

**Compliance With Requirements for Notifying
Taxpayers of Federal Tax Lien Filings
Has Not Yet Been Achieved**

September 2000

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



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

September 29, 2000

MEMORANDUM FOR COMMISSIONER ROSSOTTI

A handwritten signature in cursive script that reads "Pamela J. Gardiner".

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Compliance With Requirements for Notifying
Taxpayers of Federal Tax Lien Filings Has Not Yet Been
Achieved

This report presents the results of our review to determine whether federal tax liens (FTL) filed by the Internal Revenue Service (IRS) adhere to the legal guidelines set forth in 26 U.S.C. § 6320 (Supp. IV 1998) and related internal guidelines.

In summary, we found that the IRS has improved its compliance with legal and internal guidelines for filing FTLs, but it has not yet achieved full compliance with 26 U.S.C. § 6320 and its own internal guidelines. We also determined that quarterly compliance reviews implemented by the IRS do not evaluate compliance with IRS procedures for sending copies of Collection Due Process notices to the taxpayer's spouse, business partner, and/or representative. In addition, the compliance reviews do not determine if undeliverable notices are re-sent to other known addresses for the taxpayers. Accordingly, we recommended that the Assistant Commissioner (Collection) modify the Quarterly Lien Compliance Review to determine the cause and solution for errors that are identified, that Collection group managers ensure compliance with lien notice requirements during their case reviews, and that appropriate actions be taken to correct the potential legal and internal violations that we identified.

IRS management agreed to the recommendations in this report. Management's comments have been incorporated into the report where appropriate, and the full text of their comments is included as an appendix.

Copies of this report are also being sent to the IRS managers who are affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions,

or your staff may call Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

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Executive Summary

The collection of unpaid tax by the Internal Revenue Service (IRS) begins with letters sent to the taxpayer, generally followed by telephone calls and personal contacts by an IRS employee. When these efforts have been taken and the taxpayer has not paid, 26 U.S.C. § 6321 (1994) gives the IRS authority to attach a claim to the taxpayer's assets for the amount of unpaid tax liabilities. This claim is commonly referred to as a Federal Tax Lien (FTL).

Beginning January 19, 1999, 26 U.S.C. § 6320 (Supp. IV 1998) required the IRS to notify taxpayers in writing that a FTL has been filed. The notice must be provided to the taxpayer within 5 business days after a FTL has been filed and must include an explanation of the taxpayer's right to request a hearing within the 30 calendar days following the 5 business days.

The IRS Restructuring and Reform Act of 1998 (RRA 98)¹ added 26 U.S.C. § 7803(d)(1)(A)(iii) (Supp. IV 1998), which requires the Treasury Inspector General for Tax Administration (TIGTA) to determine annually if liens issued by the IRS comply with the legal guidelines in 26 U.S.C. § 6320. The first TIGTA report on FTL filing compliance was issued in September 1999.² In the Fiscal Year (FY) 1999 audit report, we concluded that the IRS needed to improve procedures to ensure taxpayers' rights were protected. For that audit, we reviewed a judgmental sample of 473 FTLs requested between January 19 and February 28, 1999, and found that 157 of the cases (33 percent) had 176 potential violations of taxpayers' rights.

In the FY 2000 audit, we determined if liens filed by the IRS adhered to legal guidelines set forth in 26 U.S.C. § 6320 and related internal guidelines established by the IRS. We reviewed a nationwide statistically valid sample of 473 manual and systemic liens filed between April 1 and December 31, 1999.

Results

The IRS has improved its compliance with legal and internal guidelines for filing FTLs, but it has not yet achieved full compliance with 26 U.S.C. § 6320 and its own internal

¹ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C., 5 U.S.C. App., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

² *The Internal Revenue Service Should Improve Its Federal Tax Lien Procedures*, (Reference Number 199910074, dated September 1999).

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guidelines. Our review of 473 manually and systemically filed liens identified 80 cases (17 percent) with 87 potential legal violations of taxpayers' rights and/or violations of internal guidelines. This includes 21 potential violations of taxpayers' rights and 66 violations of IRS guidelines. Although the overall percentage is much less than that in our FY 1999 audit, we cannot make strict comparisons between the two reviews because our sampling methodologies were different. However, we can conclude that there has been some improvement in the IRS' compliance with legal and internal guidelines from our FY 1999 audit.

