

# TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



## **Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures**

September 17, 2020

Reference Number: 2020-30-068

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# HIGHLIGHTS: Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures



Final Audit Report issued on September 17, 2020  
Reference Number 2020-30-068

## Why TIGTA Did This Audit

TIGTA is required by law to determine annually whether lien notices issued by the IRS comply with the legal requirements set forth in Internal Revenue Code Section 6320(a).

### Impact on Taxpayers

After filing a Form 668(Y)(c), *Notice of Federal Tax Lien* (NFTL), the IRS must notify the affected taxpayers in writing, at their last known address, within five business days of the NFTL filings. Taxpayers may not be timely advised of their appeal rights if the IRS does not comply with this statutory requirement.

## What TIGTA Found

Tests of a statistically valid sample of 116 NFTLs determined the IRS timely and correctly mailed the NFTL and appeal rights notices to the taxpayers' last known address. However, tests of a judgmental sample of 120 undelivered lien notices identified five cases for which the address on the original lien notice and the address on the IRS computer system did not agree. In one of these cases, the address on the IRS computer system was updated before the cycle date the NFTL was prepared.

The IRS will grant an "equivalent hearing" if taxpayers request an equivalent hearing after the 30-calendar-day period, but within one year of the date the Collection Due Process notice was issued. However, IRS procedures do not require that notices be resent if the original notice was returned as undeliverable due to a change in address that occurred more than two weeks after it was mailed. Taxpayers have a right to be informed.

Taxpayer representatives should be provided copies of all taxpayer correspondence if authorized. However, the IRS did not provide notice for two of the 37 sample cases in which the taxpayer had an authorized representative. In addition, the IRS sent a copy of the notice to one representative who was not authorized to receive it.

## What TIGTA Recommended

TIGTA recommended that the Director, Collection Policy, Small Business/Self-Employed Division, issue guidance to ensure that Automated Collection System Support employees processing undeliverable mail 1) determine if the notice is addressed to the primary or secondary taxpayer, perform address research for the appropriate taxpayer, and document to whom the notice was addressed, and 2) document that the notice was returned as undelivered.

IRS management agreed with TIGTA's recommendations. The IRS issued guidance requiring employees to determine if the undelivered NFTL was addressed to a secondary taxpayer, and reminding employees to conduct address research for the appropriate taxpayer and document which address was undeliverable and if an additional address was found. The IRS also corrected a link in its internal guidance providing instructions for updating the status of the undelivered notice.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

**U.S. DEPARTMENT OF THE TREASURY**

**WASHINGTON, D.C. 20220**

September 17, 2020

**MEMORANDUM FOR:** COMMISSIONER OF INTERNAL REVENUE

**FROM:** Michael E. McKenney  
Deputy Inspector General for Audit

**SUBJECT:** Final Audit Report – Fiscal Year 2020 Statutory Review of Compliance  
With Notice of Federal Tax Lien Filing Due Process Procedures  
(Audit # 202030021)

This report presents the results of our review to determine whether liens issued by the Internal Revenue Service comply with legal guidelines set forth in the Internal Revenue Code and Treasury Regulations. This review is part of our Fiscal Year 2020 Annual Audit Plan and addresses the major management and performance challenge of *Protecting Taxpayer Rights*.

Management's complete response to the draft report is included as Appendix VI.

Copies of this report are also being sent to the Internal Revenue Service managers affected by the report recommendations. If you have any questions, please contact me or Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations).



# Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures

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## Table of Contents

<b><u>Background</u></b> .....	Page 1
<b><u>Results of Review</u></b> .....	Page 3
<u>Undelivered Lien Notices Were Not Always Properly Worked</u> .....	Page 3
<u>Recommendations 1 and 2:</u> .....	Page 6
<u>Enforcement Actions Were Suspended When Taxpayers     Appealed Their Notices of Federal Tax Lien</u> .....	Page 6
<u>Taxpayer Representatives Were Not Always Notified As Required</u> .....	Page 6
<u>Notices of Federal Tax Lien Were Generally Not Filed     During the People First Initiative Suspension Period</u> .....	Page 8
<b><u>Appendices</u></b> .....	
<u>Appendix I – Detailed Objective, Scope, and Methodology</u> .....	Page 9
<u>Appendix II – Synopsis of the Internal Revenue Service     Collection and Notice of Federal Tax Lien Filing Processes</u> .....	Page 11
<u>Appendix III – Internal Revenue Service Computer Systems     Used in the Filing of Notices of Federal Tax Liens</u> .....	Page 12
<u>Appendix IV – Confidence Intervals for Error Rates Reported on     Taxpayer Representatives Not Receiving Notification During     Fiscal Years 2015 Through 2019</u> .....	Page 13
<u>Appendix V – Statutory Lien Reports Issued During     Fiscal Years 2015 Through 2019</u> .....	Page 14
<u>Appendix VI – Management’s Response to the Draft Report</u> .....	Page 15
<u>Appendix VII – Abbreviations</u> .....	Page 18



## Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures

### 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. As a matter of law, a lien arises upon the occurrence of a tax delinquency and encumbers the property of the delinquent taxpayer.<sup>1</sup> To protect the Government's claim, the IRS has the authority to file a notice of the lien in the appropriate State and local offices of record.<sup>2</sup> The IRS files a Form 668(Y)(c), *Notice of Federal Tax Lien* (NFTL), in appropriate local government offices to notify interested parties that a lien exists.<sup>3</sup>

**The IRS is required to notify taxpayers of their Collection Due Process rights when the first NFTL is filed for each tax period owed.**

The Internal Revenue Code (I.R.C.) has long required the IRS to notify taxpayers, in writing, of the filing of an NFTL; however, the IRS Restructuring and Reform Act of 1998 expanded upon this notice requirement, creating I.R.C. Section (§) 6320 to give taxpayers additional rights.<sup>4</sup> When the first NFTL is filed for a tax period, the notice must be issued within five business days of the filing of the NFTL and inform taxpayers of the right to elect a collection due process (CDP) hearing wherein the taxpayer can raise any relevant issue, including spousal defenses, the appropriateness of the collection actions, and collection alternatives. The IRS issues a lien notice to advise taxpayers that they have 30 calendar days, after the five-business-day period, to request a CDP hearing with the IRS's Office of Appeals.<sup>5</sup> The lien notice indicates the date on which this 30-calendar-day period expires.

If they fail to request a CDP hearing within the 30-calendar-day period, the IRS may grant an "equivalent hearing."<sup>6</sup> Taxpayers can file a request for an equivalent hearing within one year following the five-business-day period after the NFTL is filed. An equivalent CDP hearing is similar to a regular CDP hearing; however, the taxpayer cannot seek judicial review of the Office of Appeals' decision.<sup>7</sup> The IRS generally suspends levy action for the tax periods on the NFTL from when the taxpayer requests the CDP hearing until the conclusion of the CDP hearing, including the period covering any request for judicial review.

The law also requires that the lien notice explain, in simple terms, the amount of unpaid tax, other administrative appeal rights available to the taxpayer, and provisions of the law and procedures related to the release of the lien on the property.<sup>8</sup> The lien notice must be given in person, left at the taxpayer's home or business, or sent by certified or registered mail to the taxpayer's last known address.

<sup>1</sup> Internal Revenue Code §§ 6321 and 6323.

<sup>2</sup> Internal Revenue Code § 6323.

<sup>3</sup> See Appendix II for a synopsis of the IRS collection and NFTL filing processes.

<sup>4</sup> Pub. L. No. 105-206, 112 Stat. 685. I.R.C. § 6320.

<sup>5</sup> Letter 3172, *Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320*.

<sup>6</sup> Treas. Reg. § 301.6320-1(i)(2) Q&A-17.

<sup>7</sup> Treas. Reg. § 301.6320-1(i)(2) Q&A-16.

<sup>8</sup> I.R.C. § 6320(a)(3)(A), (a)(3)(C), and (a)(3)(D).

