



## Treasury Inspector General for Tax Administration

### FISCAL YEAR 2008 STATUTORY REVIEW OF COMPLIANCE WITH LIEN DUE PROCESS PROCEDURES

Issued on March 27, 2008

## Highlights

Highlights of Report Number: 2008-30-082 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

### IMPACT ON TAXPAYERS

The Internal Revenue Service (IRS) must notify affected taxpayers in writing within 5 business days of filing Notices of Federal Tax Lien. It has not always complied with this statutory requirement and did not always follow its own internal guidelines for notifying taxpayer representatives of the filing of lien notices. Therefore, some taxpayers' rights to appeal the lien filings may have been jeopardized, and others may have had their rights violated when the IRS did not notify their representatives of lien filings or provided information to individuals not authorized to represent the taxpayers.

### WHY TIGTA DID THE AUDIT

This audit was initiated because the Treasury Inspector General for Tax Administration is required by law to determine annually whether lien notices sent by the IRS comply with the legal guidelines in Internal Revenue Code Section 6320.

### WHAT TIGTA FOUND

The IRS may not have complied with the law in all cases. Our review of 150 Federal Tax Lien cases identified 145 cases (97 percent) for which the IRS did mail liens correctly and in a timely manner, as required by Internal Revenue Code Section 6320 and internal procedures. For the other 5 cases (3 percent), no determination could be made as to whether the law was complied with because the IRS could not provide proof of mailing. TIGTA estimated that 22,642 taxpayers might not have been provided with Notices of Federal Tax Lien and Your Right to a Hearing Under IRC 6320 (Letter 3172), causing potential legal violations of taxpayers' rights.

Also, when an initial lien notice is returned because it could not be delivered and a different address is available for the taxpayer, the IRS is not always meeting its statutory requirement to send the lien notice to the taxpayer's last known address. For

*Email Address:* [inquiries@tigta.treas.gov](mailto:inquiries@tigta.treas.gov)  
*Web Site:* <http://www.tigta.gov>

29 (7 percent) of 400 cases, employees did not research IRS computer systems for different addresses. For 104 (26 percent) of the 400 cases, the research was not performed within 5 business days.

Also, the IRS did not always follow its own internal guidelines for notifying taxpayer representatives of the filing of lien notices. For 12 (40 percent) of the 30 cases in which the taxpayer had an authorized representative at the time of the lien actions, the IRS did not notify the taxpayer's representative of the lien filing. TIGTA estimated that 54,342 authorized taxpayer representatives may not have been provided Letters 3172, resulting in potential legal violations of taxpayers' rights.

In two cases, the IRS sent notifications to representatives who were not authorized to receive such information. TIGTA estimated that the IRS may have sent Letters 3172 to unauthorized representatives affecting 9,057 taxpayers, resulting in potential violations of the taxpayers' privacy.

### WHAT TIGTA RECOMMENDED

TIGTA recommended that the Director, Collection, 1) consult with the IRS Office of Chief Counsel to identify any actions necessary to correct the potential legal violations identified in this audit; 2) provide better oversight to ensure that IRS employees are properly controlling and processing returned mail as undelivered, researching computer systems for correct addresses, and resending lien notices; and 3) ensure that employees are notifying taxpayer representatives of lien filings, employees are safeguarding taxpayer information from inadvertent disclosures, and computer enhancements are uploading power-of-attorney information as intended.

In their response to the report, IRS management agreed with the recommendations. Management has consulted with the Office of Chief Counsel and plans to issue new Collection Due Process notices to seven taxpayers and review procedures for maintaining certified mail lists. Further, management revised the Internal Revenue Manual requiring the requesting employee or function to conduct research for the correct addresses so appropriate actions can be taken on undelivered mail. Management plans to determine if the Inbound Return Receipt Notice Delivery System can include lien notice processing and if additional computer enhancements are required to ensure proper uploading of power-of-attorney information.

### READ THE FULL REPORT

To view the report, including the scope, methodology, and full IRS response, go to:

<http://www.treas.gov/tigta/auditreports/2008reports/200830082fr.pdf>

*Phone Number:* 202-622-6500