We projected our findings to the total population of 107,934 liens that were filed during our sample period of April 1 through December 31, 1999, and estimate that similar potential legal violations and/or procedural violations could have affected 14,391 taxpayers, assuming that each lien was filed on a different taxpayer. We are 95 percent confident that the range of taxpayers affected by similar potential legal violations and/or procedural violations is between 11,617 and 17,521 taxpayers.

The Internal Revenue Service Did Not Always Follow Legal Provisions and Its Own Guidelines for Filing Federal Tax Liens

To achieve full compliance with 26 U.S.C. § 6320 and related internal guidelines, the IRS must mail all notices timely, notify taxpayers and their representatives of lien filings, process undelivered notices correctly, properly document actions taken in each case, and maintain supporting documentation of actions taken. From our review of 473 cases, we determined the following:

Legal provisions not followed

Of the 473 cases in our review, 21 (4 percent) had potential legal violations of taxpayers' rights.

- For 19 taxpayers, no lien due process notice was mailed or the notice was not mailed within 5 business days of the filing of the FTL.
- For two taxpayers' business partners, no copy of the lien due process notice was mailed, even though the business partners were also assessed the liability.

The IRS has substantially automated the lien process since our FY 1999 audit. However, mailing the lien due process notice to taxpayers is not automated and employee error allowed the potential legal violations of taxpayer rights to occur. At the time of our audit, there were no controls in place to ensure notices were timely mailed or to identify and prevent instances of non-compliance. Delays in mailing the notices can reduce the time taxpayers have to request a hearing to less than the 30-day period allowed by 26 U.S.C. § 6320. This could result in potential violations of taxpayers' rights if taxpayers appeal the filing of the lien and the IRS denies the request for an appeal.

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IRS guidelines not followed

Of the 473 cases in our review, 60 (13 percent) had 66 violations of IRS internal guidelines.

- In 41 cases, the case history did not indicate that the taxpayer's representative was provided with a copy of the lien due process notice. IRS procedures require that a copy of the notice be sent to the taxpayer's representative when a FTL is filed against a taxpayer he or she represents.
- In nine cases, the case history did not indicate that the notice was re-sent to another known address(es) when the original notice was undeliverable. IRS procedures require the notice be sent to a new address if the original notice is returned undeliverable and a new address is available.
- In 16 cases, there were no receipted copies of certified mail listings on file or the listings were not date stamped to substantiate that notices were mailed to taxpayers. IRS procedures require the retention of these listings for 10 years after the end of the processing year.

In 6 of the 80 cases listed above, there were multiple violations of internal guidelines. One case involved both a legal and an internal guideline violation.

During the period October 1999 through January 2000, National Office Collection management made computer programming changes to the Automated Lien System and revised the lien filing procedures. We did not determine the effectiveness of these changes because they were not implemented until either late in or after our FY 2000 audit sampling period. In December 1999, Collection management initiated a Quarterly Lien Compliance Review to help identify and measure non-compliance and to provide recommendations on how to improve compliance with these requirements. During our analysis of the first quarterly compliance review, we identified areas for improvement in the IRS' methodology for conducting these reviews. The current methodology does not address compliance with IRS procedures for sending copies of the due process notice to spouses, business partners, and taxpayers' representatives. In addition, the compliance efforts do not determine if undeliverable due process notices are re-sent to other known addresses for the taxpayers.

Summary of Recommendations

We recommend that the Assistant Commissioner (Collection) modify the Quarterly Lien Compliance Review to determine the cause and solution for errors that are identified, that Collection group managers ensure compliance with lien notice requirements during their case reviews, and that appropriate actions be taken to correct the potential legal and internal violations that we identified.

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Management's Response: IRS management will modify the Quarterly Lien Compliance Review checksheet to incorporate notification of the taxpayer's representative, a review of the case file for a new address, and reissuance of the Collection Due Process Notice. Management will prepare a memorandum regarding the new review requirements and will revise their procedures to require group managers to include the notification to the taxpayer's representative in their case reviews. Management will verify that corrective actions on cases returned to the appropriate district offices have been completed.

Management's complete response to the draft report is included in Appendix VII.

