



## Treasury Inspector General for Tax Administration

### FISCAL YEAR 2008 REVIEW OF COMPLIANCE WITH LEGAL GUIDELINES WHEN CONDUCTING SEIZURES OF TAXPAYERS' PROPERTY

Issued on June 6, 2008

## Highlights

Highlights of Report Number: 2008-30-126 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

### IMPACT ON TAXPAYERS

To ensure that taxpayers' rights are protected, the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 amended the seizure provisions in Internal Revenue Code Sections 6330 through 6344 (1994 & Supp. IV 1998). The IRS did not always comply with these statutory requirements. Although TIGTA did not identify instances in which taxpayers were adversely affected, noncompliance with Internal Revenue Code requirements could result in abuses of taxpayers' rights.

### WHY TIGTA DID THE AUDIT

TIGTA is required under Internal Revenue Code Section 7803(d)(1)(A)(iv) (Supp. IV 1998) to annually evaluate the IRS' compliance with the legal seizure provisions to ensure that taxpayers' rights were not violated while seizures were being conducted.

### WHAT TIGTA FOUND

The collection of unpaid tax by the IRS generally begins with letters to the taxpayer followed by telephone calls and personal contacts by an IRS employee. The employees who make personal contacts are referred to as revenue officers. They consider the taxpayer's ability to pay the tax and discuss alternatives, such as an installment agreement or an offer in compromise. If these actions have been taken and the taxpayer has not fully paid the tax due, the revenue officer has the authority to take the taxpayer's funds or property for the payment of tax. Taking a taxpayer's property for unpaid tax is commonly referred to as a "seizure."

Our review of a random sample of 50 of the 683 seizures conducted from July 1, 2006, through June 30, 2007, determined that the IRS complied with the numerous legal and internal guidelines when conducting the majority of seizures. However, in 19 seizures, there were 25 instances in which the IRS

did not comply with a particular Internal Revenue Code requirement. Because there can be numerous statutory violations on each case, the 25 instances identified in our 50 cases represent an error rate of only about 1 percent. While we did not identify any instances in which the taxpayers were adversely affected, not following legal and internal guidelines could result in abuses of taxpayers' rights.

The Seized Property Sale Report (Form 2436) contains the required entries for expenses and proceeds, as well as a summary section for expenses incurred. Consistent use of this Form might have prevented many of the instances TIGTA identified from occurring. However, Form 2436 was not required for all seizure expenses and proceeds transactions.

### WHAT TIGTA RECOMMENDED

TIGTA recommended that the Director, Collection Policy, Small Business/Self-Employed Division, require the use of Form 2436 for all seizure expenses and proceeds accounting, including sales, releases, and redemptions.

In their response to the report, IRS officials agreed with the recommendation. Management plans to create a new form for posting seizure expenses for releases and redemptions. In the interim, the Director, Collection Policy, Small Business/Self-Employed Division, plans to ensure compliance with accounting guidelines for seizure expenses and proceeds through field program reviews.

### READ THE FULL REPORT

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

<http://www.treas.gov/tigta/auditreports/2008reports/200830126fr.pdf>.

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

Phone Number: 202-622-6500