

# TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



## **Fiscal Year 2021 Statutory Review of Compliance With Legal Guidelines When Issuing Levies**

September 27, 2021

Report Number: 2021-30-069

**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 .**

# HIGHLIGHTS: Fiscal Year 2021 Statutory Review of Compliance With Legal Guidelines When Issuing Levies

Final Audit Report issued on September 27, 2021

Report Number 2021-30-069

## Why TIGTA Did This Audit

This audit was initiated because TIGTA is responsible for annually determining whether the IRS complied with the IRS Restructuring and Reform Act of 1998 requirement to notify taxpayers and their authorized representatives of the right to a Collection Due Process (CDP) hearing prior to issuing levies and to suspend levy action during the time frames required pursuant to Internal Revenue Code § 6330.

## Impact on Taxpayers

When taxpayers do not pay delinquent taxes, the IRS has 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 law requires the IRS to notify taxpayers at least 30 calendar days prior to the first issuance of a levy on a particular tax module and allows taxpayers the opportunity to request a CDP hearing prior to the first levy on a delinquent account.

## What TIGTA Found

TIGTA reviewed levies issued for over 2 million taxpayers by IRS Collection functions during the period October 1, 2019, through September 30, 2020, and found that the IRS generally complied with legal and administrative requirements. However, there were some instances of noncompliance in which an estimated 1,306 taxpayers' rights were potentially violated and 1,186 taxpayers were potentially burdened.

TIGTA's review of levies issued by the Automated Levy Programs found:

- Federal Payment Levy Program – from a population of 1,018,356 taxpayers, nine taxpayers were not notified of their CDP rights and an estimated 33 taxpayers were levied while a CDP hearing was pending. From a population of 1,944 taxpayers with disqualified employment tax levies and 1,034 taxpayers with Federal contractor levies issued through the Federal Payment Levy Program, 36 taxpayers were not notified of their CDP rights and 18 taxpayers were not timely notified of their CDP rights.
- State Income Tax Levy Program – from a population of 367,293 taxpayers, 28 taxpayers were not notified of their CDP rights and an estimated 1,186 taxpayers were potentially burdened when they did not timely receive their post-levy CDP rights. An estimated 34 taxpayers did not receive a new CDP notice after an additional tax assessment was made.
- Municipal Tax Levy Program – from a population of 423,075 taxpayers, an estimated 528 taxpayers did not receive a new CDP notice after an additional tax assessment was made. An estimated 171 taxpayers were levied while a CDP hearing was pending.

From a population of 180,620 taxpayers levied through the Automated Collection System, TIGTA found that 81 taxpayers were not notified of their CDP rights and seven taxpayers were not timely notified of their CDP rights. Also, 190 taxpayers did not receive a new CDP notice after an additional tax assessment was made, and 46 taxpayers were levied while a CDP hearing was pending.

From a population of 35,978 taxpayers levied by revenue officers through the Integrated Collection System, TIGTA found that 50 taxpayers were not notified of their CDP rights and 23 taxpayers were not timely notified of their CDP rights. Also, 18 taxpayers did not receive a new CDP notice after an additional tax assessment was made, and 32 taxpayers were levied while a CDP hearing was pending.

## What TIGTA Recommended

TIGTA made eight recommendations to help improve the proper issuance of levies by the IRS. The IRS agreed with seven recommendations. The IRS disagreed with one recommendation to ensure that post-levy CDP notices are issued to taxpayers within 30 days of receipt of levy proceeds, but plans to review reports every 60 days to identify accounts for which a post-levy CDP notice was not sent within a reasonable period and promptly address those situations.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

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

**WASHINGTON, D.C. 20220**

September 27, 2021

**MEMORANDUM FOR:** COMMISSIONER OF INTERNAL REVENUE

A handwritten signature in blue ink that reads "Michael E. McKenney".

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

**SUBJECT:** Final Audit Report – Fiscal Year 2021 Statutory Review of Compliance  
With Legal Guidelines When Issuing Levies (Audit # 202130003)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) complied with the IRS Restructuring and Reform Act of 1998 requirements and IRS policy to notify taxpayers and their authorized representatives of the right to a Collection Due Process hearing prior to issuing levies and to suspend levy action during the time frames required pursuant to Internal Revenue Code § 6330. This review is part of our Fiscal Year 2021 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 V.