Office of Audit Comment: IRS management's response to our second recommendation does not fully address the recommendation. Management's revision of procedures to require group managers to ensure, during case reviews, lien due process notices are sent to taxpayer's representatives is appropriate. However, the response did not address requiring group managers to ensure, during case reviews, that lien due process notices are sent to business partners and that undeliverable notices are re-sent to a new address for the taxpayer.

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Objective and Scope

The overall objective of this audit was to determine if liens filed by the IRS adhered to the legal guidelines set forth in 26 U.S.C. § 6320 and related internal guidelines.

The overall objective of this audit was to determine if Federal Tax Liens (FTL) filed by the Internal Revenue Service (IRS) adhered to the legal guidelines set forth in 26 U.S.C. § 6320 (Supp. IV 1998) and related internal guidelines. We performed audit work in the National Headquarters, and the Georgia, North Texas, and Northern California District Offices. This audit was conducted between March and July 2000, in accordance with *Government Auditing Standards*. To accomplish our objective, we:

- Interviewed National Headquarters Collection and Customer Service management and reviewed relevant legal and internal guidelines to identify current lien filing procedures for complying with the provisions of 26 U.S.C. § 6320.
- Reviewed a nationwide statistically valid sample of 473 liens filed between April 1 and December 31, 1999, for compliance with the provisions of 26 U.S.C. § 6320.

Details of our audit objectives, scope, and methodology are presented in Appendix I. Major contributors to this report are listed in Appendix II.

Background

On July 22, 1998, the President signed the IRS Restructuring and Reform Act of 1998 (RRA 98)¹ into law. This Act added 26 U.S.C. § 7803(d)(1)(A)(iii) (Supp. IV 1998), which requires the Treasury Inspector General for Tax Administration (TIGTA) to determine

¹ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C., 5 U.S.C. App., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

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The 26 U.S.C. § 6320 requires the IRS to notify taxpayers in writing, within 5 business days, of the filing of a lien. The notice explains the right to request a hearing during the 30-day period beginning on the day after the 5-day period.

annually if liens filed by the IRS comply with the legal guidelines set forth in 26 U.S.C. § 6320.

Beginning January 19, 1999, 26 U.S.C. § 6320 required the IRS to notify taxpayers in writing, within 5 business days, of the filing of a FTL. The Notice of Federal Tax Lien Filing and Your Right to a Hearing (Letter 3172) is used for this purpose. The law requires that the notice be given in person, left at the taxpayer's home or business, or sent certified or registered mail to the taxpayer's last known address. The notice must also explain, in simple terms, the amount of unpaid tax, the right to request a hearing during the 30-day period beginning on the day after the 5-day period described above, the administrative appeals available to the taxpayer, and the provisions of the law and procedures relating to the release of liens on property.

The 26 U.S.C. § 6320(b) specifies that taxpayers are entitled to one hearing per tax liability period for which a FTL has been filed. An IRS official with no prior involvement with the taxpayer will conduct the hearing in accordance with IRS procedures.

According to IRS reports, there has been a significant decrease in the number of liens filed by the IRS in the past 3 fiscal years, as shown in the following table.

LIENS FILED BY THE IRS

The number of liens filed by the IRS has declined in each of the last 3 fiscal years.

Fiscal Year	Number of Liens
1997	553,238
1998	383,777
1999	173,125

A description of the IRS computer systems used in the filing of FTLs is included in Appendix V, and a synopsis of the IRS collection and lien filing processes is included in Appendix VI. The first

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TIGTA audit report on the IRS' compliance with 26 U.S.C. § 6320 was issued in September 1999.² For the Fiscal Year (FY) 1999 audit, we reviewed a judgmental sample of 473 FTLs requested between January 19 and February 28, 1999, and found that 157 of the cases (33 percent) had 176 potential violations of taxpayers' rights.

To improve compliance, IRS management made computer programming changes to reissue notices and recalculate the time period for requesting a hearing for notices that are undeliverable and clarified procedures for employees to follow when requesting and issuing liens. In addition, the IRS developed a Quarterly Lien Compliance Review, which monitors compliance with certain legal provisions and internal guidelines.

Results

The IRS has improved its compliance with 26 U.S.C. § 6320 and internal guidelines, but it has not yet achieved full compliance.