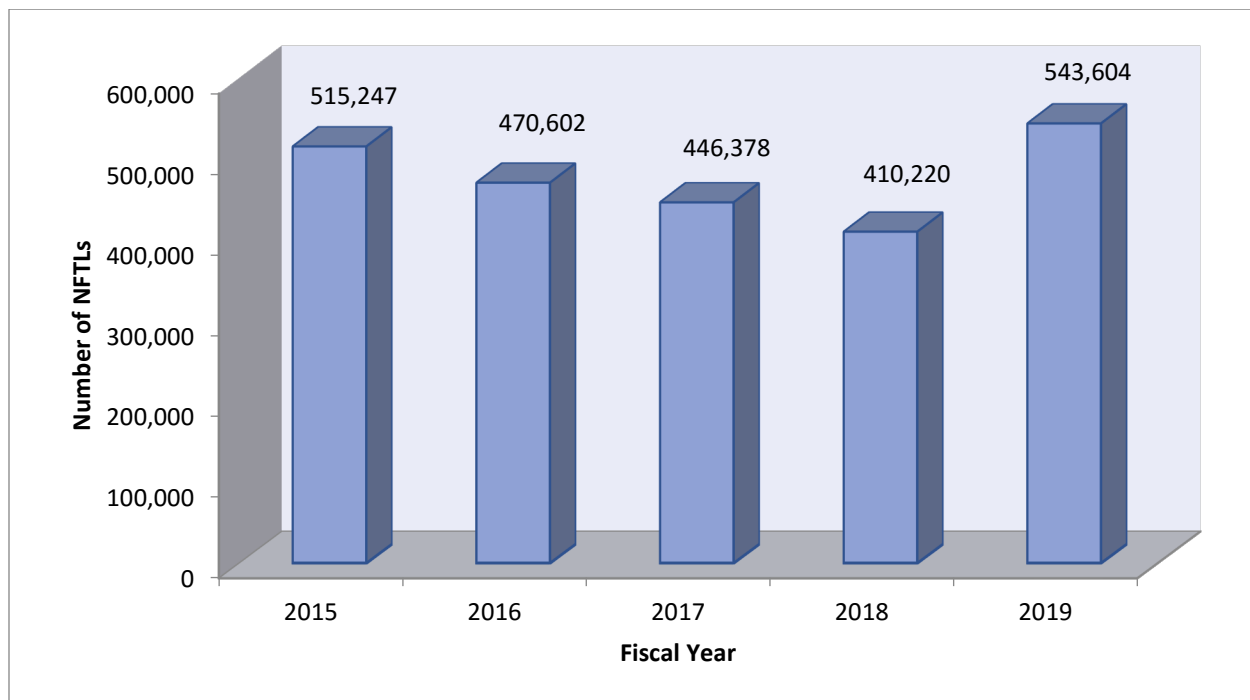


## Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures

Depending on employee access and case status, NFTL requests can be generated using one of three IRS systems: 1) the Integrated Collection System (ICS), 2) the Automated Collection System (ACS), or 3) directly input into the Automated Lien System (ALS).<sup>9</sup>

Figure 1 shows the annual NFTL filings for the past five fiscal years. NFTL filings reached a peak of 1,096,376 in Fiscal Year (FY) 2010 and declined through FY 2018, reaching a low of 410,220 in that year. This decrease parallels the decline in the number of revenue officers of over 48 percent, from 5,922 at the end of FY 2010 to 3,028 at the end of FY 2018. However, NFTL filings increased by 33 percent from FY 2018 to FY 2019 (410,220 to 543,604).

**Figure 1: Number of NFTLs Filed for FYs 2015 Through 2019**



Source: IRS Data Book for FYs 2015 through 2019.

I.R.C. § 6320(c) provides that for purposes of a taxpayer's appeal of an NFTL, certain paragraphs of I.R.C. § 6330 shall apply.<sup>10</sup> Specifically, if a hearing is requested for the NFTL filing, the policy is that levy actions generally shall be suspended for the period during which such hearing and appeals therein are pending.<sup>11</sup>

The Treasury Inspector General for Tax Administration (TIGTA) is required to determine annually whether the IRS complied with the law pertaining to CDP rights when filing the NFTLs.<sup>12</sup> This is our twenty-second annual audit to determine whether the IRS complied with the legal requirements of I.R.C. § 6320(a) and its own related internal guidelines for issuing lien notices.<sup>13</sup> In the previous five years, including this year, we have reported full compliance with the law of

<sup>9</sup> See Appendix III for detailed descriptions of the IRS computer systems used in the filing of the NFTLs.

<sup>10</sup> I.R.C. §§ 6320(c), *Conduct of hearing; review; suspensions*, and 6330(e), *Suspension of collections and statute of limitations*.

<sup>11</sup> I.R.C. § 6330(e) and (f).

<sup>12</sup> I.R.C. § 7803(d)(1)(A)(iii).

<sup>13</sup> See Appendix V for a list of the prior five TIGTA reports.



## Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures

timely notifying taxpayers each time. However, from FY 2015 to 2018, we reported that the IRS had not achieved full compliance with guidelines involving power of attorney notifications.

### Results of Review

Our review of a statistically valid random sample of 116 NFTLs from the 480,109 NFTLs filed between July 1, 2018, and June 30, 2019, found that the IRS timely and correctly mailed a copy of the NFTL and notice of appeal rights to the last known address of all taxpayers, as required by I.R.C. § 6320(a).<sup>14</sup> I.R.C. § 6320(a) requires the IRS to notify taxpayers in writing, at their last known address, within five business days of the filing of an NFTL. However, our review of a judgmental sample of undelivered lien notices showed that the IRS did not always use the taxpayer's last known address when sending the notices.<sup>15</sup>

### Undelivered Lien Notices Were Not Always Properly Worked

Our review of a judgmental sample of undelivered lien notices showed that the IRS usually sent lien notices to the taxpayer's last known address. However, copies of undelivered lien notices were not always sent to taxpayers when an address change was received by the IRS. In addition, IRS employees did not always perform required research and follow processing procedures.

### Although undelivered lien notices were generally sent to correct addresses as required, courtesy copies of undelivered notices were not always sent to updated addresses

We selected a judgmental sample of 120 undelivered lien notices returned to the Cincinnati and Fresno Campuses in March 2020.<sup>16</sup> We reviewed these undelivered lien notices and identified five lien notices for which the address currently on the IRS computer system and the address on the original lien notice did not agree. For \*\*\*\*\*1\*\*\*\*\*. Therefore, no additional action was required. However, the IRS did not \*\*\*\*\*1\*\*\*\*\*

For \*\*\*\*\*1\*\*\*\*\* According to IRS procedures, a lien notice for a case in which the IRS computer system was updated before the cycle the NFTL was prepared should be sent to the updated address. However, \*\*\*\*\*1\*\*\*\*\* IRS procedures require that employees send taxpayers another lien notice to a new address if all of the following factors are present:

- The originally mailed notice is returned as undelivered mail.
- Research confirms that the original lien notice was not sent to the last known address.

