

**Taxpayer Rights Are Being Protected When
Levies Are Issued**

June 2005

Reference Number: 2005-30-072

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DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

June 1, 2005

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
DIVISION

Handwritten signature of Pamela J. Gardiner in black ink.

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Audit Report - Taxpayer Rights Are Being Protected When
Levies Are Issued (Audit # 200430029)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) has complied with 26 United States Code (U.S.C.) Section (§) 6330, Notice and Opportunity for Hearing Before Levy.¹ The IRS Restructuring and Reform Act of 1998 (RRA 98)² requires the IRS to notify taxpayers at least 30 days before initiating any levy action to give taxpayers an opportunity to formally appeal the proposed levy. Specifically, we determined whether the IRS has sufficient controls in place to ensure that taxpayers are advised of their right to a hearing at least 30 days prior to levy action. This is the seventh annual report the Treasury Inspector General for Tax Administration (TIGTA) has issued in compliance with the RRA 98 to determine whether the IRS is complying with legal guidelines over the issuance of levies.

Prior TIGTA reports have recognized that the IRS has implemented tighter controls over the issuance of levies. This was due primarily to the development of systemic controls in both the Automated Collection System (ACS)³ and the Integrated Collection

¹ 26 U.S.C. § 6330 (Supp. IV 1998) *as amended* by the Trade Act of 2002, Pub. L. No. 107-210, 116 Stat. 933; the Job Creation and Worker Assistance Act of 2002, Pub. L. No. 107-147, 116 Stat. 21 (codified in scattered sections of 26 U.S.C., 29 U.S.C., and 42 U.S.C.); the Victims of Terrorism Tax Relief Act of 2001, Pub. L. No. 107-134, 115 Stat. 2427 (2002); and the Community Renewal Tax Relief Act of 2000, Pub. L. No. 106-554, 114 Stat. 2763.

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

³ The ACS is a telephone contact system through which telephone assistants collect unpaid taxes and secure tax returns from delinquent taxpayers who have not complied with previous notices.

System (ICS)⁴ to prevent a levy from being generated unless there were at least 30 days between the date taxpayers received notice of their appeal rights and the date of the proposed levy. Our testing of these controls indicated that they continue to function effectively.

Prior years' reports⁵ also addressed the issue of revenue officers not always properly notifying taxpayers of their appeal rights when issuing manual levies to seize taxpayer assets. In last year's report, we recommended the IRS reconsider requiring managers to review manual levies prepared by a revenue officer. The IRS declined to implement this recommendation but did issue an ICS Alert on March 5, 2004, reminding employees to ensure taxpayer rights are protected whenever a manual levy is issued. Our review of 32 ICS and 29 ACS manual levies issued between July 1 and September 30, 2004, showed the IRS properly informed taxpayers of their appeal rights at least 30 days prior to issuing the levies.

We made no recommendations in this report. However, key IRS management officials reviewed it prior to issuance. Copies of this report are also being sent to the IRS managers affected by the report findings. Please contact me at (202) 622-6510 if you have questions or Richard Dagliolo, Acting Assistant Inspector General for Audit (Small Business and Corporate Programs), at (631) 654-6028.

⁴ The ICS is an automated system used to control and monitor delinquent cases assigned to revenue officers in the IRS field offices.

⁵ *Additional Efforts Are Needed to Ensure Taxpayer Rights Are Protected When Manual Levies Are Issued* (Reference Number 2004-30-094, dated April 2004); and *The Internal Revenue Service Does Not Have Controls Over Manual Levies to Protect the Rights of Taxpayers* (Reference Number 2003-40-129, dated June 2003).

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Taxpayer Rights Are Being Protected When Levies Are Issued

Background

When taxpayers do not pay delinquent taxes, the Internal Revenue Service (IRS) has the authority to work directly with financial institutions and other third parties to seize taxpayers' assets. This action is commonly referred to as a "levy." The IRS Restructuring and Reform Act of 1998 (RRA 98)¹ requires the IRS to notify taxpayers at least 30 days before initiating a levy action to give taxpayers an opportunity to formally appeal the proposed levy.

The RRA 98 also requires the Treasury Inspector General for Tax Administration (TIGTA) to annually verify that the IRS is complying with the provisions. This is the seventh year that the TIGTA has evaluated the controls over levies.