The IRS has improved its compliance with legal and internal guidelines for issuing FTLs, but it has not yet achieved full compliance with the requirements of 26 U.S.C. § 6320 and its own internal guidelines. We believe this improvement is the result of the corrective actions taken in response to our FY 1999 audit, which reported that 33 percent of the cases reviewed involved potential violations of taxpayers' rights. The violations that we identified in our FY 1999 audit occurred during the initial implementation of the RRA 98 lien provision.

Although we did identify an improvement in the manner in which lien cases are processed and a reduction in the percentage of violations, we cannot make strict comparisons between the two reviews because our sampling methodologies were different. However, we still identified some potential violations of taxpayers'

² *The Internal Revenue Service Should Improve Its Federal Tax Lien Procedures*, (Reference Number 199910074, dated September 1999).

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rights and violations of internal guidelines. The remainder of the report addresses the specific results of our work.

The Internal Revenue Service Did Not Always Follow Legal Provisions and Its Own Guidelines for Filing Federal Tax Liens

We identified 21 potential legal violations of taxpayers' rights and 66 violations of internal guidelines.

Our review of 473 manually and systemically filed FTLs identified 80 cases (17 percent) with 87 potential legal violations of taxpayers' rights and/or violations of internal guidelines. This includes 21 potential violations of taxpayers' rights and 66 violations of IRS guidelines.

We projected our findings to the total population of 107,934 liens that were filed during our sample period of April 1 through December 31, 1999, and estimate that similar potential legal violations and/or procedural violations could have affected 14,391 taxpayers, assuming that each lien was filed on a different taxpayer. We are 95 percent confident that the range of taxpayers affected by similar potential legal violations and/or procedural violations is between 11,617 and 17,521 taxpayers.

Legal provisions not followed

Of the 473 cases in our review, 21 (4 percent) had potential legal violations of taxpayers' rights.

- For six taxpayers, no lien due process notice was mailed.
- For 13 taxpayers, the lien due process notice was not mailed within 5 business days. The delays were not significant, as the 13 notices were mailed between 6 and 8 business days after the filing of the lien.
- For two taxpayers' business partners, no copy of the lien due process notice was mailed, even though the business partners were also assessed the liability.

The IRS has substantially automated the lien process since our FY 1999 audit. Mailing the lien due process

Four percent of the taxpayers were not notified of the lien filing within 5 days, as required by 26 U.S.C. § 6320.

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notice to taxpayers is not automated and employee error allowed the potential legal violations of taxpayer rights to occur. At the time of our audit, there were no controls in place to ensure notices were timely mailed or to identify and prevent instances of non-compliance.

Delays in mailing the notices can reduce the time taxpayers have to request a hearing to less than the 30-day period allowed by 26 U.S.C. § 6320. This could result in potential violations of taxpayers' rights if taxpayers appeal the filing of the lien and the IRS denies the request for the appeal.

IRS guidelines not followed

In 13 percent of the cases, a copy of the notice was not sent to the taxpayer's representative, undeliverable notices were not re-sent to a different address, or certified mail receipts were not available.

Of the 473 cases in our review, 60 (13 percent) had 66 violations of IRS internal guidelines.

- In 41 cases, the case history did not indicate that the taxpayer's representative was provided with a copy of the lien due process notice. IRS procedures require that a copy of the notice be sent to the taxpayer's representative when a FTL is filed against a taxpayer he or she represents.

During the period of our sample of cases, this process was performed manually, which increased the likelihood of notices not being mailed to the taxpayer's representative. The Automated Lien System (ALS) was modified in January 2000 to automatically generate a copy of the notice for the taxpayer's representative, if the name and address of the representative is included in the lien request. We did not test this computer enhancement because it was implemented after our sample period.

- In nine cases, the case history did not indicate that the notice was re-sent to another known address(es) when the original notice was undeliverable. IRS procedures require the notice be sent to a new address if the original notice is returned undeliverable and a new address is available.

During most of our audit period, this was a manual process. Notices that could not be delivered to

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taxpayers were returned to either the employee initiating the notice in the districts or to the Lien Unit. These employees were responsible for performing research to determine whether a new address was available and mailing the notices to the new addresses. As a result of our FY 1999 audit, the IRS implemented systemic and procedural changes in October 1999 that should aid in the re-issuance of undeliverable notices. District employees and Lien Unit employees are now required to work undeliverable mail daily. In addition, the ALS was changed to allow employees to explain why the notices were returned. This information is important because it can assist other employees in determining whether the notices need to be re-sent to another address.

