

**The Internal Revenue Service Has
Significantly Improved Its Compliance
With Levy Requirements**

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 20, 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 - The Internal Revenue Service Has
Significantly Improved Its Compliance With Levy Requirements

This report presents the results of our review to determine whether levies issued by the Internal Revenue Service (IRS) comply with legal guidelines set forth in 26 U.S.C. § 6330 (1986) and internal guidelines set forth in the IRS' Internal Revenue Manual (IRM).

In summary, we found the IRS has significantly improved its compliance with legal and internal guidelines to notify taxpayers of their appeal rights at least 30 days before levies are issued. However, we found that controls need to be improved so that internal records reflect levy actions that have been taken on taxpayers' accounts. We recommended that IRS management determine if restitution is warranted for 6 taxpayers, update incorrect information on 1,240 taxpayers' accounts where it is determined beneficial, request that the United States Postal Service date stamp certified mail listings to reflect the day Notices of Intent to Levy are mailed, and retain certified mail listings as evidence of mailing.

The IRS management response was due on September 11, 2000. As of September 14, 2000, management had not responded to the draft report.

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) 622-6500.

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Executive Summary

The collection of unpaid tax by the Internal Revenue Service (IRS) begins with a series of letters (notices) mailed 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. § 6331 (1986) gives the IRS authority to work directly with financial institutions and other parties to obtain funds owed to taxpayers. This taking of money is commonly referred to as a “levy.”

Beginning January 19, 1999, 26 U.S.C. § 6330 (1986) required the IRS to notify taxpayers of its intent to levy and of their right to an Appeals hearing before the IRS can levy on their bank accounts or take other money that is owed to the taxpayers. The IRS has to notify taxpayers of its plans to issue a levy at least 30 calendar days before the levy is issued. The taxpayer may request an Appeals hearing any time during the 30 days after the date on the notice. IRS procedures provide for an additional 15 days to allow for mailing and processing of hearing requests that are sent to the IRS at the end of the 30-day period. The additional 15 days does not extend the 30-day period for taxpayers to request an Appeals hearing. However, the extension provides further assurance that the taxpayer’s right to a hearing is protected.

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)(iv), which requires the Treasury Inspector General for Tax Administration (TIGTA) to annually determine if levies issued by the IRS comply with the legal guidelines in 26 U.S.C. § 6330 (1986). The first TIGTA report on levies was issued in September 1999.² In that audit, we reported that the IRS did not follow legal guidelines for issuing levies in 32 percent of the cases reviewed and its own internal procedures for issuing levies in 31 percent of the cases reviewed. In this audit, we determined if levies issued by the IRS complied with legal guidelines set forth in 26 U.S.C. § 6330 (1986) and internal guidelines set forth in the IRS’ Internal Revenue Manual by reviewing a statistically valid sample of 451 levies³ issued between May 1 and August 31, 1999. The offices reviewed include two district offices where IRS employees make personal visits to contact taxpayers and five Customer Service offices, referred to as Automated Collection System (ACS) call sites, where IRS employees contact taxpayers by telephone.

¹ Pub. L. No. 105-206, 112 Stat. 685.

² *The Internal Revenue Service Has Not Fully Implemented Procedures to Notify Taxpayers Before Taking Their Funds For Payment of Tax*, (Reference Number 19910071, dated September 1999).

³ We reviewed 1 levy per taxpayer account (157 district office Integrated Collection System (ICS) levies and 294 Customer Service Automated Collection System levies). Our sample is statistically valid for the number of taxpayers issued levies in the offices we reviewed, but not for the number of levies issued. Therefore, we are not making statistical projections against the total population of taxpayers or levies.

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Results

The IRS has significantly improved its compliance with legal and internal guidelines to notify taxpayers of their appeal rights at least 30 days before levies are issued. We believe this improvement is the result of several computer system upgrades and the implementation of new procedures to ensure requirements are met when issuing levies. Although IRS management made significant progress towards fully complying with 26 U.S.C. § 6330 (1986), controls should be improved so that internal records reflect actions that have been taken on taxpayers' accounts.

Compliance With Legal and Internal Guidelines for Notifying Taxpayers of Their Appeal Rights Before Issuing Levies Has Significantly Improved

Our review of a statistically valid sample of 157 district office levy cases showed that each taxpayer was notified of the IRS' intent to levy and of the taxpayer's right to a hearing at least 30 days prior to the levies being issued. In our review of a statistically valid sample of 294 ACS call site levy cases, we identified only 6 cases (2 percent) where the taxpayer was not properly issued a due process notice,⁴ which are potential taxpayers' rights violations. Five of the six violations occurred in one call site because the service center that processed the levies for the call site did not implement new procedures designed to protect taxpayers' rights until August 1999. Although the overall percentage is much less than in our Fiscal Year (FY) 1999 audit, we cannot make strict comparisons between the two reviews because our methodologies were different. However, we can conclude that there has been significant improvement in the IRS' compliance with legal and internal guidelines from the prior audit. IRS management initiated the following changes after our FY 1999 audit identified a high rate of non-compliance with 26 U.S.C. § 6330 (1986).