Copies of this report are also being sent to the IRS 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).

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## 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.<sup>1</sup> This action is commonly referred to as a "levy" (see Appendix III for an example of Form 668-A, *Notice of Levy*).<sup>2</sup> The Internal Revenue Code (I.R.C.) generally requires the IRS to provide taxpayers notice of its intention to levy at least 30 calendar days before initiating the levy action.<sup>3</sup>

The IRS Restructuring and Reform Act of 1998 expanded upon this notice requirement by creating I.R.C. § 6330, which requires the IRS, in addition to giving the taxpayer 30 calendar days' notice of the IRS's intent to levy, to also notify taxpayers on the first notice of intent to levy of their right to request a Collection Due Process (CDP) hearing at which taxpayers can raise various issues with respect to the proposed

**The Treasury Inspector General for Tax Administration is required to annually verify whether the IRS is complying with the IRS Restructuring and Reform Act of 1998 requirement to notify taxpayers of the intention to levy within required time frames, generally 30 calendar days prior to levy issuance.**

levy (CDP rights).<sup>4</sup> The taxpayer is required to be notified again prior to levy whenever any new (additional) tax assessments are applied to the taxpayer account. The law provides an exception to the 30-calendar-day notice requirement for certain situations, such as levies on a State tax refund, levies on Federal contractors, disqualified employment tax levies, and jeopardy levies.<sup>5</sup> These taxpayers must still be given their CDP rights within a reasonable period of time after the levy.

The provisions require that all levy actions be suspended during the 30 calendar days prior to the levy issuance for those periods that are the subject of the requested hearing as well as throughout the entire period that a hearing (including any appeals from the hearing) is pending.<sup>6</sup> CDP rights include the right to a fair and impartial hearing before the Office of Appeals.<sup>7</sup> The notice required by I.R.C. § 6330 must include the amount of unpaid tax, the right

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<sup>1</sup> I.R.C. §§ 6331(a) and (b).

<sup>2</sup> I.R.C. §§ 6331(a) and (b).

<sup>3</sup> See Appendix VI for a glossary of terms. I.R.C. § 6331(d).

<sup>4</sup> Pub. L. No. 105-206, 112 Stat. 685 and I.R.C. §§ 6330(a)–(c) provide that taxpayers can raise "any relevant issue relating to the unpaid tax or the proposed levy including (i) appropriate spousal defenses; (ii) challenges to the appropriateness of collection actions; and (iii) offers of collection alternatives which may include the posting of a bond, the substitution of other assets, an installment agreement, or an offer in compromise."

<sup>5</sup> I.R.C. § 6330(f). Pursuant to I.R.C. § 6330(h)(1), a disqualified employment tax levy "is any levy in connection with the collection of employment taxes for any taxable period if the person subject to the levy (or any predecessor thereof) requested a hearing under this section with respect to unpaid employment taxes arising in the most recent two-year period before the beginning of the taxable period with respect to which the levy is served." Pursuant to I.R.C. § 6331(a), a jeopardy levy is when "the collection of such tax is in jeopardy."

<sup>6</sup> I.R.C. §§ 6330(a) and (e).

<sup>7</sup> I.R.C. § 6330(b).

to request a CDP hearing, and the proposed action the IRS intends to take, along with other important information on topics such as collection alternatives.<sup>8</sup>

The IRS Restructuring and Reform Act of 1998 also added I.R.C. § 7803(d)(1)(A)(iv), which requires the Treasury Inspector General for Tax Administration (TIGTA) to annually verify whether the IRS is complying with the required procedures under I.R.C. § 6330.<sup>9</sup> TIGTA conducts multiple reviews each year focusing on different aspects of the IRS's implementation of I.R.C. § 6330. This review focuses on whether the IRS provides the taxpayer with a notice of CDP appeal rights, generally required at least 30 calendar days before taking levy action, and whether levy action is suspended as required under I.R.C. § 6330 if the taxpayer requests a CDP hearing. This is the twenty-third year in which we have evaluated the controls over levies. This year's review evaluated levies issued during Fiscal Year (FY) 2020 (from October 1, 2019, through September 30, 2020). While levies can be issued for monetary or physical assets, this report specifically addresses levies of taxpayers' monetary assets.<sup>10</sup>

The first step in the collection process involves mailing taxpayers a series of notices asking for payment of the delinquent taxes. The final notice is the CDP notice (which is issued with the first notice of intent to levy on a delinquent tax module), and after the conclusion of the CDP process (including appeal rights and judicial review, if those rights are exercised), the IRS may take collection actions to collect delinquent taxes. The IRS may collect monetary assets from the taxpayer by issuing levies through the Automated Collection System (ACS), Field Collection, or one of the IRS's Automated Levy Programs (ALP), or the IRS can seize both personal and real property.<sup>11</sup> The following is a brief description of the functions and processes through which levies on financial assets occur.