- In 16 cases, there were no receipted copies of certified mail listings on file or the listings were not date stamped to substantiate that notices were mailed to taxpayers. IRS procedures require the retention of these listings for 10 years after the end of the processing year.

The requirement to retain and file the receipted copy of the certified mail listing was inadvertently omitted from a revision of the internal guidelines. However, this requirement was communicated to IRS employees by memoranda from National Headquarters Collection in December 1998 and again in March 1999. The Collection internal guidelines that were updated on February 22, 2000, included the 10-year retention requirement for the receipted copy of the certified mail listings.

In 6 of the 80 cases listed above, there were multiple violations of internal guidelines. One case involved both a legal and an internal guideline violation.

During the period October 1999 through January 2000, National Headquarters Collection management made computer programming changes to the ALS and revised the lien filing procedures. We did not determine the effectiveness of these changes because they were not

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implemented until either late in or after our FY 2000 audit sampling period. In December 1999, Collection management initiated a Quarterly Lien Compliance Review to help identify and measure non-compliance and to provide recommendations on how to improve compliance with these requirements. During our analysis of the first quarterly compliance review, we identified areas for improvement in the IRS' methodology for conducting these reviews. The current methodology does not address compliance with IRS procedures for sending copies of the due process notice to spouses, business partners, and taxpayers' representatives. In addition, the compliance efforts do not determine if undeliverable due process notices are re-sent to other known addresses for the taxpayers.

Although the IRS has made progress towards complying with 26 U.S.C. § 6320 and with its own internal guidelines, additional actions are needed to identify and correct areas of non-compliance.

Recommendations

1. The Assistant Commissioner (Collection) should modify the Quarterly Lien Compliance Review to include determination of the cause of legal or procedural violations so corrective actions can be taken to prevent similar problems from occurring in the future.

Management's Response: IRS management will revise the Quarterly Lien Compliance Review checklist to incorporate notification of the taxpayer's representative, a review of the case file for a new address, and the reissuance of the Collection Due Process Notice.

2. The Assistant Commissioner (Collection) should require Collection group managers, during case reviews, to ensure lien due process notices are sent to the taxpayers' representatives and business partners and that undeliverable notices are re-sent to a new address for the taxpayer.

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Management's Response: IRS management will prepare a memorandum informing the field of new review requirements and will revise their procedures to require group managers to include the notification to the taxpayer's representative in their case reviews.

Office of Audit Comment: IRS management's response does not fully address our recommendation.

Management's revision of procedures to require group managers to ensure, during case reviews, lien due process notices are sent to taxpayer's representatives is appropriate. However, the response did not address requiring group managers to ensure, during case reviews, that lien due process notices are sent to business partners and that undeliverable notices are re-sent to a new address for the taxpayer.

3. The Assistant Commissioner (Collection) should determine the appropriate actions that should be taken to correct the potential violations of legal and internal guidelines that we identified in this audit.

Management's Response: IRS management will return those cases that were identified as involving potential legal and internal guideline violations to the appropriate district offices for corrective actions. The district managers will verify that the corrective actions are completed.

Conclusion

The IRS has improved its compliance with the legal and internal guidelines for filing FTLs. In addition, procedural and systemic changes that were implemented in FY 2000 should further increase compliance. However, the IRS needs to take further actions to improve compliance in areas where automated systems and controls will not identify and prevent instances of non-compliance with 26 U.S.C. § 6320 and with its own internal guidelines.

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Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this audit was to determine if liens filed by the Internal Revenue Service (IRS) adhered to legal guidelines set forth in 26 U.S.C. § 6320 (Supp. IV 1998) and related internal guidelines established by the IRS. We performed the following work:

