

**Fiscal Year 2004
Statutory Review of Compliance With
Lien Due Process Procedures**

April 2004

Reference Number: 2004-30-086

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

April 8, 2004

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
DIVISION

Gordon C. Milbourn III

FROM: Gordon C. Milbourn III
Acting Deputy Inspector General for Audit

SUBJECT: Final Audit Report - Fiscal Year 2004 Statutory Review of
Compliance With Lien Due Process Procedures
(Audit # 200330030)

This report presents the results of our review of the Internal Revenue Service's (IRS) Lien Due Process Procedures. The overall objective of this review was to determine whether the Notices of Federal Tax Lien (NFTL) filed by the IRS complied with legal requirements set forth in Internal Revenue Code Section (I.R.C. §) 6320.¹

The IRS attempts to collect Federal taxes due from taxpayers by sending letters, making telephone calls, and meeting face to face with taxpayers. When initial contacts by the IRS do not result in the successful collection of unpaid tax, the IRS has the authority to attach a claim to the taxpayer's assets, called an NFTL, for the amount of unpaid tax liability.² Since January 19, 1999, I.R.C. § 6320 has required the IRS to notify taxpayers in writing within 5 business days of the filing of an NFTL.

The Treasury Inspector General for Tax Administration is required to determine annually whether NFTLs filed by the IRS comply with the legal guidelines in I.R.C. § 6320.³ This is the sixth audit performed on the IRS' compliance with the law and its own related internal guidelines when filing NFTLs.

In summary, the IRS did not completely comply with the law. A review of a statistically valid sample of 130 NFTLs identified 6 NFTLs (4.6 percent) for which the IRS correctly mailed the lien notices but did not mail them timely, as required by I.R.C. § 6320. In

¹ I.R.C. § 6320 (Supp. V 1999).

² I.R.C. § 6321 (1994).

³ I.R.C. § 7803(d)(1)(A)(iii) (Supp. V 1999).

addition, for another 5 NFTLs (3.8 percent), we could not determine if the IRS complied with the law because it did not provide proof of timely mailing. Finally, in 24 (18 percent) of the 130 NFTLs reviewed, the IRS did not follow its own internal guidelines when issuing lien notices, including the guidelines for notifying taxpayer representatives and for receipting and maintaining certified mail listings.

We recommended the Commissioner, Small Business/Self-Employed Division, consult with the Office of Chief Counsel to identify any actions necessary to correct the potential legal violations we identified in this audit.

Management's Response: IRS management agreed with the recommendation and plans to review the cases with the Office of Chief Counsel and discuss the actions needed to correct any potential legal violations. Management's complete response to the draft report is included as Appendix VII.

Copies of this report are also being sent to IRS managers affected by the report recommendation. Please contact me at (202) 622-6510 if you have questions or Richard J. Dagliolo, Acting Assistant Inspector General for Audit (Small Business and Corporate Programs), at (631) 654-6028.

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Background

The Internal Revenue Service (IRS) attempts to collect Federal taxes due from taxpayers by sending letters, making telephone calls, and meeting face to face with taxpayers. When initial contacts by the IRS do not result in the successful collection of unpaid tax, the IRS has the authority to attach a claim to the taxpayer's assets for the amount of unpaid tax liability.¹ This claim is referred to as a Notice of Federal Tax Lien (NFTL).

Since January 19, 1999, Internal Revenue Code Section (I.R.C. §) 6320² has required the IRS to notify taxpayers in writing within 5 business days of the filing of an NFTL.³ The IRS is required to notify taxpayers the first time an NFTL is filed for each tax period. The *Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320*⁴ (lien notice) is used for this purpose and advises taxpayers that they have 30 calendar days, after that 5-day period, in which to request a hearing with the IRS Appeals function. The lien notice indicates the date this 30-day period expires.

The law also requires that the lien notice explain, in simple terms, the amount of unpaid tax, administrative appeals available to the taxpayer, and provisions of the law and procedures relating to the release of liens on property. The lien notice must 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.

A synopsis of the IRS collection and lien filing processes is included in Appendix V. A description of IRS computer systems used in the filing of liens is included in Appendix VI.