Two operations within the IRS issue levies to collect delinquent taxes:

- The Automated Collection System (ACS),² where Customer Service Representatives (CSR) contact delinquent taxpayers by telephone to collect unpaid taxes and secure tax returns.
- The Collection Field function (Cff), where revenue officers contact delinquent taxpayers in person as the final step in the collection process. Field contact becomes necessary when the ACS does not resolve the tax matter. Delinquent cases that are assigned to revenue officers in the IRS field offices are controlled and monitored with the Integrated Collection System (ICS).³

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

² The ACS is a telephone contact system through which telephone assistants collect unpaid taxes and secure tax returns from delinquent taxpayers who have not complied with previous notices.

³ The ICS is an automated system used to control and monitor delinquent cases assigned to revenue officers in the IRS field offices.

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Both operations issue two types of levies: systemically generated levies and manual levies. Previous TIGTA reports⁴ have recognized that the IRS has significantly improved controls over the issuance of systemically generated levies. This was due primarily to the development of systemic controls in both the ACS and ICS to prevent a levy from being generated unless there were at least 30 days between the date taxpayers received notice of their appeal rights and the date of the proposed levy.

However, previous reports, including the TIGTA's April 2004 report, did identify that additional controls were needed over manual levies issued by revenue officers.⁵ In the April 2004 report, we recommended the IRS reconsider requiring managers to review manual levies prepared by a revenue officer. The IRS declined to implement this recommendation but did issue an ICS Alert on March 5, 2004, reminding employees to ensure taxpayer rights are protected whenever a manual levy is issued.

This review was conducted at the Small Business/Self-Employed Division Headquarters in the Collection and Campus Compliance Services offices in New Carrollton, Maryland. We conducted the audit from October 2004 through March 2005 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.

⁴ *The Internal Revenue Service Does Not Have Controls Over Manual Levies to Protect the Rights of Taxpayers* (Reference Number 2003-40-129, dated June 2003); *The Internal Revenue Service Has Improved Controls Over the Issuance of Levies, But More Should Be Done* (Reference Number 2002-40-176, dated September 2002); *The Internal Revenue Service Complied With Levy Requirements* (Reference Number 2001-10-113, dated July 2001); and *The Internal Revenue Service Has Significantly Improved Its Compliance With Levy Requirements* (Reference Number 2000-10-150, dated September 2000).

⁵ *Additional Efforts Are Needed to Ensure Taxpayer Rights Are Protected When Manual Levies Are Issued* (Reference Number 2004-30-094, dated April 2004); and *The Internal Revenue Service Does Not Have Controls Over Manual Levies to Protect the Rights of Taxpayers* (Reference Number 2003-40-129, dated June 2003).

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Controls Implemented to Protect Taxpayer Rights During the Issuance of Systemic Levies Are Operating Effectively

Our review of systemically generated levies showed that taxpayers' rights were protected. The taxpayers were given notice of their appeal rights at least 30 days prior to the issuance of the levies.

ACS controls

The first step in the collection process involves mailing taxpayers a series of notices asking for payment of delinquent taxes. If taxpayers do not comply, the majority of the accounts are forwarded to an ACS Call Center where CSRs contact taxpayers by telephone to resolve their accounts. If accounts cannot be resolved, CSRs have the authority to issue levies. See Appendix IV for an example of a levy form.

Virtually all levies issued by CSRs are generated through the ACS, which contains a control developed to comply with the RRA 98 that compares the date the taxpayer was notified of the pending levy with the date requested for the actual issuance of the levy. If there are fewer than 30 days between the dates, the ACS will not generate a levy. This control is designed to ensure taxpayers have been notified at least 30 days prior to the levy and have been informed of their appeal rights for any systemically generated levy.

We tested the effectiveness of this control by reviewing a random sample of 30 systemically generated levies issued through the ACS between July 1 and September 30, 2004. We compared the date of the final notification letter to the date of the issuance of the levy. All 30 taxpayers were timely notified of their appeal rights. Therefore, the systemic controls in the ACS Call Centers effectively protected taxpayers' appeal rights.