- The ACS, through which collection representatives interact with delinquent taxpayers by telephone to collect unpaid taxes and secure tax returns. The three types of levy issuance in the ACS function are:

Systemic levies – generated by the ACS Systemic Levy Program.

Paper levies – issued by collection representatives through the ACS.

Manual levies – issued by collection representatives after manually typing the levy.

- Field Collection, through which revenue officers contact taxpayers with delinquent accounts in person and over the phone. Delinquent taxpayer cases assigned to revenue officers in the field offices are controlled and monitored on the Integrated Collection System (ICS). The two types of levy issuance in the Field Collection function are:

Systemic levies – issued by revenue officers through the ICS.

Manual levies – issued by revenue officers after manually typing the levy.

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<sup>8</sup> I.R.C. § 6330(a)(3).

<sup>9</sup> I.R.C. § 7803(d)(1)(A)(iv).

<sup>10</sup> Examples of physical assets are real property, automobiles, and business inventory, the taking of which is commonly known as seizure. Annual reporting of seizures is covered by TIGTA in a separate review.

<sup>11</sup> Levies issued by the ALPs, such as the Federal Payment Levy Program and the State Income Tax Levy Program, are transmitted electronically, and proceeds are typically received electronically.

- The ALPs, through which levies are issued electronically without employee action and proceeds are received electronically. The four ALPs are:

Federal Payment Levy Program – attaches to Federal disbursements due an individual or business, such as Federal wages, retirement, vendor/contractor payments, and Social Security. It also issues Federal contractor levies and disqualified employment tax levies, which have different legal requirements than the other Federal Payment Levy Program levies.<sup>12</sup>

State Income Tax Levy Program – attaches to participating State income tax refunds.

Municipal Tax Levy Program – attaches to participating local municipal income tax refunds.

Alaska Permanent Fund Dividend Levy Program – attaches to the Permanent Fund Dividend distributed by Alaska.

Controls in the ACS, the ICS, and the ALP systems have been designed to help ensure that taxpayers are notified of their CDP rights at least 30 calendar days prior to the issuance of ACS systemic and paper levies, ICS systemic levies, and ALP levies (when required).<sup>13</sup> However, there is a higher risk of not complying with I.R.C. § 6330 and its related regulations and procedures when ACS collection representatives and revenue officers issue manual levies. This is because employees request these levies outside of the systemic controls that exist on the ACS and the ICS. In particular, most ICS manual levies do not require manager approval. All ACS manual levies require manager or lead review, which helps to mitigate the risk.

The IRS has never tracked complete information about the issuance of ICS manual levies. In a prior review, IRS management informed us that they track the total number of manual levies issued by revenue officers.<sup>14</sup> However, the IRS does not collect any details about these levies, such as the taxpayer's identification number, the tax year, or the date of the levy; therefore, neither TIGTA nor IRS management can identify the exact population of manual levies issued by revenue officers during our review period. However, we do search ICS history files for indications of these levies and test a sample each year. Unlike manual levies issued by revenue officers, the IRS does track manual levies issued by ACS collection representatives; however, we determined that none were issued during FY 2020.

On March 25, 2020, the IRS announced the People First Initiative, in response to the Coronavirus Disease 2019 (COVID-19) pandemic, in order to ease the burden on people facing tax issues. This initiative announced a series of steps to assist taxpayers by providing relief on a variety of issues ranging from easing payment guidelines to postponing compliance actions, such as levies. Beginning April 1, 2020, and continuing through July 15, 2020, the IRS suspended

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<sup>12</sup> The legal requirements can be found in I.R.C. § 6330(f). Per Internal Revenue Manual 5.1.9.3.14 (Nov. 12, 2014), disqualified employment tax levies are levies served to collect an employment tax liability for taxpayers that previously requested a CDP hearing involving unpaid employment tax.