- An upgrade to the district office computer system, referred to as the Integrated Collection System (ICS), in April 1999 helped to ensure compliance with legal guidelines. This change systemically prevents the issuance of levies before the expiration of the 30-day period when taxpayers can request an Appeals hearing.
- Revisions to ACS call site procedures in March and June of 1999 helped to improve compliance with legal guidelines. In March 1999, Customer Service management revised ACS procedures, requiring a 100 percent review of all levy requests before they are mailed. Then, in June 1999, Customer Service management made additional changes to ACS procedures, allowing only higher-graded employees to issue levies.

⁴ Notice of Intent to Levy and Notice of Your Right to a Hearing (LT11).

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- An upgrade to ACS computers in January 2000 should systemically prevent ACS employees from issuing levies unless the taxpayer's account indicates that a Notice of Intent to Levy was issued at least 30 days prior to the levy date. We did not test this control during our audit because it was placed in service near the end of our fieldwork.

Internal Revenue Service Records Did Not Always Accurately Reflect Levy Activity on Taxpayer Accounts

From our review of taxpayer cases, we identified three areas where case information was not reflective of actual case actions. In two of the areas, internal guidelines were not followed. The third area resulted from an internal control not working properly.

Taxpayers' accounts were not always updated to indicate that a Notice of Intent to Levy had been mailed

Thirty-two of 451 taxpayers' accounts reviewed (14 in the ACS call sites and 18 in the district offices) were not updated to show that taxpayers were notified of the IRS' intent to levy and of their right to an Appeals hearing. The ACS and ICS case history documentation for these 32 cases showed that the Notices of Intent to Levy were mailed to the taxpayers; however, the Integrated Data Retrieval System was not updated to show that the notices were mailed. IRS records should indicate whether a Notice of Intent to Levy has been sent to a taxpayer to prevent multiple notices from being sent to the same taxpayer.

Levies were systemically generated, and records were not updated to show the cancellation of these levies

Nationwide, we identified 1,208 levies that were systemically generated during May and June of 1999. These levies were generated from one ACS call site but were not mailed to third parties, according to IRS manual records. The IRS' computer records, however, still showed that the levies were issued and had not been updated to show the cancellation of these levies. In June 1999, a comprehensive system change was implemented that eliminated the systemic generation of levies. The IRS relies on accurate case documentation to support actions taken on a case. An employee accessing one of these cases in the future will not know that a specific levy was not mailed.

Certified mail listings could not always be located or were not always date stamped on or before the date on the Notice of Intent to Levy

In 124 (42 percent) of the 294 ACS cases reviewed, the certified mail listings could not be located (44 cases), were not date stamped (3 cases), or were date stamped after the date on the Notice of Intent to Levy and Notice of Your Right to a Hearing (77 cases). The certified mail list should be date stamped by the United States Postal Service (USPS) with the date that the Notices of Intent to Levy are mailed. IRS procedures require the local retention of these listings for 3 years from the date of assessment. One service

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center we reviewed uses the date on the certified mail listing (which is later than the date of assessment) to monitor the 3-year retention period.

According to USPS personnel assigned to one service center, they do not work at the IRS service center every day, and on the days they work at the service center, they do not perform a 100 percent review of the certified mail. Instead, they verify the mailing for a sample of the notices and date stamp the corresponding certified mail listings for only the pages they review, not the entire listing. The Service Center Collection Branch (at the one service center) assured us that all notices were mailed on or before the notice date. Without an accurately date stamped certified mail listing, the IRS has no proof that Notices of Intent to Levy issued by the ACS were timely mailed. Also, for the 77 notices with a postal date stamp later than the notice date, taxpayers' rights may have been potentially violated if the notices were mailed on the date stamped on the certified mail listing because these taxpayers would not have received the full 30-day period to request an Appeals hearing.

Summary of Recommendations

We recommend that Customer Service management determine if restitution is warranted for 6 taxpayers, determine whether it would be beneficial to update account information for the 1,208 systemically generated levies, and ensure certified mail listings are retained as evidence of mailing. Collection and Customer Service management should identify and update incorrect information on the 32 taxpayers' accounts we identified to show whether Notices of Intent to Levy were mailed. Forms and Submission Processing management should request the USPS ensure certified mail listings are date stamped to reflect the day notices are mailed.

Management's Response: The IRS management response was due on September 11, 2000. As of September 14, 2000, management had not responded to the draft report.

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Objective and Scope

The overall objective was to determine if levies issued by the IRS comply with legal guidelines set forth in 26 U.S.C. § 6330 and internal guidelines set forth in the IRM.

We performed audit work in two district offices and five ACS call sites.

The overall objective of this review was to determine whether levies issued by the Internal Revenue Service (IRS) comply with legal guidelines set forth in 26 U.S.C. § 6330 (1986) and internal guidelines set forth in the IRS' Internal Revenue Manual (IRM).

We performed audit work from September 1999 to April 2000 in the National Headquarters; the North Florida and North Texas District Offices; and the Buffalo, Dallas, Jacksonville, Nashville, and Oakland Customer Service offices, referred to as Automated Collection System (ACS) call sites.

We determined that the IRS' program changes were effective in preventing violations of taxpayer due process rights by district employees after we performed audit work in the North Florida and North Texas District Offices; therefore, we decided to limit our work to these two district offices.

We performed this audit in accordance with *Government Auditing Standards*.