The IRS is filing an increasing number of NFTLs to protect the Federal Government's interest. Since the enactment of the law, the number of NFTLs filed has increased

¹ Internal Revenue Code § 6321 (1994).

² I.R.C. § 6320 (Supp. V 1999).

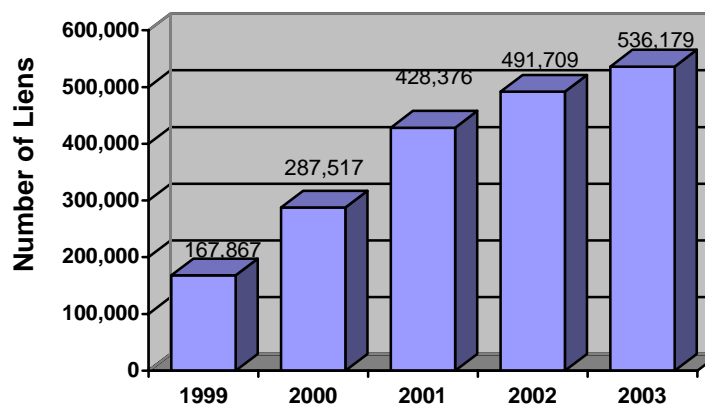
³ *Notice of Federal Tax Lien Under Internal Revenue Laws*, Form 668(Y)(c) (Rev.10-1999), Cat. No. 60025X.

⁴ *Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320*, Letter 3172 (DO) (01-1999).

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significantly, from approximately 168,000 in the fiscal year in which the law was enacted to over 530,000 in Fiscal Year (FY) 2003. Figure 1 shows the number of NFTLs filed in the last 5 fiscal years.

Figure 1: Liens Filed



Source: IRS Collection 5000-23 Reports.

The Treasury Inspector General for Tax Administration (TIGTA) is required to determine annually whether NFTLs filed by the IRS comply with the legal guidelines set forth in the law.⁵ We performed our audit work between August and December 2003. Our review included a site visit to the Compliance Policy function within the IRS Small Business/Self-Employed (SB/SE) Division Headquarters in New Carrollton, Maryland.

The audit was conducted in accordance with *Government Auditing Standards*. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

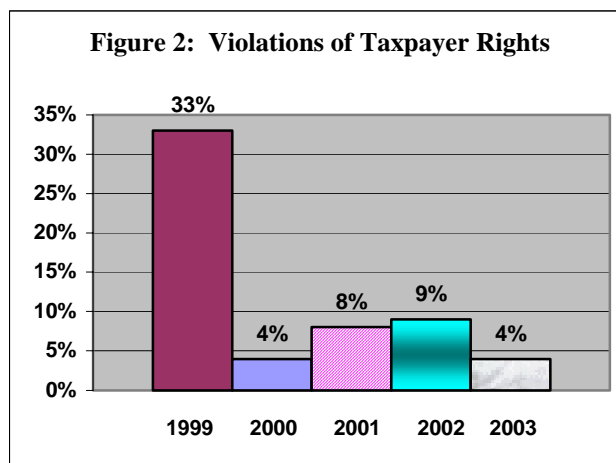
Results of prior TIGTA reviews

This is the sixth annual audit to determine if the IRS complied with the legal requirements of I.R.C. § 6320. In the prior 5 years, we reported that the IRS had not yet

⁵ I.R.C. § 7803(d)(1)(A)(iii) (Supp. V 1999).

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achieved full compliance with the law and its own internal guidelines. We reported in FY 1999 that 33 percent of NFTLs reviewed involved potential violations of taxpayer rights.⁶ Figure 2 shows that in FYs 2000,⁷ 2001,⁸ 2002,⁹ and 2003,¹⁰ we reported that 4, 8, 9, and 4 percent, respectively, of the NFTLs reviewed did not comply with the law.



Source: TIGTA Mandatory Lien Reviews from Fiscal Years 1999 through 2003.

Lien Notices Were Not Always Mailed Timely

A review of a statistically valid sample of 130 NFTLs identified 6 NFTLs (4.6 percent) for which the IRS correctly mailed the lien notices but did not mail them timely, as required by I.R.C. § 6320. For the 6 NFTLs, lien notices were not mailed within 5 business days after the date of the filing of the liens. The notices were mailed from 1 to 5 days late. We estimate that 22,478 NFTL notices prepared from

⁶ *The Internal Revenue Service Should Improve Its Federal Tax Lien Procedures* (Reference Number 199910074, dated September 1999).