<sup>14</sup> Our sample was selected using a 90 percent confidence interval, 2 percent error rate, and  $\pm 5$  percent precision factor.

<sup>15</sup> A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

<sup>16</sup> A campus is the data processing arm of the IRS. The campuses process paper and electronic submissions, correct errors, and forward data to the Computing Centers for analysis and posting to taxpayer accounts.





## Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures

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- The new address was effective prior to the date the IRS requested the NFTL.<sup>17</sup>

In November 2016, the ACS Support function Internal Revenue Manual (IRM) was updated to include what it terms a “courtesy copy” procedure.<sup>18</sup> Specifically, the procedure allows ACS Support function employees to send a copy of the lien notice to a taxpayer’s new address if the new address was effective within two cycles after the original lien notice was prepared. The courtesy copy procedures state that this is not a requirement. However, in light of the fact that taxpayers have a right to request a hearing during an allotted time frame, and the lien notice contains both the information that an NFTL has been filed and instructions on how to request the CDP hearing regarding the NFTL filing, it is in the best interest of taxpayers for the IRS to resend undelivered lien notices when addresses have been updated.

Because taxpayers have one year from the date that the original NFTL was filed to elect to have an equivalent CDP hearing, the IRS should resend lien notices to all taxpayers with an updated address, regardless of when the update was received. ACS Support function employees, who perform research for the taxpayer’s last known address as part of the requirements for working undelivered mail, could take additional steps to input updated address information into the ALS to regenerate the notices. Because this service would support the taxpayers’ right to be informed, we believe the IRS should not limit the option to send NFTL “courtesy copies” to only those taxpayers who had an address change within two weeks.<sup>19</sup>

In our FY 2017 report, we recommended that the IRS expand the courtesy copy procedures in the IRM to allow a copy of the lien notice to be resent to those taxpayers whose original CDP lien notices went undelivered.<sup>20</sup> The IRS partially agreed to this recommendation by agreeing to include additional information on the equivalent hearing process on its CDP web page. TIGTA responded to the proposed corrective action by noting that providing additional information on the CDP web page does not help taxpayers who do not receive a copy of their lien notice. TIGTA also noted that ACS Support function employees are already required to perform research for the taxpayer’s last known address when working undelivered mail. Therefore, TIGTA continues to believe that the additional step of sending a copy to a taxpayer’s newest address when that research has already been performed does not create an excessive burden on the IRS.

### **Address research is still not performed as required**

During our review, we found that address research was not performed in many of the cases we reviewed. Our judgmental sample of 120 returned lien notices identified 46 (38.3 percent) cases without the required address verification of the undelivered lien notices within 14 calendar days of receipt in the ACS Support function. IRS officials noted that both the Cincinnati and Fresno Campuses were closed on March 20, 2020, due to the COVID-19 pandemic and, leading up to that time, normal work processes such as mail processing had slowed. However, TIGTA’s sample was selected and reviewed on March 3, 2020, and the cases were returned to the IRS for forwarding to the ACS Support function on the same day.

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<sup>17</sup> Internal Revenue Manual 5.19.6.18.4 (Nov. 4, 2016).

<sup>18</sup> IRM 5.19.6.18.4 (Nov. 4, 2016).

<sup>19</sup> I.R.C. § 7803(a)(3) lists the 10 taxpayer rights, with the first being the right to be informed.

<sup>20</sup> TIGTA, Ref. No. 2017-30-070, *Fiscal Year 2017 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures* (Sept. 2017).





## Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures

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IRS procedures require address verification of the undelivered lien notices within 14 calendar days of receipt in the ACS Support function.<sup>21</sup> If ACS Support function employees determine that a more current address was available when the NFTL was requested, then they must request that the lien notice be reissued.<sup>22</sup> Additionally, employees are required to document the date undelivered lien notices are received in the ACS Support function. Documentation should be noted in the ACS action history codes (if the taxpayer's account is still open) or in the Account Management Services narrative history (if the taxpayer's account is closed).<sup>23</sup> Without timely research of undelivered lien notices, the IRS cannot ensure compliance with the statutory requirement to provide the taxpayer a copy of the NFTL notice at his or her last known address.<sup>24</sup> In response to our FY 2017 report, IRS management updated IRM 5.19.6.18 to state that address research should be conducted for the appropriate taxpayer and history documentation should reflect such.<sup>25</sup> However, based on the results of our review, it appears that ACS Support function employees still are not following the internal processes.