To accomplish our objective, we:

- Reviewed relevant legal and internal levy guidelines.
- Interviewed managers from the Collection and ACS functions to identify procedures for complying with the intent to levy notification provision of 26 U.S.C. § 6330 (1986).
- Reviewed a statistically valid sample of 451¹ levies issued between May 1 and August 31, 1999, for compliance with 26 U.S.C. § 6330 (1986). The

¹ We reviewed 1 levy per taxpayer account (157 district office Integrated Collection System (ICS) levies and 294 ACS levies). Our sample is statistically valid for the number of taxpayers issued levies in the offices we reviewed, but not for the number of levies issued. Therefore, we will not make statistical projections against the total population of taxpayers or levies.

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451 taxpayers' accounts were randomly selected from the total population of accounts in the 2 district offices and 4 ACS call sites.²

- Identified 1,208 levies that were systemically generated from the Nashville ACS call site.
- Mailed confirmation letters to 677 taxpayers to determine if they received a Notice of Intent to Levy from the IRS. However, we received such a low response rate from the mailing that the results could not be used to form any conclusions regarding the population of levies or the accuracy of the IRS' levy records.

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

Background

The 26 U.S.C. § 6330 (1986) requires the IRS to notify taxpayers of the intent to levy and of their right to a hearing at least 30 days before the levy is issued.

Taking a taxpayer's money from a bank or other source to pay delinquent tax is commonly referred to as a "levy."

On July 22, 1998, the President signed the IRS Restructuring and Reform Act of 1998 (RRA 98)³ into law. This act added 26 U.S.C. § 7803(d)(1)(A)(iv), which requires the Treasury Inspector General for Tax Administration (TIGTA) to annually determine whether levies issued by the IRS comply with the legal guidelines in 26 U.S.C. § 6330 (1986).

Beginning January 19, 1999, 26 U.S.C. § 6330 (1986) required the IRS to notify taxpayers of their right to an Appeals hearing before the IRS can levy on their bank accounts or take other money that is owed to the taxpayers. The 26 U.S.C. § 6331 (1986) gives the IRS authority to work directly with financial institutions and other parties to obtain funds owed to taxpayers. This taking of money is commonly referred to as a "levy." The IRS has to notify taxpayers of their right to a fair hearing at least 30 calendar days before the levy is

² The four ACS call sites include Buffalo, Dallas, Jacksonville, and Oakland.

³ Pub. L. No. 105-206, 112 Stat. 685.

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issued. The taxpayer may request an Appeals hearing any time during the 30 days after the date on the notice. For notices that are mailed, the date stamped on the certified mail listing is the IRS' proof that taxpayers were provided the entire 30 days. IRS procedures provide for an additional 15 days to allow for mailing and processing of hearing requests that are sent to the IRS at the end of the 30-day period. The additional 15 days does not extend the 30-day period for taxpayers to request a hearing. However, the extension provides further assurance that the taxpayer's right to a hearing is protected.

According to IRS reports, there has been a significant decrease in the number of levies issued by the IRS in the past three fiscal years, as shown in the following table:

LEVIES ISSUED BY THE IRS

The number of levies issued during the past three fiscal years has decreased.

Fiscal Year	ACS Levies	District Office Levies
1997	2,968,489	719,142
1998	2,029,928	473,481
1999	397,656	106,747

Synopsis of the IRS collection and levy processes

The collection of unpaid tax begins with letters (notices) sent to the taxpayer advising of the debt and asking for payment of the delinquent tax. The IRS computer systems are programmed to mail these notices when certain criteria are met. If the taxpayer does not respond to the notices, the account is transferred for either telephone or personal contact. When these efforts have been taken and the taxpayer has not paid, the IRS has the authority to obtain funds through levies.

- 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

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collection actions taken on taxpayers' accounts is the Integrated Collection System (ICS).

- IRS employees who make only telephone contact with taxpayers work in ACS call sites in IRS Customer Service offices. The computer system used in the call sites to track collection actions taken on taxpayers' accounts is the ACS.

ACS employees use the LT11 to notify a taxpayer of the IRS' intent to levy and of the taxpayer's right to a hearing.

The ACS computer assigns the taxpayer's account to an employee within the ACS, according to the type of work needed. The employee then completes the work, such as identifying taxpayer addresses or a levy source. When levy is the next action to be taken, the employee can request a Notice of Intent to Levy and Notice of Your Right to a Hearing (LT11) to be mailed to the taxpayer (see Appendix V for an example of an LT11). After the required waiting period, the employee can request the levy. Generally, the notices and levies requested in the ACS are printed and mailed from the Service Center Collection Branch (SCCB). All notices are mailed certified return receipt, as required by the RRA 98, so the IRS has proof of mailing.

Revenue officers use the L1058 to notify a taxpayer of the IRS' intent to levy and of the taxpayer's right to a hearing.

Revenue officers also determine when issuing a levy should be the next action to take on a taxpayer's account. When levy is the next action to be taken, the revenue officer inputs a request for a Notice of Intent to Levy and Notice of Your Right to a Hearing (L1058); see Appendix VI for an example of an L1058. The letter is printed from the ICS and either mailed certified return receipt or hand-delivered to the taxpayer. The revenue officer is responsible for waiting 45 days from the date of the letter before mailing the levy to the taxpayer's bank(s) and/or employer(s).

The IRS tracks levy actions taken on taxpayers' accounts by inputting specific codes to its computer systems.