⁷ *Compliance With Requirements for Notifying Taxpayers of Federal Tax Lien Filings Has Not Yet Been Achieved* (Reference Number 2000-10-152, dated September 2000).

⁸ *Full Compliance With Requirements for Notifying Taxpayers of Federal Tax Lien Filings Has Not Yet Been Achieved* (Reference Number 2001-10-127, dated August 2001).

⁹ *Compliance With Lien Notice Requirements Has Not Been Achieved* (Reference Number 2002-40-135, dated August 2002).

¹⁰ *Fiscal Year 2003 Statutory Review of Compliance With Lien Due Process Procedures* (Reference Number 2003-40-066, dated February 2003).

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August 1, 2002, through July 31, 2003, could have been mailed late.

Although we could not identify the specific reasons for the delays, employees did not use the information on the Automated Lien System (ALS) about required notices to prepare the notices timely. Therefore, there were delays in sending lien filed notifications to taxpayers. Delays in mailing the lien notices can reduce the time taxpayers have to request a hearing to less than the 30-day period allowed by the law. These errors could result in violations of a taxpayer's rights should the taxpayer appeal the filing of the lien notice and the IRS deny the request for the appeal.

In addition, for another 5 NFTLs (3.8 percent), we could not determine if the IRS complied with the law because it did not provide proof of timely mailing. Reasons included the listings were lost during transition from one office to another or the mail listing with the correct date was not available. If a taxpayer is not notified that an NFTL has been filed, he or she might not be aware of the right to appeal.

The IRS National Headquarters NFTL compliance review identified similar potential violations of the law¹¹

The IRS annually performs a Compliance Lien Collection Due Process Review to ensure IRS procedures are being followed and taxpayers' rights are being protected. The review includes analyses to determine if the IRS timely notified taxpayers; notified business partners, spouses, and taxpayer representatives of the filing of an NFTL; and timely processed undelivered mail. The review also focuses on the cause of noncompliance with lien procedures and follows up with the appropriate offices to improve compliance with the lien process. The IRS is currently in the process of completing the FY 2003 review of between 50 and 80 liens.

¹¹ We used a different methodology from that used by the IRS when conducting the NFTL reviews; therefore, the results of the two reviews cannot be strictly compared.

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In March 2003, the IRS completed its FY 2002 review of 230 NFTLs filed from January through August 2002. This review identified that 6 percent of the liens reviewed were not mailed within 5 business days after the filing of the liens or did not have a date-stamped copy of United States Postal Service Form 3877 (also called a certified mail listing). The IRS review identified printer problems, mailroom delays, and staffing issues as some of the causes. As of October 17, 2003, the IRS had taken appropriate corrective actions for those potential violations.

Recommendation

1. The Commissioner, SB/SE Division, should consult with the Office of Chief Counsel to identify any actions necessary to correct the potential legal violations we identified in this audit.

Management's Response: As in resolving potential legal violations in past reviews, the IRS will continue to consult with the Office of Chief Counsel on potential legal violations. The IRS will review the cases we identified with the Office of Chief Counsel and discuss the actions needed to correct any potential legal violations.

Internal Guidelines Were Not Being Followed for Notifying Taxpayer Representatives and Maintaining Proof of Mailing

In 24 (18 percent) of the 130 NFTL cases reviewed, the IRS did not follow its own internal guidelines when issuing lien notices, including its guidelines for notifying taxpayer representatives (19 cases) and for receipting and maintaining certified mail listings (5 cases). Two of these 24 NFTL cases were also included in those notices not mailed timely mentioned in the prior report section.

Notices were not always sent to taxpayer representatives

For 19 (66 percent) of 29 NFTLs¹² for which the taxpayer had a representative, a copy of the lien notice was not sent to the representatives as required by IRS internal guidelines. The IRS stated this happened for various reasons, such as the employees did not forward the taxpayer representatives' information to the ALS units, the employees forwarded the

¹² Our review of 130 sample cases identified 29 cases in which the taxpayer had a representative.