### **Procedures designed to process undelivered lien notices were not consistently followed**

When working undelivered NFTL notices, employees should input a specific Integrated Data Retrieval System (IDRS) transaction code with an appropriate action code. The transaction code signifies that the lien notice was returned, and the action code indicates the reason, *e.g.*, undelivered, unclaimed, or refused.<sup>26</sup> For the 120 undelivered lien notices addressed to taxpayers in our judgmental sample, there were 93 cases in which the notice was undelivered but did not have the transaction code and action code on the Master File to indicate that the notices were returned as undelivered, as required.<sup>27</sup>

During our FY 2018 review, IRS management stated that, while the ALS user guide provides instructions on how to update the status of returned lien notices with one of three action codes (undelivered, unclaimed, or refused), the ACS Support function IRM states that unclaimed and refused notices do not have to be worked. Therefore, any lien notice returned to the ACS Support function as unclaimed or refused will not have a transaction code and action code in the Master File to indicate the returned delivery status of the notice. As a result, this might affect IRS functional employees who use the Master File account to obtain information about the taxpayer. If one of these three action codes is not posted on the Master File to indicate a returned delivery status, it appears as if the taxpayer received the NFTL.

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<sup>21</sup> IRM 5.19.6.18.4 (Feb. 20, 2018).

<sup>22</sup> IRM 5.19.6.18.4 (Feb. 20, 2018).

<sup>23</sup> The Account Management Services is a computer-based system used to answer and resolve all taxpayer account inquiries. It provides a common interface that allows users of multiple IRS systems to view history and comments from other systems.

<sup>24</sup> I.R.C. § 6320.

<sup>25</sup> IRM 5.19.6.18.4 (Feb. 20, 2018).

<sup>26</sup> IRM 5.19.6.18.4 (Feb. 20, 2018).

<sup>27</sup> 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.



## Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures

The Director, Collection Policy, Small Business/Self-Employed Division, should issue guidance to reinforce IRM 5.19.6.18 to ensure that ACS Support function employees processing undeliverable mail:

**Recommendation 1:** Determine if the notice is addressed to the primary or secondary taxpayer, perform address research for the appropriate taxpayer, and document to whom the notice was addressed.

**Management's Response:** IRS management agreed with the recommendation and has issued guidance requiring employees to determine if the undelivered NFTL was addressed to a secondary taxpayer, and reminding employees to conduct address research for the appropriate taxpayer and document which address was undeliverable and if an additional address was found.

**Recommendation 2:** Document that the notice was returned as undelivered.

**Management's Response:** IRS management agreed with the recommendation and has corrected a link in the IRS's internal guidance providing instructions for updating the status of the undelivered notice.

### Enforcement Actions Were Suspended When Taxpayers Appealed Their Notices of Federal Tax Liens

I.R.C. § 6320(c) provides that certain paragraphs of I.R.C. § 6330 shall apply for purposes of a taxpayer's appeal of an NFTL.<sup>28</sup> Specifically, if a hearing is requested under I.R.C. § 6330, the law requires that levy actions which are the subject of the requested hearing "shall be suspended for the period during which such hearing, and appeals therein, are pending."<sup>29</sup> Our review of the 10,552 open NFTL appeal cases as of September 2019 showed that the IRS suspended or did not take levy action that involved the same tax period as the NFTL under appeal.

### Taxpayer Representatives Were Not Always Notified As Required

Our review of a statistically valid sample of 116 NFTLs identified a total of 37 (32 percent) cases in which the taxpayers had representatives authorized to receive notifications at the time the NFTLs were requested. However, our review of ALS records found that the \*\*\*\*\*1\*\*\*\*\*

\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*

IRS procedural rules require that any notice or other written communication (or a copy thereof) required or permitted to be given to a taxpayer in any matter before the IRS must be given to the taxpayer and the representative, unless restricted by the taxpayer.<sup>30</sup> More specifically, when

<sup>28</sup> I.R.C. § 6320(c) incorporates I.R.C. § 6330 provisions related to matters considered at the hearing (§ 6330(c)), proceedings after the hearing (§ 6330(d)), suspension of collections and statute of limitations (§ 6330(e)), and frivolous requests for hearings (§ 6330(g)).

<sup>29</sup> I.R.C. § 6330(e)(1).

<sup>30</sup> Treas. Reg. § 601.506, *Conference and Practice Requirements, Statement of Procedural Rules* (2009).



## Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures

an NFTL is filed, IRS policy requires that a copy of the lien notice be sent to the taxpayer's authorized representative as soon as possible after the lien notice is sent to the taxpayer.<sup>31</sup>

We have reported that the IRS has not been properly notifying taxpayer representatives in six of our last seven reviews of the IRS's compliance with the Federal tax lien due process procedures. Our review this year confirms that taxpayers are still being adversely affected for cases requiring notification to taxpayer representatives.

Taxpayers have the right to retain a representative of their choice to represent them in matters with the IRS.<sup>32</sup> When completing Form 2848, *Power of Attorney and Declaration of Representative*, to designate a representative, the taxpayer may check a box to indicate that the IRS should ordinarily send the representative(s) copies of notices and other written communications pertaining to the representation. If the taxpayer does not check the box, the IRS will not ordinarily send copies of notices to the listed representative. Similarly, when completing Form 8821, *Tax Information Authorization*, taxpayers have an opportunity to check a box authorizing the IRS to send copies of notices or other written communications to their third-party designee on an ongoing basis. If the taxpayer does not check the box on Form 8821, the third-party designee is not authorized to receive notices on an ongoing basis. Taxpayer representative information is contained in the Centralized Authorization File (CAF).<sup>33</sup> Using the IDRS, employees can research the CAF to identify if the taxpayer has a representative on file as well as whether or not that representative is authorized to receive notices.