Special codes are input to the ACS to indicate the levy activity that has taken place on the account. By reviewing these codes, employees can tell whether levies have been requested, issued, or cancelled. In addition, specific codes are input to the IRS' primary computer system for recording taxpayer account activity to indicate the Notice of Intent to Levy was mailed and whether the taxpayer received the notice. This primary

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computer system is referred to as the Integrated Data Retrieval System (IDRS).

We issued the first TIGTA report on levies in September 1999.⁴ In that audit, we reviewed 284 taxpayers' accounts involving 291 levies requested between mid-January and mid-April 1999. We reported that the IRS did not follow legal guidelines for issuing levies in 32 percent of the cases reviewed and its own internal procedures for issuing levies in 31 percent of the cases reviewed.

Results

The IRS made significant progress towards fully complying with 26 U.S.C. § 6330 (1986).

The IRS has significantly improved its compliance with legal and internal guidelines to notify taxpayers of their right to an Appeals hearing at least 30 days before levies are issued. We believe this improvement is the result of several computer system upgrades and the implementation of new procedures to ensure legal requirements are met when issuing levies.

Although we did identify a significant improvement in compliance with levy requirements and a reduction in the percentage of violations from our Fiscal Year (FY) 1999 review, we cannot make strict comparisons between the two reviews because our methodologies were different. While IRS management made significant progress towards fully complying with 26 U.S.C. § 6330 (1986), we still identified some potential violations of taxpayers' rights, violations of legal guidelines, and areas where controls should be improved so that internal records reflect actions that have been taken on taxpayers' accounts. The remainder of the report addresses the specific results of our work.

⁴ *The Internal Revenue Service Has Not Fully Implemented Procedures to Notify Taxpayers Before Taking Their Funds For Payment of Tax*, (Reference Number 19910071, dated September 1999).

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Compliance With Legal and Internal Guidelines for Notifying Taxpayers of Their Appeal Rights Before Issuing Levies Has Significantly Improved

Our review of a statistically valid sample of 157 district office levy cases showed that each taxpayer was notified of the IRS' intent to levy and of the taxpayer's right to a hearing at least 30 days prior to the levies being issued. In our review of a statistically valid sample of 294 ACS levy cases, we identified only 6 cases (2 percent) where the taxpayer was not properly issued a due process notice,⁵ which are potential taxpayers' rights violations. This is a significant decrease in non-compliance compared to last year's audit results.

IRS management initiated the following changes after our FY 1999 audit identified a high rate of non-compliance with 26 U.S.C. § 6330 (1986).

- An upgrade to the district office computer system (ICS) in April 1999 helped to ensure compliance with legal guidelines. This change systemically prevents the issuance of levies before the expiration of the 30-day period when taxpayers can request a hearing. Our review of the 157 levy cases processed in 2 IRS district offices showed that this program change was effective in preventing violations of taxpayer due process rights. Each taxpayer in our sample was notified of the IRS' intent to levy and of the taxpayer's right to a hearing at least 30 days prior to the levies being issued. The IRS also met its internal guideline of waiting an additional 15 days (for a total of 45 days) to allow for mailing and processing in all but 1 of the 157 cases.

Computer system upgrades and the implementation of new procedures have helped to ensure legal requirements are met when issuing levies.

⁵ Notice of Intent to Levy and Notice of Your Right to a Hearing (LT11).

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- Revisions to ACS call site procedures in March and June of 1999 helped to improve compliance with legal guidelines. In March 1999, Customer Service management revised ACS procedures, requiring a 100 percent review of all levy requests before they are mailed to ensure that the 30-day period had ended. Then, in June 1999, Customer Service management made additional changes to ACS procedures, allowing only higher-graded employees to issue levies. However, these new requirements did not always prevent the improper issuance of levies. Our review of the 294 levy cases processed in 4 ACS call sites identified 6 (2 percent) potential violations of legal guidelines where levies were issued to taxpayers without the taxpayers being notified of their rights to a hearing. Five of the six violations occurred in one call site where the new procedures were received; however, the service center that processes the levies did not implement the new procedures until August 1999.
- An upgrade to ACS call site computers in January 2000 should systemically prevent ACS employees from issuing levies unless the taxpayer's account indicates that a Notice of Intent to Levy was issued at least 30 days prior to the levy date. We did not test this system change because it was placed in service near the end of our fieldwork.

Recommendation

1. The Assistant Commissioner (Customer Service) should review the six taxpayers' accounts where levies were issued without proper notification and determine if any resulting proceeds were received from the levies. The Assistant Commissioner (Customer Service) should also determine, with advice from legal counsel, what steps the IRS should take regarding any money received as a result of issuing levies without properly notifying the taxpayers of their rights to an Appeals hearing.

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Management's Response: The IRS management response was due on September 11, 2000. As of September 14, 2000, management had not responded to the draft report.

Internal Revenue Service Records Did Not Always Accurately Reflect Levy Activity on Taxpayer Accounts

From our review of taxpayer cases, we identified three areas where case information was not reflective of actual case actions. In two of the areas, internal guidelines were not followed. The third area resulted from an internal control not working properly.

Taxpayers' accounts were not always updated to indicate that a Notice of Intent to Levy was mailed

Thirty-two taxpayer accounts were not updated on the IDRS to show that notices were mailed to taxpayers advising them of the IRS' intent to levy and of their right to an Appeals hearing.