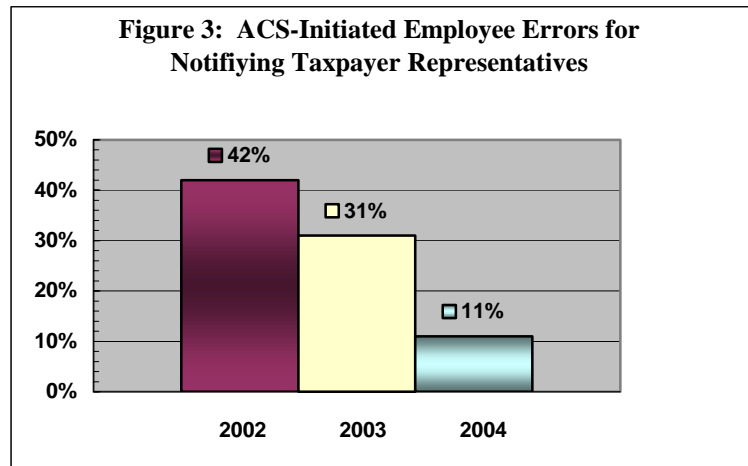
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information to the Technical Support function instead of the ALS units, or ALS unit employees did not send the notices although they had received the taxpayer representatives' information. For several cases, there was no case history available to determine the reasons.

IRS procedures require that a copy of the notice be sent to the taxpayer's representative not later than 5 days after the notice is sent to the taxpayer when an NFTL is filed. IRS employees requesting the NFTL and lien notice through the Automated Collection System (ACS) are responsible for electronically forwarding the taxpayer representative information to the ALS units, so a copy of the lien notice can be sent. Revenue officers using the Integrated Collection System (ICS) may choose to send the taxpayer representative information to the ALS unit by facsimile or send the lien notice directly to the taxpayer representative without using the ALS. The ALS units are responsible for printing and mailing NFTLs and related lien notices.

Of the 19 NFTLs, 2 liens (11 percent) were initiated through the ACS. Although the ACS had taxpayer representative information for these two liens, the IRS did not send lien notifications to the taxpayer representatives. In one case, the ALS history shows information was forwarded to the ALS unit, but the lien notification was not sent. We did not have the case history for the other case. However, as Figure 3 shows, the current year's results were better than those identified in our FYs 2002 and 2003 reports, 42 and 31 percent, respectively.

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Source: TIGTA Mandatory Lien Reviews from FYs 2002 through 2004.

The programming changes for the ACS initiated during FY 2000 contributed to this improvement in more efficiently identifying and notifying taxpayer representatives. The ACS now has the ability to directly send to the ALS unit an electronic file of taxpayer representative information which is printed and manually keyed in by the ALS unit personnel. Although the representative information must still be manually input to the ALS by ALS unit employees, there is a software enhancement planned that could further alleviate the manual process and enable fully automated notification to taxpayer representatives on the ALS.

The other 17 of 19 NFTLs were initiated through the ICS. In 15 of the 17 NFTLs, a revenue officer using the ICS did not document that he or she had requested a lien notice be sent to the taxpayer representative (13 instances) or the ICS history was not available to confirm the action by the revenue officer (2 instances). Revenue officers are required to document in the case history when they request a lien notice for taxpayer representatives. Revenue officers' managers are also required to review case files for this documentation. For the remaining 2 of 17 NFTLs, although the revenue officers forwarded the taxpayer representative information to the ALS, notification letters were not sent to the taxpayer representatives.

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The IRS is in the process of designing a programming enhancement to the ICS, similar to the ACS change, that will electronically forward taxpayer representative information to the ALS units. The scheduled completion date for this action was postponed from its targeted date of January 2005 and now is slated for completion in the middle of FY 2005.

Proof of mailing

For 5 of the 24 NFTLs,¹³ the IRS could not provide proof of mailing because there was no certified mail listing on file. Some of the reasons were that the listings were lost during transition from one office to another or the mail listing with a correct date was not available.

The process for mailing the notices and obtaining the date stamp on the certified mail listings varies among offices. Some ALS units take the certified mail listings and notices directly to the United States Postal Service for mailing, while others rely on the IRS Mailroom function to process the mail and obtain a date stamp on the listings.