\*\*\*\*\*1\*\*\*\*\*

Our review of a statistically valid sample of 116 NFTLs found that \*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*

The IRS violates the taxpayer's rights when it sends a notice to a representative who is not authorized to receive it because the IRS shared the taxpayer's Personally Identifiable Information to a third party without written permission. In addition, the IRS is subject to potential liability claims by the taxpayer.

IRS management previously disagreed with the recommendation in our FY 2017 report to revise IRM procedures to clarify that copies of notices and other written communications should only be provided to representatives for whom taxpayers have expressly authorized the IRS to send them. In its response, IRS management indicated that the Form 2848 provides a general grant of authority to the taxpayer's representative to request and inspect the taxpayer's confidential tax information pertaining to the representation. However, the Form 2848 instructions give the taxpayer the option to elect whether his or her representative is entitled to receive copies of notices and communications as follows:

<sup>31</sup> IRM 5.12.6.3.10 (Jan. 19, 2018).

<sup>32</sup> I.R.C. § 7803(a)(3)(I).

<sup>33</sup> The CAF contains information about the types of authorizations taxpayers have given their representatives for their tax returns.



## Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures

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*If you want to authorize your representative to receive copies of all notices and communications sent to you by the IRS, you must check the box that is provided under the representative's name and address. Do not check the box if you do not want copies of notices and communications sent to your representative(s).*

Based on these instructions, TIGTA believes that taxpayers will expect that the IRS will not send their representatives copies of notices if they do not check the box. However, IRM procedures allow the IRS to provide a copy of a notice to a representative even if the taxpayer does not check the box. The IRS does not advise taxpayers of this possibility or how taxpayers can ensure that the IRS does not send notices to representatives against their wishes.

### **Notices of Federal Tax Lien Were Generally Not Filed During the People First Initiative Suspension Period**

In response to the economic impacts of the COVID-19 virus on taxpayers, the IRS initiated the People First Initiative, which included suspending new NFTL filings during the period of April 1, 2020 through July 15, 2020, unless exigent circumstances existed. However, the IRS would continue to take steps where necessary to protect all applicable statutes of limitations that were in jeopardy of expiring.

Our preliminary analysis of the ACS and the ICS to determine whether the NFTLs were filed during this time identified 16 notices issued to individuals between April 1 and May 23, 2020, with the majority (14) filed during the period May 3 to May 9, 2020. We will review these notices to determine whether exigent circumstances existed for the NFTLs filed between April 1 and July 15, 2020, as part of a future review of the IRS's efforts to assist taxpayers with issues arising from the COVID-19 pandemic.<sup>34</sup>

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<sup>34</sup> TIGTA Audit No. 202030628, *Internal Revenue Service's People First Initiative*.



## Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures

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# Appendix I

## Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether liens issued by the IRS comply with legal guidelines set forth in the I.R.C. and Treasury Regulations. To accomplish our objective, we:

- Determined whether lien notices issued by the IRS complied with legal requirements set forth in I.R.C. § 6320(a) and related internal guidelines.
- Evaluated the procedures for processing lien notices (Letter 3172, *Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320*) that are returned undelivered.
- Determined whether the IRS complied with legal requirements set forth in I.R.C. § 6330(e) as they relate to any levy or seizure action involving the same tax period as the I.R.C. § 6320 NFTL during the FY 2019 (October 1, 2018, to September 30, 2019) time period.
- Determined if internal guidelines have been implemented or modified since our last review by discussing procedures and controls with appropriate IRS personnel in the National Headquarters.

### Performance of This Review

This review was performed at the Small Business/Self-Employed Division's Centralized Lien Processing Operation and the ACS Support function in Fresno, California, and Covington, Kentucky, and with information obtained from the Small Business/Self-Employed Division's Office of Collection Policy in New Carrollton, Maryland, during the period October 2019 through July 2020. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Major contributors to the report were Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations); Linna Hung, Director; Robert Jenness, Audit Manager; Ali Vaezazizi, Lead Auditor; Richard Kemble, Senior Auditor; Malissa Livingston, Senior Auditor; and Nathan Cabello, Auditor.

### Validity and Reliability of Data From Computer-Based Systems

During this review, we relied on data stored at TIGTA's Data Center Warehouse and performed analysis of data received from the IRS. We performed tests to assess the reliability of the data and evaluated the data by performing electronic testing of required data elements, reviewing existing information about the data and the system that produced them, and interviewing agency officials knowledgeable about the data. We determined that the data were sufficiently reliable for purposes of this report.



## **Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures**

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### **Internal Controls Methodology**

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: the Small Business/Self-Employed Division Collection function's policies, procedures, and practices for timely notifying taxpayers of NFTL filings and timely verifying addresses of undelivered lien notices. We evaluated these controls by reviewing samples of lien notices sent to taxpayers and lien notices returned to the IRS as undelivered.



## Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures

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### Appendix II

#### **Synopsis of the Internal Revenue Service Collection and Notice of Federal Tax Lien Filing Processes**

The collection of unpaid tax begins with a series of letters (notices) sent to taxpayers advising them of their debt and asking for payment of the delinquent tax. IRS computer systems are programmed to mail these notices when certain criteria are met. If either personal or telephone contact is required:

- IRS employees who make personal (face-to-face) contact with taxpayers are called revenue officers and work in various locations. The ICS is used for workload management, case assignment/tracking, inventory control, and case analysis.<sup>1</sup>
- IRS employees make telephone contact to collect unpaid taxes and secure delinquent returns. The ACS is used in the call sites to track collection actions taken on taxpayer accounts.

When these efforts have been taken and the taxpayer has not paid the tax liability, designated IRS employees are authorized to file an NFTL by sending a Form 668(Y)(c) to the appropriate local government offices. The NFTLs protect the Federal Government's interest by informing the public of its claim to the taxpayer's assets for the amount of unpaid tax. The Federal tax lien is created by I.R.C. § 6321 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 after the notice and demand for payment.

The right to file an NFTL is found in I.R.C. § 6321. When employees request the filing of an NFTL using either the ICS or the ACS, the ALS processes the NFTL filing requests. In an expedited situation, employees can manually prepare the NFTL. Even for manually prepared NFTLs, the ALS controls and tracks the NFTLs and initiates subsequent lien notices to notify responsible parties of the NFTL filings and of their appeal rights.<sup>2</sup> The ALS maintains an electronic database of all open NFTLs and updates the IRS's 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 delivered in person. To maintain a record of the notices, the IRS prepares a certified mail list (U.S. Postal Service Form 3877, *Firm Mailing Book for Accountable Mail*), which identifies each notice that is to be mailed. The U.S. Postal Service date-stamps the list and returns a copy to the IRS. The stamped certified mail list is the documentation the IRS has that certifies the date on which the notices were mailed. IRS guidelines require that the stamped certified mail list be retained for 10 years after the end of the processing year.

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<sup>1</sup> See Appendix III for detailed descriptions of the IRS computer systems used in the filing of the NFTLs.

<sup>2</sup> Letter 3172.





## Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures

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### Appendix III

#### Internal Revenue Service Computer Systems Used in the Filing of Notices of Federal Tax Liens

**Automated Collection System (ACS)** – The ACS accepts IDRS balance due and nonfiler cases requiring telephone contact for resolution, and generates levies and correspondence. Tax examiners use the ACS's case management abilities to contact taxpayers; review their case histories; and issue notices, liens, or levies to resolve the cases.

**Automated Lien System (ALS)** – The ALS stores Federal tax lien and collection due process document data and provides the tools for users to create, release, refile, and withdraw liens; revoke releases, process CDP letters, and print lien and CDP letter facsimiles. Systemic lien requests are received from the ACS and the ICS. The ALS generates lien documents that are printed and processed for mailing by Centralized Lien Operations and the Centralized Print Site.

**Integrated Collection System (ICS)** – The ICS is a program that provides workload management, case assignment/tracking, inventory control, case analysis tools, and management information system capabilities to support the Small Business/Self-Employed Division's Collection function fieldwork.

**Integrated Data Retrieval System (IDRS)** – The IDRS is an application consisting of databases and operating programs that support IRS employees working active tax cases within each business function across the entire IRS, allowing IRS employees to take specific actions on taxpayer account issues, track status, and post transaction updates back to the Master Files. Actions taken via the IDRS include notice issuance, installment agreement processing, offers in compromise, adjustment processing, penalty and interest computations and explanations, credit and debit transfers within an account or other related accounts, and research of taxpayer accounts for problem resolution of taxpayer inquiries.



Fiscal Year 2020 Statutory Review of Compliance With  
Notice of Federal Tax Lien Filing Due Process Procedures

## Appendix IV

### Confidence Intervals for Error Rates Reported on Taxpayer Representatives Not Receiving Notification During Fiscal Years 2015 Through 2019

*Two-sided 90 percent confidence intervals using the  
exact binomial method for the exception rate  
for FYs 2015 through 2019*

Report FY	Sample Cases Requiring Representative Notification	Sample Cases Not Receiving Representative Notification	Error Rate	Confidence Interval
2015	36	6	17%	Between 4.51% and 27.07%
2016	37	6	16%	Between 6.11% and 26.32%
2017	47	8	17%	Between 7.31% and 24.30%
2018	47	3	1.8%	Between 0.5% and 4.7%
2019	37	*1*	*1*%	Not projected

*Source: Prior year results of TIGTA's tests on taxpayer representatives not receiving notification when authorized.*



## Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures

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### Appendix V

#### **Statutory Lien Reports Issued During Fiscal Years 2015 Through 2019**

TIGTA, Ref. No. 2015-30-055, *Fiscal Year 2015 Statutory Review of Compliance With Notice of Federal Tax Lien Due Process Procedures* (June 2015).