<sup>13</sup> Per I.R.C. § 6330(f), the IRS does not have to issue a CDP notice prior to levy issuance for levies on State income tax refunds, Federal contractors, and disqualified employment tax but is required to issue a CDP notice within a reasonable amount of time after the levy if that levy is the first levy made with respect to a particular tax and tax period.

<sup>14</sup> TIGTA, Report No. 2019-30-070, *Fiscal Year 2019 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* p. 3 (Sept. 2019).

issuance of automated and systemic levies.<sup>15</sup> While the People First Initiative ended July 15, 2020, many of the IRS's collection activities, including levies, did not restart immediately. Field levies by revenue officers were resumed on July 16, 2020, but employees were asked to apply good judgment in determining when enforcement action is appropriate. The ACS did not resume issuing manual levies until January 7, 2021. ACS manual levies can be issued now on a case-by-case basis by ACS collection representatives. ACS systemic levies and the ALP levies had not started back up as of May 4, 2021.

## **Results of Review**

Our review of levies issued for over 2 million taxpayers by the different functions within the IRS Collection organization during the period October 1, 2019, through September 30, 2020, showed that the IRS generally complied with legal and administrative requirements. However, there were some instance of noncompliance, resulting in an estimated 1,306 taxpayer's rights being potentially violated and 1,186 taxpayers' being potentially burdened.

### **Some Levies Issued by the Automated Levy Programs Did Not Comply With Legal Requirements**

Our review of the IRS's ALPs showed that taxpayers' rights were not always protected.<sup>16</sup> The first step in the collection process involves mailing taxpayers a series of notices asking for payment of the delinquent taxes. If taxpayers do not or are not able to resolve their delinquent accounts through the notice process, and they are eligible for one of the IRS's ALPs (as described in the Background section of this report), then they may be levied systemically via that program.

Our analysis of FY 2020 levies issued by the ALPs identified taxpayers that were not properly or timely notified of their CDP rights. Also, we determined that the IRS's controls in place for ensuring that CDP notices were issued after an additional tax assessment did not always work. Finally, we identified that some ALP levies were improperly issued when taxpayers had a pending CDP hearing.<sup>17</sup>

### **Some levies issued by the Federal Payment Levy Program did not comply with legal requirements**

The Federal Payment Levy Program levies systemically attach to Federal disbursements due an individual or business, such as Federal wages, retirement, vendor/contractor payments, and Social Security. Before this happens, taxpayers must receive the CDP notice at least 30 days

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<sup>15</sup> Field Collection revenue officers could issue levies to taxpayers despite the People First Initiative in certain circumstances, such as a risk of permanent loss to the Government due to statute expiration or if the taxpayer agreed to an action.

<sup>16</sup> A taxpayer could have more than one levy. Throughout this audit, we reviewed all levies issued during FY 2020 for each taxpayer.

<sup>17</sup> We did not review whether State Income Tax Levy Program levies, Federal contractor levies, or disqualified employment tax levies were issued while the taxpayer had a pending CDP hearing because the law [I.R.C. § 6330(f)] exempts them from this requirement. Also, we determined that the IRS did not issue any Alaska Permanent Fund Dividend Levy Program levies during FY 2020 due to the COVID-19 pandemic.

prior for all balances due included on the levy. If any of the balances have an additional tax assessment, the IRS must issue a new CDP notice for those balances. Finally, if the taxpayer requests a CDP hearing, the IRS must suspend levy issuance while the hearing is pending.

Our review of Federal Payment Levy Program levies issued in FY 2020 determined that taxpayers were not always notified or timely notified of their CDP rights and that some Federal Payment Levy Program levies were improperly issued while taxpayers had pending CDP hearings. We did not identify any taxpayers with additional tax assessments who did not receive a new CDP notice prior to a Federal Payment Levy Program levy.

### **Some taxpayers were not notified of their CDP rights**

Our analysis of the population of 1,018,356 taxpayers with Federal Payment Levy Program levies issued during FY 2020 identified nine taxpayers whose rights were potentially violated. Specifically, we identified nine taxpayers for which the CDP notice transaction posted on the taxpayers' accounts showing the letter was issued but was subsequently reversed, and the letter was not later reissued prior to the levy. The IRS did not receive levy proceeds from these taxpayers.