- I. Determined if the IRS has implemented procedures and controls to ensure compliance with legal guidelines set forth in 26 U.S.C. § 6320 and related IRS procedures.
 - A. Identified current procedures and training provided to employees for notifying taxpayers of lien filings through discussions with appropriate National Headquarters Collection and Customer Service management. This included those procedural changes that were made as a result of our Fiscal Year (FY) 1999 review of this area.
 - B. Identified changes made to IRS computer systems used to file, process, and document liens that may aid the IRS in complying with Internal Revenue Code requirements. This included those systemic changes that were made as a result of our FY 1999 review of this area.
- II. Determined whether liens filed by the IRS complied with legal requirements set forth in 26 U.S.C. § 6320 and its internal guidelines.
 - A. Obtained from IRS management a listing of all liens filed by the IRS nationwide between April 1 and December 31, 1999. This listing included systemically and manually filed liens. To verify that the listing contained all the liens, we obtained a download of Masterfile¹ data that included all the Transaction Code (TC) 582s (Lien Indicators). We then created a unique set of data by Taxpayer Identification Number (TIN) and compared the number of unique TINs with TC 582s to the number of liens that the Automated Lien System (ALS) data indicated were filed for this same period. We determined that our ALS data included 96 percent of all the liens filed during our sample period. The remaining 4 percent were attributed to timing differences between the ALS and Masterfile.

¹ The IRS' database that stores various types of taxpayer account information, including data on individuals and businesses.

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B. Selected a statistically valid sample of 600 liens for review. The sample contained 127 refiled liens. (Note: Refiled liens do not require the issuance of a notice to the taxpayer; therefore, we could not evaluate these cases for compliance with 26 U.S.C. § 6320, and they were dropped from our sample.) This left us with a sample size of 473, which was sufficient to meet our minimum sample size requirement of 455 cases. Our sample selection was based on the following criteria:

Population:	107,934
Precision Rate:	+/- 2%
Error Rate:	+/- 5%
Confidence Level:	95%
Minimum Sample Size:	455

C. Determined if liens in our sample adhered to the requirements of 26 U.S.C. § 6320 and IRS internal guidelines by reviewing information from the Integrated Collection System, the Automated Collection System, the Integrated Data Retrieval System, the ALS database, and certified mail listings. We verified the accuracy and completeness of the ALS data provided to us from IRS management by comparing it to the ALS data that we manually pulled for four of the District Offices.

D. Identified the reasons for any exception cases identified in step II.C. through discussions with National Headquarters Collection personnel.

III. Determined whether manual liens issued by the IRS adhered to legal requirements set forth in 26 U.S.C. § 6320 and its internal guidelines.

A. Identified procedures used to issue manual liens through discussions with National Headquarters Collection management and through reviews of national and local guidelines.

B. Determined if manual liens contained in the sample from II.B. adhered to the requirements of 26 U.S.C. § 6320 and IRS internal guidelines.

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Appendix II

Major Contributors to This Report

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Appendix III

Report Distribution List

Deputy Commissioner Operations C:DO
Assistant Commissioner (Collection) OP:CO
Assistant Commissioner (Customer Service) OP:C
Director, Compliance Policy SB:SE
Office of the Chief Counsel CC
Director, Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis M:O
National Taxpayer Advocate C:TA
Office of Management Controls M:CFO:A:M
Audit Liaisons:
 Assistant Commissioner (Collection) OP:CO
 Assistant Commissioner (Customer Service) OP:C
 Director, Compliance Policy SB:SE

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Appendix IV

Outcome Measures

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

Finding and recommendations:

The Internal Revenue Service (IRS) has improved its compliance with legal and internal guidelines for filing Federal Tax Liens (FTL), but it has not yet reached full compliance with 26 U.S.C. § 6320 (Supp. IV 1998) and its own internal guidelines. Our review of 473 lien cases identified 21 cases (4 percent) with potential violations of taxpayers' rights and 60 cases (13 percent) with 66 violations of internal guidelines.

We recommend that the Assistant Commissioner (Collection) modify the Quarterly Lien Compliance Review to determine the cause and solution for errors that are identified, that Collection group managers ensure compliance with lien notice requirements during their case reviews, and that appropriate actions be taken to correct the potential legal and internal violations that we identified.

Type of Outcome Measure:

Taxpayer Rights - Potential

Value of the Benefit:

From our review of a nationwide statistically valid sample of 473 manually and systemically filed FTLs, we identified 80 cases (17 percent) with 87 potential legal violations of taxpayers' rights and/or violations of internal guidelines related to the provisions of 26 U.S.C. § 6320. Since only a court of law or legal expert can determine if the taxpayers' rights were actually violated, this is a potential outcome.

