from the date of this letter, we may take your property, or rights to property, such as real estate, automobiles, business assets, bank accounts, wages, commissions, and other income. We've enclosed Publication 594 with more information, Publication 1860 explaining your right to appeal, and Form 12153 to request a Collection Due Process Hearing with Appeals.

To prevent collection action, please send your full payment today. Make your check or money order payable to United States Treasury. Write your employer identification number on your payment. Send your payment to us in the enclosed envelope with a copy of this letter. The amount you owe is shown on the next page.

If you have recently paid this tax or your can't pay it, call us immediately at the telephone number shown at the top of this letter and let us know.

The assessed balance may include tax, penalties, and interest you still owe. It also includes any credits and payments we've received since we sent our last notice to you.

Enclosures:  
Copy of this letter  
Pub 594  
Pub 1860  
Form 12153  
Envelope

CP297 (07-2000)

Form Number	Tax Period	Assessed Balance	Statutory Additions	Amount You Owe

Payment Agency Identifier Code	Agency Name
0001	Health and Human Services (HHS) OCSE - AFDC
0002	Health and Human Services (HHS) OCSE - non-AFDC
0003	Health and Human Services (HHS), Site 3
0004	Veterans Affairs (VA)
0005	Department of Education (ED)
0006	Small Business Administration (SBA), Office of Financial Operations
0007	Housing and Urban Development (HUD)
0008	United States Department of Agriculture (USDA) Rural Dev, St Louis, MO
0009	Department of Justice (DOJ)
0100	Treasury - Public Debt (PD)
0101	Treasury - Office of the Secretary
0102	Defense Finance Accounting System (USAF)
0103	Defense Finance Accounting System (DFAS)
0105	Army & Air Force Exchange Services(AAFES)
0107	US Navy Exchange Service Command (NAVY X)
0108	Office of Personnel Management (OPM)
0109	Peace Corp (PC)
0201	Railroad Retirement Board (RRB)
0202	Department of Interior - National Park Service (DOI NPS)
0203	Department of State
0204	Department of Transportation
0205	Federal Emergency Management Administration (FEMA)
0206	Customs Tariff
0207	Social Security Administration (SSA)
0208	Food and Nutrition Services (USDA)
0209	US Patent & Trademark Office
0300	Treasury Secret Service (SS)
0301	National Science Foundation (NSF)
0302	Department of Commerce (DOC)
0303	Financial Management Service (FMS) - DMSC
0304	Environmental Protection Agency
0305	General Services Administration, FT. US DOT
0306	HHS - HCFA
0307	Agency for International Development (AID)
0308	Smithsonian Institution
0309	Bureau of ATF
0400	Department of Labor
0401	United States Postal Service (USPS)
0402	National Credit Union Administration
0403	Employment Standards Administrative/Worker' Comp
0406	USDA - FSA
0407	National Finance Center (NFC)
0408	USDA - FCIC RMA
0500	Comptroller of the Currency

0501	IRS
0502	Office of Thrift Supervision
0503	US Mint
0504	US Department of Treasury
0505	National Labor Relations Board (NLRB)
0506	Federal Maritime Commission
0507	Inter-American Foundation
0508	Equal Employment Opportunity Commission (EEOC)
0509	Security and Exchange Commission (SEC)
0600	Pension Benefit Guaranty Corp.
0601	United States Information Agency (USIA)
0602	Marine Exchange (Quantico)
0603	Armed Forces Retirement Home
0604	Architect of the Capitol
0605	Federal Housing Finance Board
0606	Commodity Futures Trading Commission
0607	General Accounting Office
0608	US Nuclear Regulatory Commission
0609	US Health and Human Services
0700	DHHS Food and Drug Administration
0701	National Institute of Health (HHS)
0702	US Department of Justice
0703	US Department of Justice
0704	US Department of Justice
0705	NASA Headquarters
0706	Corporation for National Service
0707	US Department of Justice
0800	US Geological Survey (Interior)
0801	Bureau of Reclamation (Interior)
0802	Bureau of Land Management (Interior)
0803	US Fish & Wildlife Service (Interior)
0804	Bureau of Indian Affairs (Interior)
0805	Office of Trust Fund Management (Interior)
0900	Federal Aviation Administration
0901	Federal Highway Administration
0902	Federal Railway Administration
0903	Federal Transit Administration
0904	Maritime Administration
0905	National Highway Traffic Safety Administration
0906	US Department of Transportation
0907	Surface Transportation Board
0908	US Coast Guard
0909	FI - Reclamation Branch