ICS controls

Many times notices and telephone calls to taxpayers do not successfully resolve delinquent accounts, and cases have to be assigned to revenue officers in Cff offices for face-to-face contact with taxpayers. Cases assigned to revenue officers are controlled on the ICS. Revenue officers use the ICS to record collection activity on delinquent cases and generate enforcement actions such as levies.

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The IRS installed a control in the ICS similar to the control in the ACS that prevents a levy from being issued unless taxpayers have received 30 days notice and been informed of their appeal rights. If fewer than 30 days have elapsed since the final notice date, the system will not generate a levy.

We tested the effectiveness of this control by reviewing a random sample of 30 systemically generated levies issued through the ICS between July 1 and September 30, 2004. We compared the date of the final notification letter to the date of the issuance of the levy. All 30 taxpayers had received notification of their appeal rights at least 30 days prior to the levy. Therefore, the systemic controls over levies issued by revenue officers in CFF offices effectively protected taxpayers' appeal rights.

Revenue Officers Properly Notified Taxpayers of Their Appeal Rights Prior to Issuing Manual Levies

The second type of levy that both CSRs and revenue officers can issue is the manual levy. The manual levy is issued outside the ACS and ICS automated processes and is not subject to systemic controls.

Because manual levies are issued outside the ACS and ICS automated processes, an automated audit trail for these actions is not produced. Therefore, it is impossible to reliably determine the exact number of manual levies that were issued by either CSRs or revenue officers during our review period. IRS management did inform us that they believe manual levies are issued infrequently.

Although ACS CSRs primarily issue levies systemically, they may also issue manual levies under certain circumstances, such as levies on Individual Retirement Arrangements and in jeopardy situations.⁶ Manual levies require the same advance notification of the taxpayer as systemic levies, except in cases involving jeopardy situations. IRS procedures require that manual levies issued by CSRs be reviewed and approved by a manager prior to the levy being issued. We consider this managerial review to be an effective control.

⁶ A "jeopardy situation" occurs when the IRS is concerned the taxpayer may attempt to hide or dispose of assets to prevent enforced collection actions.

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We analyzed the open ACS case inventory to identify any manual levies issued between July 1, 2004, and September 30, 2004. Because there is no automated audit trail produced for manual levies, we analyzed case history comments for any references to a manual levy. Using this methodology, we identified 29 instances in which a manual levy was issued to seize taxpayers' assets. Our review of these 29 manual levies issued by CSRs showed the IRS adequately protected taxpayers' appeal rights.

Revenue officers similarly issue levies systemically through the ICS in most cases. They are also authorized to issue a manual levy on any case as needed. While managerial approval is mandatory for manual levies issued by ACS employees, no review or approval is required when revenue officers issue a manual levy. Prior TIGTA reports have identified problems when IRS employees issue manual levies.⁷ The IRS issued an ICS Alert on March 5, 2004, to remind employees to ensure taxpayer rights are protected whenever a manual levy is issued by revenue officers. We still believe there is a high risk associated with manual levies.

We analyzed the ICS case inventory assigned to revenue officers to identify any manual levies issued between July 1, 2004, and September 30, 2004. Because no automated audit trail is produced for manual levies, we analyzed case history comments for any references to a manual levy. Using this methodology, we identified 32 cases in which a manual levy was issued to seize taxpayers' assets. In all cases, taxpayers received proper notification of their rights and were allowed sufficient time, as mandated by the RRA 98, to appeal this action.

⁷ *Additional Efforts Are Needed to Ensure Taxpayer Rights Are Protected When Manual Levies Are Issued* (Reference Number 2004-30-094, dated April 2004); and *The Internal Revenue Service Does Not Have Controls Over Manual Levies to Protect the Rights of Taxpayers* (Reference Number 2003-40-129, dated June 2003).