IRS procedures require the retention of the date-stamped copy of each listing for 10 years after the end of the processing year. Without the dated proof of mailing, the IRS may be unable to protect itself against a taxpayer's claim that he or she did not receive timely notice of the lien and was unaware an NFTL had been filed against his or her assets.

The IRS National Headquarters NFTL compliance review identified similar instances of noncompliance with internal guidelines

The IRS' FY 2002 review identified retention, legibility, and maintenance of certified mail listings as an area of noncompliance with internal lien processing guidance. The review also noted that taxpayer representatives were not always provided with a copy of the lien notice. These results are similar to those of this and prior TIGTA reviews.

¹³ These 5 NFTLs are those identified earlier for which we could not determine if the IRS complied with the law because it did not provide proof of timely mailing.

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We are making no recommendations at this time regarding internal guidelines. As part of corrective actions to a prior TIGTA report, the IRS is already taking actions to automate the process for notifying taxpayer representatives. See page 7 of this report for a description of those actions.

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Appendix I

Detailed Objective, Scope, and Methodology

The objective of this audit was to determine if the Notices of Federal Tax Lien (NFTL) issued by the Internal Revenue Service (IRS) complied with legal requirements set forth in Internal Revenue Code Section (I.R.C. §) 6320.¹ To accomplish our objective, we:

- I. Determined if liens issued by the IRS complied with legal requirements set forth in I.R.C. § 6320 (a) and related internal guidelines.
 - A. Obtained from the IRS Automated Lien System (ALS) Project Team an extract of liens prepared by the IRS nationwide between August 1, 2002, and July 31, 2003. The ALS extract contained 487,018 liens and excluded refiled liens. We traced the total population for accuracy to the Collection Report of Liens for the same period. We validated the sample selected in Audit Test I.B. by accessing the ALS database and verifying that the extract information was accurate. We also compared taxpayer data to the IRS Integrated Data Retrieval System (IDRS).²
 - B. Selected a statistically valid sample of 130 NFTLs for review from the ALS extract. We used a statistical sample because we wanted to project the number of errors. We used attribute sampling and the following formula to calculate the minimum sample size (n) of 116, which we rounded to 130:
$$n = (NZ^2 p(1-p)) / (NE^2 + Z^2 p(1-p)).$$

N = Population of lien notices (487,018).
Z = Desired Confidence Level (90 percent).
p = Expected Error Rate (4 percent).
E = Precision Level (3 percent).
 - C. Analyzed 130 liens using data from the ALS, Integrated Collection System, Automated Collection System, and IDRS to determine if the IRS adhered to the legal and internal guidelines.
 1. Obtained certified mail listings (CML) (also called United States Postal Service Forms 3877) for 125 of the 130 sample cases (5 of the 130 CMLs were not available) and compared the lien filed date to the postal mail date on the CML to determine if the lien notices were sent to taxpayers timely.
 2. Determined if taxpayers, spouses, partners, and taxpayer representatives received notices.

¹ I.R.C. § 6320 (Supp. V 1999).

² See Appendix VI for a description of IRS computer systems used in the filing of liens.

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3. Determined if the lien notices were mailed to correct addresses and the undeliverable notices were appropriately processed.
 4. Scanned for indications of fraud during the case reviews.
 - D. Consulted with the Treasury Inspector General for Tax Administration Office of Counsel prior to reporting any potential legal violations to IRS management to ensure they were potential legal violations.
 - E. Provided and discussed all exception cases with Small Business/Self-Employed (SB/SE) Division Compliance function management for agreement to potential violations and corrective action, if appropriate.
- II. Determined if internal guidelines have been implemented or modified since our last review by discussing procedures and controls with appropriate IRS personnel in the SB/SE Division Compliance function.
- III. Determined if the consolidation of the 35 ALS databases has affected any of the internal guidelines or processes performed by the ALS units by discussing the issues with appropriate IRS personnel in the SB/SE Division Compliance function.