We projected our findings to the total population of 107,934 liens that were filed during our sample period of April 1 through December 31, 1999, and estimate that similar potential legal violations and/or procedural violations could have affected 14,391 taxpayers [80 cases with potential violations/473 sample cases x (107,934 population – 22,846 estimated refiled liens)]. Note: Refiled liens do not require the issuance of a notice to the taxpayer; therefore, we could not evaluate these cases for compliance with 26 U.S.C. § 6320, and they were dropped from our sample. We are 95 percent confident that the range of taxpayers affected by similar potential legal violations and/or procedural violations is between 11,617 and 17,521 taxpayers.

Methodology Used to Measure the Reported Benefit:

We determined the actual number of potential taxpayers' rights violations and internal guideline violations from our statistically valid sample of 473 FTL cases. We reviewed

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the cases to determine whether the Notice of Federal Tax Lien Filing and Your Right to a Hearing (Letter 3172) was sent to the taxpayer within 5 days of the days of the filing of the FTL. We also determined if the IRS followed its own internal guidelines when filing FTLs.

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Appendix V

Internal Revenue Service Computer Systems Used in the Filing of Federal Tax Liens

The Automated Lien System (ALS) is a comprehensive database that prints liens, stores taxpayers' information, and documents all lien activity. Lien activities on both the Integrated Collection System (ICS) and the Automated Collection System (ACS) cases are controlled on the ALS by Collection Support or Special Procedures functions in District Offices. Employees in these offices process liens and respond to taxpayer inquiries using the ALS.

The Integrated Collection System (ICS) is a District Office computer system with applications designed around each of the main collection tasks, such as opening a case, assigning a case, building a case, performing collection activity, and closing a case. The ICS is designed to provide management information, create and maintain case histories, generate documents, and allow on-line approval of case actions. Lien requests made using the ICS are uploaded to the ALS. The ALS generates the liens and updates the Internal Revenue Service's (IRS) primary computer files to indicate that a lien has been filed.

The Automated Collection System (ACS) is a computerized call site inventory system that maintains balance due accounts and return delinquency investigations. The ACS employees enter all of their case file information (on-line) on the ACS. Liens requested using the ACS are uploaded to the ALS, which generates the lien notices and updates the IRS' primary computer files to indicate that a lien has been filed.

The Integrated Data Retrieval System (IDRS) is an on-line data retrieval and data entry system that processes transactions entered from terminals located in both Service Centers and District Offices. The system enables employees to perform such tasks as researching account information, requesting tax returns, entering collection information, and generating collection documents. The IDRS serves as a link from Service Centers and District Offices to the Masterfile in order for the IRS to maintain accurate records of activity on taxpayers' accounts.

Compliance With Requirements for Notifying Taxpayers of Federal Tax Lien Filings Has Not Yet Been Achieved

Appendix VI

Synopsis of the Internal Revenue Service Collection and Lien Filing Processes

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

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

When these efforts have been taken and the taxpayer has not paid the tax liability, designated IRS employees are authorized to file a Federal Tax Lien (FTL). Liens protect the government's interest by attaching a claim to the taxpayer's assets for the amount of unpaid tax liabilities. The right to file a FTL is created by 26 U.S.C. § 6321 (1994) when:

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

When designated employees request the filing of a FTL using either the ICS or the ACS, the lien requests from both systems are transferred to the Automated Lien System (ALS). All FTLs are processed by the ALS unless there is an expedite situation, in which case the lien is manually prepared. Although they are manually prepared, manual liens are tracked and controlled on the ALS. The ALS maintains an electronic database of all open FTLs and updates the IRS primary computer records to indicate that a lien has been filed.

Most Notices of Federal Tax Lien Filings are mailed to taxpayers by certified or registered mail rather than being delivered in person. To maintain a record of the notices, the IRS prepares a Certified Mail Listing (Postal Service Form 3877) which identifies each notice that is to be mailed. The notices and two copies of the certified mail listing

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are delivered to the U.S. Postal Service. A postal employee ensures that all notices are accounted for, then date stamps the listing and returns a copy to the IRS. The stamped certified mail listing is the only documentation the IRS has that certifies the date the notices were mailed. IRS guidelines require that the stamped certified mail listing be retained for 10 years after the end of the processing year.