Thirty-two of 451 taxpayers' accounts reviewed (14 in the ACS call sites and 18 in the district offices) were not updated to show that taxpayers were notified of the IRS' intent to levy and of their right to an Appeals hearing. The ACS and ICS case history documentation for these 32 cases showed that the Notices of Intent to Levy were mailed to the taxpayers; however, the IDRS was not updated to show that the notices were mailed. When the IRS issues a Notice of Intent to Levy, the taxpayer's IDRS account should be updated with a special code to indicate the notice was sent to the taxpayer. The presence of this special code notifies any IRS employee who may work the account in the future that a Notice of Intent to Levy was sent to the taxpayer.

The IDRS is a primary research tool for IRS employees. When a taxpayer's IDRS account is not updated to reflect actions taken, employees working on the account in the future will not have knowledge of all actions taken on the case. IRS computer records should show whether a Notice of Intent to Levy has been sent to a taxpayer to prevent different employees from sending multiple Notices of Intent to Levy to the same taxpayer. If multiple notices are issued for an account, the

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The ACS was not updated to show that 1,208 systemically generated levies were cancelled prior to issuance.

collection process could be delayed while the case is subjected to an unnecessary waiting period.

Levies were systemically generated, and records were not updated to show the cancellation of these levies

Nationwide, we identified 1,208 levies that were systemically generated over a 5-week period during May and June of 1999. It is a violation of IRS procedure to issue levies systemically generated by ACS computers because 26 U.S.C. § 6330 (1986) requires the IRS to notify taxpayers of its intent to levy 30 days prior to issuing a levy. These levies were generated from one call site, but according to IRS manual records the levies were not mailed to the third parties. The IRS' computer records on the ACS, however, still showed that the levies were issued and had not been updated to show the cancellation of these levies.

Several computer changes will prevent this from happening in the future.

- In January 1999, Customer Service management implemented an initial computer change to prevent the generation of systemic levies. However, the effectiveness of this change was dependent upon an employee in each service center updating a parameter file on a weekly basis to prevent the ACS computers from generating the levies. For 5 weeks during May and June 1999, the parameter file update was not input at 1 call site and the 1,208 levies were generated. Due to a procedural error, the affected accounts were not updated to show that the levies were cancelled and not mailed to the third parties.

The IRS relies on accurate case documentation to support actions taken on a case. When a Notice of Intent to Levy is issued through the ACS, the computer system automatically suspends work on the case to ensure 30 days passes before the levy is generated. Since the 1,208 cases were not updated to show that the levies were cancelled, case processing could have potentially been delayed for these cases if they were subjected to an unnecessary

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The IRS upgraded the call site computers 2 more times to eliminate systemically generated levies and to ensure that Notices of Intent to Levy are sent at least 30 days prior to any ACS levy.

system follow-up. In addition, ACS computers are programmed to select the best possible levy source when a levy is generated. An employee accessing one of these cases in the future will not know the levy was cancelled if the ACS is not updated. This may result in the deletion of the best possible levy source because an employee working the case in the future might think the levy source was unproductive.

- In June 1999, IRS management implemented a more comprehensive ACS system change, which eliminates the systemic generation of levies and does not rely on a weekly manual update by an employee in the service center. We did not identify any instances of systemically generated levies after June 1999.
- An additional ACS system change in January 2000, which also does not depend on employee involvement, should ensure that no levy will be generated unless a Notice of Intent to Levy was mailed at least 30 days earlier. However, as stated previously, we did not test this system change because it was placed in service near the end of our fieldwork.

Certified mail listings could not always be located or were not always date stamped on or before the date on the Notice of Intent to Levy

Certified mail listings could not always be located or were not always date stamped on or before the date on the Notice of Intent to Levy for 42 percent of the cases reviewed.

In 124 (42 percent) of the 294 ACS cases reviewed, the certified mail listings could not be located (44 cases) or were not date stamped on or before the date on the Notice of Intent to Levy (80 cases).

• **Missing Certified Mail Listings**

Customer Service management could not locate the certified mail listings for 44 of the cases reviewed. The certified mail listing provides a record of mailing and should be retained as evidence that the notice was mailed. IRS procedures require the local retention of these listings for 3 years from the date of assessment. After 3 years, they should be sent to the Federal Records Center, where they should be kept

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for 12 years from the date of assessment before they are destroyed. One service center we reviewed uses the date on the certified mail listing (which is later than the date of assessment) to monitor the 3-year retention period.

- **Inaccurate or Missing Postal Date Stamp**

The United States Postal Service (USPS) date stamp was missing from the certified mail listings for 3 cases and was later than the LT11 date for 77 cases. When the postal date stamp is later than the notice date, it gives the appearance that the notices were mailed after the start of the 30-day waiting period. The certified mail list should be date stamped by the USPS with the date that the notices were mailed. The certified mail listing provides the only proof of when Notices of Intent to Levy are actually mailed.

We interviewed USPS personnel at one service center to determine why the postal date stamp on the certified mail listing was not always on or before the LT11 date. The USPS personnel at this call site do not work at the IRS service center every day and, on the days they work at the service center, they do not perform a 100 percent review of the certified mail. Instead, they verify the mailing for a sample of the notices and date stamp the corresponding certified mail listings for only those pages of the listing they review, not the entire listing. The certified mail listing is date stamped with the current date, even though the notices may have been mailed on a previous day.