IRS management agreed that these taxpayers' rights were potentially violated. IRS management explained that this occurred due to revenue officer error in which the CDP notice was incorrectly reversed. Although the Federal Payment Levy Program levies attach to taxpayers' Federal income systemically, if these levies will not pay off the taxpayer's balance within the statute, then the taxpayer account may be assigned to ACS or Field Collection for additional collection measures. IRS management issued an alert to all of Field Collection on July 15, 2021, prior to the restart of the Federal Payment Levy Program, reminding revenue officers of procedures so that CDP notices are not improperly reversed. Additionally, the IRS will update the Internal Revenue Manual (IRM) to clarify the Federal Payment Levy Program process and how revenue officer actions impact the program's levies.

### **Some levies were improperly issued while taxpayers had pending CDP hearings**

Our analysis of the population of 1,018,356 taxpayers with Federal Payment Levy Program levies issued during FY 2020 identified 2,881 taxpayers with levies that were issued while a CDP hearing was pending. IRS management reviewed a random sample of 1,310 of the taxpayers and concurred that, for 15 (1.1 percent) taxpayers, a levy was issued while the taxpayer had a pending CDP hearing. We reviewed the IRS's responses and agreed. The IRS did not receive levy proceeds from these taxpayers. The other 1,295 taxpayers were determined not to have violations predominantly because the Federal Payment Levy Program levies were not actually issued. In March 2020, the IRS suspended levies due to the COVID-19 pandemic. The Federal Payment Levy Program levy transaction code, which we used to identify the levies, was still posting on taxpayers' accounts; however, the IRS worked with the Bureau of the Fiscal Service to ensure that the levies were not actually processed or issued. Therefore, for these 1,295 taxpayers, no rights were violated.

Based on these results, we estimate that the taxpayers' rights were potentially violated for 33 taxpayers.<sup>18</sup> IRS management stated that these violations occurred due to delays in inputting the CDP hearing request transaction code. These delays were due to both Campus Collection staff errors and revenue officer error. The Campus Collection errors were previously identified in our FY 2019 review.<sup>19</sup> To address this issue, IRS management issued alerts in July 2019, updated the IRM in December 2019, and stated that, as of March 2020, all employees have access to the system to properly input these transactions. The revenue officer error was due to an isolated incident; therefore, the IRS will not be taking corrective action.

### **Some disqualified employment tax levies and Federal contractor levies issued through the Federal Payment Levy Program did not comply with legal requirements**

Disqualified employment tax levies and Federal contractor levies are systemic levy programs that can attach to Federal disbursements through the Federal Payment Levy Program.<sup>20</sup> Due to exceptions in the law, these programs have different CDP requirements. For example, for both of these programs, taxpayers must receive the CDP notice within a reasonable period after the levy for all balances included on the levy if a CDP notice was not provided prior to the levy. IRS management stated that the CDP notice process is started within two weeks of receipt of the levy proceeds. We considered these notices to be "not timely" if they were issued after 30 calendar days, to allow time for processing. Also, if any of the balances have an additional tax assessment, then the IRS must issue a new CDP notice for those balances. Finally, these types of levies are exempt from the statutory requirement for the IRS to suspend levy action while a CDP hearing is pending.

Our review determined that taxpayers with disqualified employment tax levies and Federal contractor levies were not always notified or timely notified of their CDP rights. However, we did not identify any taxpayers with additional tax assessments who did not receive a new CDP notice.

Our analysis of the population of 1,944 taxpayers with disqualified employment tax levies and the population of 1,034 taxpayers with Federal contractor levies issued through the Federal Payment Levy Program during FY 2020 identified a total of 54 taxpayers whose rights were potentially violated. Specifically, we identified:

- 36 taxpayers that were not notified of their CDP rights. The IRS received levy proceeds from these taxpayers totaling \$9,818.
- 18 taxpayers that were not timely notified of their CDP rights after the levy. The IRS did not receive levy proceeds from these taxpayers.

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<sup>18</sup> The point estimate projection for the actual total amount is based on a two-sided 95 percent confidence interval. We are 95 percent confident that the actual value is between 22 and 48 taxpayers. See Appendix II for more details on how the projection was calculated.

<sup>19</sup> TIGTA, Report No. 2019-30-070, *Fiscal Year 2019 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* p. 8 (Sept. 2019).

<sup>20</sup> Although these Federal contractor and disqualified employment tax levies were issued through the Federal Payment Levy Program, these types of levies have different statutory requirements and therefore were reviewed separately.

