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From:

Sent: Thursday, February 19, 2009 12:02:05 PM

To:

Cc:

Subject: FW: Levy on Income for Deceased Taxpayer

Hi

You have requested advice concerning how to deal with with an income tax liability of a decedent incurred prior to death. I have coordinated this advice with the Division.

As I understand the facts from your email and subsequent telephone conversations, there are a number of accounts where a Form 1099 is retrieved systemically by the Automated Collection System (ACS) showing income attributable to the decedent. The income might be in the nature of rents or royalties. The decedent is usually single and ACS is unable to discover a state probate estate. Further ACS research reveals no contacts.

The IRM at 5.5.3 provides that in this situation and if no real estate is available the account should be closed as currently not collectible. The IRM does not provide procedures for dealing with an account where a viable levy source has been identified in the absence of real property.

IRM 5.5.3.5.1 does suggest contacting Technical Advisory for specific guidance in some cases. Since ACS is an automated system, Advisory would be in a better position to contact the 1099 issuer to determine who is receiving the income noted on the Form 1099.

[REDACTED]

[REDACTED]

We do not advise issuing a levy to the 1099 issuer at this time as this would violate the Collection Due Process provisions contained in IRC 6330. The decedent/estate is the taxpayer entitled to a CDP notice prior to levy. If a policy decision is made to pursue these types of cases, we note that IRC 2203 defines an executor as "any person in actual or constructive possession of any property of the decedent" if no executor or administrator has been appointed. The CDP notice would be sent to that individual. After the CDP

process has been completed, a levy on the 1099 issuer would be appropriate. Please contact me if you have any questions. Thank you.