The certified mail listing provides a record of mailing and should be stamped with the date the notice was mailed. USPS personnel should be verifying daily the certified mail sent from the IRS. At the one service center, SCCB personnel assured us that all Notices of Intent to Levy were mailed on or before the notice date, regardless of the date that may or may not have been stamped on the certified mail listings. However, there is no way to verify (other than the certified mail listing) that these notices were timely mailed.

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The postal date stamp on the certified mail listing is the only documentation the IRS has to prove that LT11s were timely mailed.

For the 44 cases missing a certified mail listing and the 3 cases missing a postal date stamp from the certified mail listing, the IRS has no proof that the Notices of Intent to Levy were mailed. For the 77 cases with a postal date stamp later than the notice date, taxpayers' rights may have been potentially violated if the notices were mailed on the date that was stamped on the certified mail listing because these taxpayers would not have received the full 30-day period to request a hearing.

The IRS could violate taxpayers' rights if it denied a request for an Appeals hearing because the request was received after the 30-day period based on the notice date, when the date stamp on the certified mail listing showed a later date. Without an accurately date stamped certified mail listing, the IRS has no proof that the LT11s are timely mailed.

Recommendations

2. The Assistant Commissioner (Collection) and the Assistant Commissioner (Customer Service) should identify and update incorrect information on the 32 taxpayers' accounts to show that Notices of Intent to Levy were mailed.
3. The Assistant Commissioner (Customer Service) should determine whether it would be beneficial to update account information for the 1,208 systemically generated levies that were cancelled prior to issuance.
4. The Assistant Commissioner (Customer Service) should ensure that certified mail listings are stored locally per retention guidelines in the IRM.
5. The Assistant Commissioner (Forms and Submission Processing) should request the USPS to ensure the postal date stamp on certified mail listings accurately reflects the date on which Notices of Intent to Levy are mailed.

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Conclusion

The IRS made significant progress towards complying with legal and internal guidelines to notify taxpayers of their rights to an Appeals hearing at least 30 days before levies are issued. However, we identified six potential violations of legal guidelines where levies were issued to taxpayers without the taxpayers being notified of their rights to an Appeals hearing.

The IRS also needs to ensure its records accurately reflect levy activity for taxpayers' accounts so that employees subsequently accessing a taxpayer's account will be aware of all levy actions taken. In addition, certified mail listings should be date stamped on the day notices are mailed and retained as evidence of mailing.

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Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine if levies issued by the Internal Revenue Service (IRS) comply with legal guidelines set forth in 26 U.S.C. 6330 (1986) and internal guidelines set forth in the IRS' Internal Revenue Manual. We performed the following work:

- I. Determined whether the IRS has implemented procedures to ensure compliance with legal and internal guidelines regarding the issuance of a due process notice before issuing levies by performing the following steps:
 - A. Discussed the requirements with IRS management in the National Headquarters Collection and Customer Service functions, the Automated Collection System (ACS) in two ACS call sites, and the Collection function in two districts.
 - B. Determined whether procedural guidelines have been communicated to the district offices and what training has been provided to employees.
- II. Determined whether levies issued by the IRS complied with legal and internal guidelines regarding the issuance of a due process notice by performing the following steps:
 - A. Obtained a listing of 1,708 levies requested in 4 selected ACS call sites and the 921 levies¹ requested in 2 Integrated Collection System (ICS) District Offices between May 1 and August 31, 1999. We originally selected four ICS district offices² and four ACS call sites. The district offices were selected based on the volume of levies issued. We ranked the 24 ICS districts based on the number of non-ACS levies issued. We selected 1 district from the top 3 districts (#3), 2 districts from the middle range (#14 and #16) and 1 from the lower range (#21) of district rankings. We selected the ACS call sites located in the same city as three of the four districts. The fourth call site selected was ranked second in the number of levies issued by all ACS call sites.

¹ We chose to review 1 levy per taxpayer account; therefore, the 1,708 ACS levies and the 921 Integrated Collection System (ICS) levies represent the total number of taxpayers with a levy requested between May 1 and August 31, 1999.

² We determined that the IRS' program changes were effective in preventing violations of taxpayer due process rights by district employees after we performed audit work in the North Florida and North Texas District Offices; therefore, we decided to limit our work to these two district offices, which reduced the number of district offices reviewed from four to two.