Compliance With Requirements for Notifying Taxpayers of
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Appendix VII

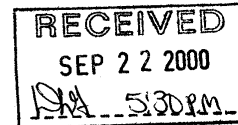
Management's Response to the Draft Report



COMMISSIONER

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

September 22, 2000



MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM:

for Charles O. Rossotti *Charles O. Rossotti*
Commissioner of Internal Revenue

SUBJECT:

Draft Audit Report – Compliance With Requirements for
Notifying Taxpayers of Federal Tax Lien Filings Has Not Yet
Been Achieved

Thank you for the opportunity to review and comment on your draft report and recommendations on our compliance with requirements for notifying taxpayers of Federal Tax Lien filings.

The overall objective of the review was to determine if the Internal Revenue Service had followed legal guidelines in Internal Revenue Code section 6320 and internal guidelines. To achieve that objective, samples were taken between April 1 through December 31, 1999.

Your report reflects that the IRS has improved its compliance with legal and internal guidelines for filing Notices of Federal Tax Liens by implementing programming changes and additional written procedures that clarified the process. We have also taken additional steps to eliminate the areas cited in the report as potential violations of legal and IRS guidelines. For example, with the 9 cases where the history did not indicate a new notice was resent to the taxpayer at a new address, we are placing additional emphasis on ensuring that new address information is entered on master file. We issued new IRM procedures emphasizing the importance of researching case files and forwarding the notice to the address. Also, programming changes were implemented to allow employees to systemically generate copies of the notice to the taxpayer's representative once the appropriate information is entered.

We have made progress in perfecting the process of notifying taxpayers and their representatives of their Collection due process appeal rights within required time frames. We acknowledge that we have not achieved total compliance and are working toward that goal.

Compliance With Requirements for Notifying Taxpayers of Federal Tax Lien Filings Has Not Yet Been Achieved

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Our comments on the recommendations are as follows:

IDENTITY OF RECOMMENDATION #1

Modify the compliance review to determine the cause of legal or procedural violations so corrective actions can be taken to prevent similar problems from occurring in the future.

ASSESSMENT OF CAUSE

The current quarterly compliance review does not target all of the compliance areas that should be reviewed.

CORRECTIVE ACTIONS

Revise the current quarterly compliance review checklist to incorporate Power of Attorney (POA) notification, case file review for new address, and reissuance of Collection Due Process Notice.

IMPLEMENTATION DATE

November 1, 2000

RESPONSIBLE OFFICIAL

Director, Compliance Policy (SB/SE)

CORRECTIVE ACTION MONITORING PLAN

The office director of the Technical and Insolvency Section will followup to ensure the current quarterly compliance checklist is revised to address the recommendation. Progress of the corrective action will be reported to the Director, Compliance Policy.

IDENTITY OF RECOMMENDATION #2

Require Collection group managers to review documentation to ensure that the taxpayer's representative receives a copy of the Collection Due Process Notice.

ASSESSMENT OF CAUSE

Insufficient emphasis has been placed on the requirement to provide copies of the Collection Due Process Notice to the taxpayer's representative.

CORRECTIVE ACTIONS

- a) Prepare a memorandum informing the field of new review requirements.
- b) Revise the IRM to require group managers to include POA notification in their case review.

Compliance With Requirements for Notifying Taxpayers of Federal Tax Lien Filings Has Not Yet Been Achieved

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IMPLEMENTATION DATE

- a) December 1, 2000
- b) April 1, 2001

RESPONSIBLE OFFICIAL

Director, Compliance Policy (SB/SE)

CORRECTIVE ACTION MONITORING PLAN

The office director for the Technical and Insolvency Section will monitor progress of the corrective action and report to the Director, Compliance Policy.

IDENTITY OF RECOMMENDATION #3

Corrective actions should be taken on potential legal and procedural violations identified.

CORRECTIVE ACTIONS

- a) Return cases to appropriate district for corrective actions.
- b) District manager verifies that corrective actions are complete.

IMPLEMENTATION DATE

- a) December 1, 2000
- b) March 1, 2001

RESPONSIBLE OFFICIAL

Director, Compliance Policy (SB/SE)

CORRECTIVE ACTION MONITORING PLAN

The office director for the Technical and Insolvency Section will be responsible for monitoring the progress of the corrective action. Any delays will be reported to the Director, Compliance Policy.

If you have any questions, please call Harry T. Manaka, Acting Assistant Commissioner (Collection), at (202) 622-5100.