IRS management agreed that these taxpayers' rights were potentially violated. IRS management explained that this occurred for several reasons. For example, for:

- 52 taxpayers – there was a Master File programming error that was identified and reported on during our FY 2019 audit. These taxpayers' accounts went to fully paid status after the levy was issued but before the notice went out. Therefore, the system did not issue a notice because the taxpayers' account was in fully paid status. IRS management submitted a request for a programming fix in March 2019; however, implementation was delayed due to the COVID-19 pandemic but was completed on July 1, 2021. In the meantime, IRS management has been manually identifying impacted taxpayers and taking corrective actions. For the taxpayers that did not receive their CDP rights, either no levy proceeds were received by the IRS or the taxpayers were issued a full refund.

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### **Some State Income Tax Levy Program levies did not comply with legal requirements**

The State Income Tax Levy Program identifies qualifying taxpayers in participating States. An identifier is added to these taxpayers' accounts. When the taxpayer is due a State income tax refund, a Federal tax levy systemically attaches to the State income tax refunds and proceeds are sent to the IRS.

Similar to the disqualified employment tax levies and Federal contractor levies, State Income Tax Levy Program levies have different CDP requirements due to an exception in the law. For example, taxpayers must receive the CDP notice within a reasonable period after the levy for all balances included on the levy if a CDP notice was not provided prior to the levy. If any of the balances have an additional tax assessment, then the IRS must issue a new CDP notice for those balances. Finally, these types of levies are exempt from the statutory requirement for the IRS to suspend levy action while a CDP hearing is pending.

Our review determined that some taxpayers with State Income Tax Levy Program levies were not notified or timely notified of their CDP rights and did not receive a new CDP notice after an additional tax assessment.

### **Some taxpayers were not notified of their CDP rights**

Our analysis of the population of 367,293 taxpayers with State Income Tax Levy Program levies issued during FY 2020 identified 28 taxpayers whose rights were potentially violated. Specifically, we identified:

- 22 taxpayers that were not notified of their CDP rights. The IRS received levy proceeds from these taxpayers totaling \$22,597. IRS management agreed that these taxpayer's rights were potentially violated. This error occurred when participating States sent the incorrect taxpayer information to the Electronic Federal Tax Payment System payment file. IRS management manually monitors the State payments by running a monthly

report to ensure that notices are issued and also works with the States to resolve issues when payments are misapplied.

- Six taxpayers that were not notified of their CDP rights. For these taxpayers, the CDP notice transaction posted on the taxpayers' accounts showing the CDP letter was issued but was subsequently reversed and was not later reissued prior to or within a reasonable period after the levy. The IRS received levy proceeds from these taxpayers totaling \$2,863. IRS management agreed that these taxpayer's rights were potentially violated. IRS management stated that, for these six taxpayers, the notice was systemically reversed due to a timing issue when the taxpayer account matched for the Federal Payment Levy Program and received State Income Tax Levy Program proceeds at the same time, and then the taxpayer entered into an installment agreement. IRS management stated that these current processing procedures are an attempt to reduce notices that are no longer necessary from being sent to taxpayers.

### **Some taxpayers were not timely notified of their CDP rights**

Our analysis of the population of 367,293 taxpayers with State Income Tax Levy Program levies issued during FY 2020 also identified 2,463 taxpayers that were potentially burdened when they did not receive their post-levy CDP rights timely. As previously discussed, these levies require the CDP notice to be sent to the taxpayer within a reasonable period after the IRS receives levy proceeds. We consider 30 days to be a reasonable period of time.

IRS management reviewed a stratified random sample of 336 of the 2,463 taxpayers based on how long the notices were delayed. We determined that 168 of these taxpayers were not timely notified of their CDP rights. The IRS received levy proceeds from these taxpayers totaling \$178,311. There were various reasons why the other 168 taxpayers' notices were determined not to be untimely, such as annual systemic programming updates, which delay notice issuances during the month of January.

Based on these results, we estimate that 1,186 taxpayers' were potentially burdened when they did not received the CDP notice within 30 days of the IRS's receipt of the levy proceeds.<sup>21</sup> IRS management explained that this occurred even though the systemic notice process started timely (within two weeks of receipt of the State levy proceeds); however, the process was delayed, and the notices were not mailed to the taxpayer within a reasonable period.