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- B. Selected a statistically valid sample of 451 from the 2,629 levy cases³ requested for our audit period. We used a sampling application designed in Microsoft Access to calculate the sample size and randomly select the cases for review. We based our sample size on a confidence level of 95 percent, an expected error rate of 1 percent, and a precision level of 2 percent. Our sample included 294 ACS cases and 157 ICS cases. We obtained the information below to verify whether a levy was mailed.
 - 1. The complete ACS/ICS case record.
 - 2. Integrated Data Retrieval System (IDRS) Masterfile data.
 - 3. Certified Mail Listings.
 - C. Reviewed the 294 ACS and 157 ICS levy cases from above (sub-objective II, step B) to determine whether the levies complied with legal and IRS guidelines regarding the due process notice.
 - D. Determined whether the appropriate codes were input to the 294 ACS and 157 ICS taxpayers' accounts to reflect whether the notices were issued, delivered to the taxpayers, refused by the taxpayers, and/or returned undelivered.
 - E. Determined whether levies were systemically generated from ACS call sites and sent to the levy sources. Nationwide, we obtained an extract of all the ACS taxpayers' accounts where there was an action code LVXX and an employee code of "99999999" (indicating that a levy was issued systemically). For every case meeting the above criteria, we determined if there was a related cancellation action code.
- III. Verified through a confirmation program whether taxpayers received the required due process notice by performing the following steps:
- A. Selected a statistically valid sample of 677 taxpayers from a nationwide total of 21,666 levy cases requested for our audit period. We used a sampling application designed in Microsoft Access to calculate the sample size and randomly select the cases for review. We based our sample size on a confidence level of 95 percent, an expected error rate of 1 percent, and a precision level of 2 percent. Our sample included 300 ACS cases and 377 ICS cases. We obtained ACS/ICS case histories and IDRS Masterfile data to determine if a Notice of Intent to Levy was mailed to these taxpayers.

³ We chose to review 1 levy per taxpayer account; therefore, the 2,629 represents the total number of taxpayers with a levy requested between May 1 and August 31, 1999. Our sample is statistically valid for the number of taxpayers issued levies in the offices we reviewed, but not for the number of levies issued. Therefore, we are not making statistical projections against the total population of taxpayers or levies.

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- B. Mailed confirmation letters to 677 taxpayers to determine whether the taxpayers had received a Notice of Intent to Levy from the IRS since January 18, 1999, and whether they had requested an Appeals hearing within 30 days from the notice date. (Note: we received such a low response rate from the mailing that the results could not be used to form any conclusions regarding the population of levies or the accuracy of the IRS' levy records.)

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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
Chief Operations Officer OP
Assistant Commissioner (Collection) OP:CO
Assistant Commissioner (Customer Service) OP:C
Assistant Commissioner (Forms and Submission Processing) OP:FS
Office of the Chief Counsel CC
Director, Legislative Affairs CL:LA
Office of Management Controls M:CFO:A:M
Director, Office of Program Evaluation and Risk Analysis M:O
National Taxpayer Advocate C:TA
Audit Liaisons:
 Chief Operations Officer OP
 Assistant Commissioner (Collection) OP:CO
 Assistant Commissioner (Customer Service) OP:C
 Assistant Commissioner (Forms and Submission Processing) OP:FS

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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 recommendation:

The Internal Revenue Service (IRS) has significantly improved its compliance with legal and internal guidelines to notify taxpayers of their right to an Appeals hearing at least 30 days before levies are issued. In our review of 294 Automated Collection System (ACS) levy cases, we identified only 6 cases (2 percent) where the taxpayer was not properly issued a due process notice (Notice of Intent to Levy and Notice of Taxpayer's Right to a Hearing, LT11) (see pages 6 and 7).

We recommend that Customer Service management identify any proceeds received as a result of issuing levies without proper notification to the six taxpayers and determine, with advice from legal counsel, what steps should be taken regarding the money.

Type of Outcome Measure:

Taxpayer Rights - Potential

Value of the Benefit:

We determined that the IRS issued levies to levy sources for six taxpayers, which potentially violated the taxpayers' rights and the levy provisions in 26 U.S.C. § 6330 (1986). Since only a court of law or legal expert can determine if the taxpayers' rights were actually violated, this a potential outcome. Because of the methods the IRS uses to apply levy proceeds to taxpayers' accounts, we could not accurately determine the potential proceeds received from improper levies issued in the sample of cases we reviewed.

Methodology Used to Measure the Reported Benefit:

We determined the actual number of levies with potential taxpayers' rights violations from our statistical sample of 294 taxpayers' accounts. We reviewed the cases to determine whether the LT11 was sent to the taxpayer at least 30 calendar days prior to levy issuance.

Finding and recommendation:

Internal Revenue Service records did not always accurately reflect levy activity on taxpayers' accounts. Taxpayers' accounts were not always updated to indicate that a Notice of Intent to Levy had been mailed (see page 8); levies were systemically generated, and records were not updated to show the cancellation of these levies (see

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page 9); and certified mail listings could not always be located or were not always date stamped on or before the date on the Notice of Intent to Levy (see page 10).

We recommend that Collection and Customer Service management identify and update incorrect information on 32 taxpayers' accounts to show whether Notices of Intent to Levy were mailed. Customer Service management should determine whether it would be beneficial to update account information for the 1,208 systemically generated levies. We also recommend that Forms and Submission Processing management request the United States Postal Service to ensure certified mail listings are date stamped on the same day notices are mailed and Customer Service management should ensure certified mail listings are retained as evidence of mailing.