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether the Internal Revenue Service (IRS) has complied with 26 United States Code (U.S.C.) Section (§) 6330, Notice and Opportunity for Hearing Before Levy.¹ To accomplish our objective, we:

- I. Determined whether the IRS was maintaining sufficient automated controls and procedures to ensure that taxpayers had been advised of their right to a hearing at least 30 days prior to any levy action.
 - A. Determined whether automated procedures to prevent levies from being issued less than 30 days from the final notice date were still in place for the Automated Collection System (ACS)² Call Centers and the Integrated Collection System (ICS)³ and documented the current procedures.
 - B. Selected a random sample of 30 ICS levies from the population of 95,354 levies issued between July 1 and September 30, 2004, from an extract of the ICS database of open cases as of October 2004. We analyzed Master File⁴ transcripts and the ICS record history for the selected sample cases and verified that taxpayers had been advised of their right to a hearing at least 30 days prior to any levy action. We did not use statistical sampling because, based on prior years' testing, we did not anticipate finding any errors; consequently, we would not need to project our results.
 - C. Selected a random sample of 30 ACS levies from the population of 417,802 levies issued between July 1 and September 30, 2004, from an extract of the ACS database of open cases as of October 2004. We analyzed Master File transcripts and the ACS record history for the sample cases selected and verified that taxpayers had been advised of their right to a hearing at least 30 days prior to any levy action. We did not use statistical sampling because, based on prior years' testing, we did not anticipate finding any errors; consequently, we would not need to project our results.
- II. Determined whether manual levies issued by revenue officers and ACS personnel complied with legal guidelines in 26 U.S.C. § 6330.

¹ 26 U.S.C. § 6330 (Supp. IV 1998) *as amended* by the Trade Act of 2002, Pub. L. No. 107-210, 116 Stat. 933; the Job Creation and Worker Assistance Act of 2002, Pub. L. No. 107-147, 116 Stat. 21 (codified in scattered sections of 26 U.S.C., 29 U.S.C., and 42 U.S.C.); the Victims of Terrorism Tax Relief Act of 2001, Pub. L. No. 107-134, 115 Stat. 2427 (2002); and the Community Renewal Tax Relief Act of 2000, Pub. L. No. 106-554, 114 Stat. 2763.

² The ACS is a telephone contact system through which telephone assistants collect unpaid taxes and secure tax returns from delinquent taxpayers who have not complied with previous notices.

³ The ICS is an automated system used to control and monitor delinquent cases assigned to revenue officers in the IRS field offices.

⁴ The IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.

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- A. Identified any references to manual levies issued between July 1 and September 30, 2004, by querying the history narrative text field of the ICS open and closed case inventories and the ACS open case inventory. We identified and reviewed a judgmental sample of 32 manual levies from the open and closed ICS cases and a judgmental sample of 29 manual levies from the open ACS cases.
1. Requested complete case history files (history query) for all cases containing references to manual levies identified in step II.A.
 2. Reviewed case history documentation and identified whether a revenue officer or an ACS employee (Customer Service Representative) had issued a manual levy.
 3. Analyzed Master File transcripts and ACS and ICS history files to determine whether taxpayers were provided at least 30 days notice prior to any levy action initiated by the IRS.

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Appendix IV

Example of Levy (Form 668-B)

Form 668-B (Rev. May 2003)		Department of the Treasury – Internal Revenue Service Levy		
Due from: <i>(Taxpayer name and address)</i>		Originating Internal Revenue Territory Office		
Taxpayer Identification Number (TIN) ▶				
Kind of Tax	Tax Period Ended	Unpaid Balance of Assessment	Statutory Additions	Total
		\$	\$	\$
			Total amount due ▶	\$

The amounts shown above are now due, owing, and unpaid to the United States from the above taxpayer for internal revenue taxes. Notice and demand have been made for payment. Chapter 64 of the Internal Revenue Code provides a lien for the above tax and statutory additions. Section 6331 of the Code authorizes collection of taxes by levy on all property or rights to property of a taxpayer, except property that is exempt under section 6334.

Therefore, under the provisions of Code section 6331, so much of the property or rights to property, either real or personal, as may be necessary to pay the unpaid balance of assessment shown, with additions provided by law, including fees, costs, and expenses of this levy, are levied on to pay the taxes and additions.

Dated at _____, 20____
(Place) *(Date)*

Signature of Revenue Officer	Telephone number	Date
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Concurrence	Printed name of Group Manager	Signature	Date
	Printed name of Territory Manager	Signature	Date
	Printed name of Area Director, if required	Signature	Date

_____ was asked to be present during inventory.
(Printed name of taxpayer or taxpayer's representative)

The above named individual was present at inventory. Yes No

(Signature of Revenue Officer)