TIGTA, Ref. No. 2016-30-047, *Fiscal Year 2016 Statutory Review of Compliance With Notice of Federal Tax Lien Due Process Procedures* (July 2016).

TIGTA, Ref. No. 2017-30-070, *Fiscal Year 2017 Statutory Review of Compliance With Notice of Federal Tax Lien Due Process Procedures* (Sept. 2017).

TIGTA, Ref. No. 2018-30-080, *Fiscal Year 2018 Statutory Review of Compliance With Notice of Federal Tax Lien Due Process Procedures* (Sept. 2018).

TIGTA, Ref. No. 2019-30-077, *Fiscal Year 2019 Statutory Review of Compliance With Notice of Federal Tax Lien Due Process Procedures* (Sept. 2019).



## Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures

### Appendix VI

### Management's Response to the Draft Report



COMMISSIONER  
SMALL BUSINESS/SELF-EMPLOYED DIVISION

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

September 2, 2020

MEMORANDUM FOR MICHAEL E. McKENNEY  
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Eric C. Hylton **Eric C. Hylton** Digitally signed by Eric C. Hylton  
Date: 2020.09.02 13:17:07 -04'00'  
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – Fiscal Year 2020 Statutory Review of  
Compliance With Notice of Federal Tax Lien Filing Due Process  
Procedures (Audit # 202030021)

Thank you for the opportunity to review the above subject draft report, which evaluates whether the IRS is complying with the statutory requirements to notify taxpayers when a notice of federal tax lien (NFTL) is filed. The NFTL process is an important component of our collection strategy, as it protects the government's interest in the property of a taxpayer who has unpaid taxes. The timely and proper issuance of collection due process notices explaining to the taxpayer their rights regarding the NFTL filing is of utmost importance.

We appreciate your recognition that we timely and correctly notified taxpayers of NFTL filings and their appeal rights. This is the seventh consecutive year that TIGTA found no errors with our statutory notification requirements. Even with our high rate of compliance, we continue to explore ways to enhance our systemic processes to ensure notices are sent to the last known addresses of the taxpayers and, pursuant to policy, to authorized representatives.

We concur with TIGTA's findings that we did not always process undelivered notices in accordance with our procedures and, in response, we have already issued guidance reinforcing these procedures for employees who process undeliverable collection due process notices. We appreciate TIGTA acknowledging how our processes were affected by the extraordinary circumstances of the pandemic, and that notices generally were not filed during the People First Initiative suspension period, unless exigent circumstances existed.

Attached is our detailed response to your recommendations. If you have any questions, please contact me or Paul Mamo, Director, Collection Operations, Small Business/Self-Employed Division.

Attachment



## **Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures**

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Attachment

### **RECOMMENDATION 1:**

The Director, Collection Policy, Small Business/Self-Employed Division, should issue guidance to reinforce IRM 5.19.6.18 to ensure that ACS Support employees processing undeliverable mail: Determine if the notice is addressed to the primary or secondary taxpayer, perform address research for the appropriate taxpayer, and document to whom the notice was addressed.

### **CORRECTIVE ACTION:**

This recommendation was previously addressed in a corrective action taken in response to a recommendation from TIGTA's 2017 annual review. Internal Revenue Manual 5.19.6.18 was updated March 5, 2018 to add that when undelivered mail is addressed to the secondary taxpayer, employees should research the appropriate taxpayer and document as such. We issued an IRM Procedural Update (IPU) on July 31, 2020 requiring employees to determine if the undelivered NFTL was addressed to a secondary taxpayer, and reminding them to conduct address research for the appropriate taxpayer and to document on Account Management Services which address was undeliverable and if an additional address was found.

### **IMPLEMENTATION DATE:**

Implemented

### **RESPONSIBLE OFFICIAL:**

N/A

### **CORRECTIVE ACTION MONITORING PLAN:**

N/A

### **RECOMMENDATION 2:**

The Director, Collection Policy, Small Business/Self-Employed Division, should issue guidance to reinforce IRM 5.19.6.18 to ensure that ACS Support employees processing undeliverable mail: Document that the notice was returned as undelivered.

### **CORRECTIVE ACTION:**

We issued an IRM Procedural Update (IPU) on July 31, 2020 updating IRM 5.19.6.18.4 to correct the link to the appropriate chapter in the Automated Lien System User Guide for instructions to update the delivery status of the notice.

### **IMPLEMENTATION DATE:**

Implemented

### **RESPONSIBLE OFFICIAL:**

N/A



## **Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures**

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**CORRECTIVE ACTION MONITORING PLAN:**

N/A



## Fiscal Year 2020 Statutory Review of Compliance With Notice of Federal Tax Lien Filing Due Process Procedures

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### Appendix VII

#### Abbreviations

ACS	Automated Collection System
ALS	Automated Lien System
CAF	Centralized Authorization File
CDP	Collection Due Process
FY	Fiscal Year
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
NFTL	Notice of Federal Tax Lien
TIGTA	Treasury Inspector General for Tax Administration