Type of Outcome Measure:

- Taxpayer Burden - Potential
- Reliability of Information - Actual
- Taxpayer Rights - Potential

Value of the Benefit:

- From a review of 451 taxpayers' accounts, we determined that 32 accounts were not updated with the appropriate information to show that taxpayers were notified of the IRS' intent to levy and of the taxpayers' right to an Appeals hearing. When the IRS does not update information on a taxpayer's account, employees working on the account in the future will not have knowledge of all actions taken on the case. IRS records should indicate whether a Notice of Intent to Levy has been sent to a taxpayer to prevent multiple notices from being sent to the same taxpayer. If multiple notices are issued for an account, the collection process could be delayed while the case is subjected to an unnecessary waiting period.
- We identified 1,208 levies from 1 call site that were systemically generated during May and June of 1999. Manual records indicate these levies were not actually mailed to the third parties; however, computer records were not updated to show the cancellation of these levies. Case processing could have potentially been delayed for these cases if they were subjected to an unnecessary system follow-up. In addition, ACS computers are programmed to select the best possible levy source when a levy is generated. An employee accessing one of these cases in the future will not know the levy was cancelled if the ACS is not updated. This may result in the deletion of the best possible levy source because an employee working the case in the future might think the levy source was unproductive.
- In 124 (42 percent) of 294 ACS cases reviewed, the certified mail listings could not be located (44 cases) or were not date stamped on or before the date on the Notice of Intent to Levy (80 cases). Without an accurately date stamped certified mail listing, the IRS has no proof that Notices of Intent to Levy issued by the ACS were timely mailed. The IRS could violate taxpayers' rights if it denied a request for an Appeals

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hearing because the request was received after the 30-day period based on the notice date, when the date stamp on the certified mail listing showed a later date. For the 44 cases missing a certified mail listing and the 3 cases missing a postal date stamp from the certified mail listing, the IRS has no proof that the Notices of Intent to Levy were mailed. For the 77 cases with a postal date stamp later than the notice date, taxpayers' rights may have been potentially violated if the notices were mailed on the date that was stamped on the certified mail listing because these taxpayers would not have received the full 30-day period to request a hearing.

Methodology Used to Measure the Reported Benefit:

We determined that IRS records did not always accurately reflect levy activity on taxpayers' accounts by performing the following steps:

- We determined that 32 taxpayers' accounts from a statistical sample of 451 taxpayers' accounts were not updated to indicate that a Notice of Intent to Levy had been mailed. We reviewed the cases and researched the Integrated Data Retrieval System to determine whether the appropriate codes were input to reflect delivery of these notices.
- We determined that 1,208 taxpayers' accounts in 1 call site were systemically generated and records were not updated to show the cancellation of the levies. We performed computer analysis of data from all call sites nationwide and identified 1,208 accounts in 1 call site where systemic levies were generated. We reviewed ACS history information to determine whether the database had been updated to show the cancellation of these levies.
- We determined that certified mail listings for 124 taxpayers' accounts from a statistical sample of 294 accounts could not be located (44 accounts) or were not always date stamped on or before the date on the Notice of Intent to Levy (80 accounts). We reviewed the certified mail listings for these cases to determine the date that the postal employee stamped on the listing and compared the postal date stamped on the certified mail listing to the date on the Notice of Intent to Levy.

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Appendix V

Example of Letter 1058 (Rev. 01-1999) (LT11)

Date:
Taxpayer Identifying Number:

Contact Telephone Number:
TOLL FREE: 1-800-XXX-XXXX

Best Time to Call: 7:30 am to 3 pm
Expect Answer Delays: 4 pm to 6 pm

Department of the Treasury
Internal Revenue Service
P.O. Box XX-XX
Anytown, U.S.A. 00000

**Final Notice – Notice of Intent to Levy and Notice of Your Right to a Hearing
Please Respond Immediately**

You have not paid your federal tax. We previously asked you to pay but we still haven't received full payment. This letter is your notice of our intent to levy under Internal Revenue Code Section (IRC) 6331 and your notice of a right to receive Appeals consideration under IRC 6330. **PLEASE CALL US IMMEDIATELY** at the numbers shown above if you recently made a payment or can't pay the amount you owe.

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

If you don't pay this amount, 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 to collect the amount you owe. See the enclosed Publication 594, Understanding the Collection Process, for additional information about this and see Publication 1660 which explains your right to a hearing. The enclosed Form 12153 is used to request a hearing.

To prevent enforced collection actions, please send us full payment today for the amount you owe shown on the back of this letter. Make your check or money order payable to the United States Treasury. Write your social security number or employer identification number and the tax year on your payment. Send your payment in the enclosed envelope with a copy of this letter.

Enclosures:

Copy of letter
Form 12153
Publication 594
Publication 1660
Envelope

Chief, Automated Collection Branch

Letter 1058 (Rev. 01-1999)(LT11)

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Account Summary				
Type of Tax	Period Ending	Assessed Balance	Statutory Additions	Total
Total Amount Due				\$

Type of Tax	Period Ending	Name of Return

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Appendix VI

Example of Letter 1058 (DO) (Rev. 1-1999)

Internal Revenue Service

Department of the Treasury

Letter Number: 1058 (DO)

Letter Date:

**Social Security Number or
Employer Identification Number:**

Person to Contact:

Contact Telephone Number:

CERTIFIED MAIL – RETURN RECEIPT

**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 letter 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 U.S. Treasury. Write your social security number or 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:

Form Number	Tax Period	Unpaid Amount From Prior Notices	Additional Penalty & Interest	Amount You Owe

(over)

Letter 1058 (DO) (Rev. 1-1999)

Cat. No. 40488S

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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 unpaid amount from prior notices 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.

Sincerely Yours,

District Director

Enclosures:

Copy of this letter

Pub 594

Pub 1660

Form 12153

Letter 1058 (DO) (Rev. 1-1999)

Cat. No. 40488