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Appendix II

Major Contributors to This Report

Richard J. Dagliolo, Acting Assistant Inspector General for Audit (Small Business and Corporate Programs)

Parker F. Pearson, Director

Lynn Wofchuck, Audit Manager

James D. Dorrell, Senior Auditor

Pillai Sittampalam, Senior Auditor

Phyllis E. Heald, Auditor

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Lien Due Process Procedures**

Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Deputy Commissioner for Services and Enforcement SE
Acting Deputy Commissioner, Small Business/Self-Employed Division SE:S
Acting Director, Compliance, Small Business/Self-Employed Division SE:S:C
Director, Compliance, Wage and Investment Division SE:W:CP
Director, Customer Account Services, Small Business/Self-Employed Division SE:S:CAS
Director, Customer Account Services, Wage and Investment Division SE:W:CAS
Director, Strategy and Finance, Wage and Investment Division SE:W:S
Chief Counsel CC
National Taxpayer Advocate TA
Director, Office of Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis RAS:O
Office of Management Controls OS:CFO:AR:M
Audit Liaisons:
 Commissioner, Small Business/Self-Employed Division SE:S.
 Commissioner, Wage and Investment Division SE:W

Outcome Measures

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

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 22,478 Notices of Federal Tax Lien (NFTL) with legal violations of taxpayers' rights (see page 3).

Methodology Used to Measure the Reported Benefit:

From the nationwide statistically valid sample of 130 NFTLs,¹ we identified 6 NFTLs (4.6 percent) with potential legal violations of taxpayers' rights. The sample was selected based on a confidence level of 90 percent, a precision level of ± 3 percent, and an expected error rate of 4 percent. After reviewing the 130 NFTLs in our sample, we determined that the actual error rate was 4.62 percent, which prompted us to have to change the precision level to ± 3.05 percent. We projected the findings to the total population provided by the Internal Revenue Service (IRS) of 487,018 NFTLs prepared by the Automated Lien System² from August 1, 2002, through July 31, 2003. We estimated similar taxpayer rights could have been affected in 22,478 NFTLs ($6/130 \times 487,018$ population). We are 90 percent confident the range of NFTLs affected by similar errors is between 21,792 and 23,164.

Taxpayer rights could be affected because the taxpayer not receiving a notice or receiving a late notice might not be aware of the right to appeal or have less than the 30-day period allowed by the law to request a hearing. In addition, taxpayer rights could be affected when a taxpayer appeals the filing of the lien and the IRS denies the request for the appeal.

¹ One NFTL may require multiple lien notices since the Internal Revenue Service is required to separately notify taxpayers' spouses and business partners.

² See Appendix VI for a description of this system.

**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. A description of IRS computer systems used in the filing of lien notices is included in Appendix VI.

- IRS employees who make personal (face-to-face) contact with taxpayers are called revenue officers and work in the IRS Area Offices. The computer system used in most of the Area 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 Notice of Federal Tax Lien (NFTL). Liens protect the Federal Government's interest by attaching a claim to the taxpayer's assets for the amount of unpaid tax liability. The right to file an NFTL is created by Internal Revenue Code Section 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 an NFTL using either the ICS or ACS, the NFTL requests from both systems are transferred to the Automated Lien System (ALS). All NFTLs are processed by the ALS unless there is an expedite situation, in which case the NFTL is manually prepared. Although they are manually prepared and not printed through the ALS, manual NFTLs are tracked and controlled on the ALS and the lien notice is processed through the ALS. The ALS maintains an electronic database of all open NFTLs and updates the IRS primary computer records to indicate that an NFTL has been filed.

Most lien notices 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 (United States Postal Service Form 3877) which identifies each notice that is to be mailed. The

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notices and a copy of the certified mail listing are delivered to the United States Postal Service. A Postal Service employee ensures 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 on which 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.

**Internal Revenue Service Computer Systems
Used in the Filing of Notices of Federal Tax Lien**

The Automated Lien System (ALS) is a comprehensive database that prints Notices of Federal Tax Lien (NFTL) and lien notices, stores taxpayer information, and documents all lien activity. Lien activities on both the Integrated Collection System and Automated Collection System cases are controlled on the ALS by Technical Support or Case Processing functions in Area Offices. Employees in these functions process NFTLs and lien notices and respond to taxpayer inquiries using the ALS.

The Integrated Collection System (ICS) is an Area 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 online approval of case actions. Lien requests made using the ICS are uploaded to the ALS. The ALS generates the NFTL and related lien notices and updates the Internal Revenue Service's (IRS) primary computer files to indicate that an NFTL 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 (online) on the ACS. Lien notices requested using the ACS are uploaded to the ALS, which generates the NFTL and related lien notices and updates the IRS' primary computer files to indicate that an NFTL has been filed.

The Integrated Data Retrieval System (IDRS) is an online data retrieval and data entry system that processes transactions entered from terminals located in both campuses¹ and Area 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 campuses and Area Offices to the Master File in order for the IRS to maintain accurate records of activity on taxpayers' accounts.

The Master File is the IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.

¹ Campuses are the data processing arm of the IRS. They process paper and electronic submissions, correct errors, and forward data to the computer centers for analysis and posting to taxpayer accounts.

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Appendix VII

Management's Response to the Draft Report



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

RECEIVED
MAR 29 2004

MAR 26 2004

MEMORANDUM FOR TREASURY INSPECTOR GENERAL FOR TAX
ADMINISTRATION

FROM: Dale F. Hart 
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – Fiscal Year 2004 Statutory Review of
Compliance With Lien Due Process Procedures
(Audit # 200330030)

I have reviewed the draft report and agree with your recommendation. Total compliance with lien notice requirements of Section 6320 of the Internal Revenue Code (IRC) and internal procedures is our ultimate goal.

As stated in your report, the Internal Revenue Service (IRS) has the authority to attach a claim to taxpayers' assets, called a Notice of Federal Tax Lien (NFTL), for the amount of unpaid tax liabilities. The IRC Section 6320 requires the IRS to notify taxpayers in writing within five business days of the filing of a NFTL.

Since 1999, IRS has made it a priority to comply with the changes arising from the IRS Restructuring and Reform Act of 1998 (RRA '98). We enhanced the Automated Lien System (ALS) in order to systemically print the lien due process notice when the lien is generated. Weekly Master File extracts were created in order to send out separate notices to both husband and wife. We modified ALS to provide a method for the notices to be mailed to the taxpayer representatives who have a Power of Attorney on file. We started testing the printing of the lien due process notices at the Centralized Print Sites located in Ogden and Detroit. The print centralization pilot will greatly enhance our ability to ensure timely processing and compliance with the RRA '98 requirements.

Internal Revenue Manual (IRM) 5.12, Federal Tax Liens, was revised in December 2003 to give our employees more thorough instructions on the lien appeals process contained in IRC 6320. These instructions were reviewed with Counsel to ensure that they are proactive and respect the principles of taxpayer rights contained in RRA '98. We are embarking on an extensive study of lien releases and conditions that result in untimely release of liens to further ensure the protection of taxpayer rights. In addition, we have expanded access to ALS to allow IRS employees with legitimate reasons for access to release notices of lien. Finally, the results of the TIGTA audit validate that in the vast majority of cases, IRS is complying with the RRA '98 requirements.

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We consistently contact the Office of Chief Counsel about corrective actions when we identify potential legal violations, and we will continue to seek their guidance. Counsel reiterated that during the Appeals process, if the IRS cannot substantiate timely mailing of the Collection Due Process notice, the taxpayer's request for a hearing is considered timely.

Our comments on your recommendation follow:

RECOMMENDATION 1

The Commissioner, Small Business/Self-Employed Division, should consult with the Office of Chief Counsel to identify any actions necessary to correct the potential legal violations that the Treasury Inspector General for Tax Administration (TIGTA) identified in this audit.

CORRECTIVE ACTION

As in resolving potential legal violations in past reviews, we will continue to consult with Chief Counsel on potential legal violations. We will review the cases with Chief Counsel and discuss the actions needed to correct any potential legal violations.

IMPLEMENTATION DATE

September 15, 2004

RESPONSIBLE OFFICIAL(S)

Director, Payment Compliance, Small Business/Self-Employed Division

CORRECTIVE ACTION MONITORING PLAN

The Program Manager, Technical and Insolvency Office, will advise the Director, Payment Compliance, Small Business/Self-Employed Division, of any delays in completing the corrective action.

If you have any questions, please call me at (202) 622-0600, or Robert L. Hunt, Acting Deputy Director, Compliance Policy, Small Business/Self-Employed Division, at (202) 283-2200.