IRS management disagreed with the majority of these violations based on the fact that I.R.C. § 6330 states that the notice must be issued within a reasonable period of time rather than a specific number of days. IRS management stated that whether the notice was issued in a "reasonable" period of time is dependent on the facts and circumstances of each individual taxpayer case. Therefore, IRS management believes that it is unnecessary and unhelpful to establish a standard time frame for whether a notice was sent in a reasonable period of time.

However, we believe that it is burdensome to taxpayers to levy their State income tax refunds and not timely provide them with the notice informing them of their right to a CDP hearing. Of these taxpayers, about 38 percent did not receive their CDP notice until more than 60 days after the State income tax refund was levied. Although I.R.C. § 6330 allows the IRS to obtain these

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<sup>21</sup> Because this sample was stratified, each sampled strata is projected using a two-sided 95 percent confidence interval. See Appendix II for more details on how the projection was calculated.

State income tax levy proceeds prior to providing taxpayers with these rights, it is important that taxpayers are afforded their rights timely.

### **Some taxpayers were not notified of their CDP rights when additional tax assessments were made**

Our analysis of the population of 367,293 taxpayers with State Income Tax Levy Program levies issued during FY 2020 identified 151 taxpayers with State Income Tax Levy Program levies in which an additional tax assessment posted prior to the taxpayer's FY 2020 levy and a new CDP notice was not issued. IRS management reviewed a random sample of 40 of these taxpayers and concurred that, for nine (22.5 percent) taxpayers, the IRS did not issue a new notice of intent to levy after the additional tax assessments. We reviewed the IRS's responses and agreed. The IRS received levy proceeds from these taxpayers totaling \$6,671. There were various reasons why the other 31 taxpayer's rights were not violated, such as the payments were transferred to a module that had the proper CDP notice issued. Based on these results, we estimate that taxpayers' rights were potentially violated for 34 taxpayers.<sup>22</sup>

IRS management agreed that these taxpayers should have been issued a new notice of intent to levy and that the taxpayers' rights were potentially violated. IRS management explained that these errors occurred due to several reasons. For example, for:

- Five taxpayers – the taxpayer's account was already in fully paid status when the State levy proceeds posted, and the system improperly froze the taxpayers' account with a pending additional tax assessment transaction rather than issuing the CDP notice. IRS management will submit a programing fix.
- Four taxpayers – the participating States sent the incorrect taxpayer information to the Electronic Federal Tax Payment System payment file. IRS management manually monitors the State payments and works with the States to resolve issues when payments are misapplied.

### **Some Municipal Tax Levy Program levies did not comply with legal requirements**

Similar to the State Income Tax Levy Program, the Municipal Tax Levy Program identifies qualifying taxpayers in participating municipalities. An identifier is added to those taxpayer accounts. When the taxpayer is due a municipal income tax refund, a Federal tax levy systemically attaches to the refunds and the proceeds are sent to the IRS.

Taxpayers identified for Municipal Tax Levy Program levies must receive a CDP notice at least 30 days prior to the Municipal Tax Levy Program indicator being added to their account. If any of the taxpayer's balances have an additional tax assessment, then the IRS must issue a new CDP notice for those balances. Finally, if the taxpayer requests a CDP hearing, the IRS must suspend levy issuance while the hearing is pending.

Our review determined that taxpayers with Municipal Tax Levy Program levies were not always notified or timely notified of their CDP rights and did not always receive a new CDP notice after

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<sup>22</sup> The point estimate projection for the actual total amount is based on using a two-sided 95 percent confidence interval. We are 95 percent confident that the actual value is between 19 and 54 taxpayers. See Appendix II for more details on how the projection was calculated. Some of the calculations throughout the report are affected by rounding. All initial calculations were performed using the actual numbers rather than the rounded numbers that appear in the report.

an additional tax assessment. Additionally, some Municipal Tax Levy Program levies were improperly issued while taxpayers had pending CDP hearings.

### **Taxpayers were generally notified of their CDP rights**

Our analysis of the population of 423,075 taxpayers with Municipal Tax Levy Program levies issued during FY 2020 identified [REDACTED]

[REDACTED] On April 29, 2021, IRS management met with Field Collection revenue officers to discuss the impact of improperly reversing notices on the ALPs. Additionally, this issue is similar to the Federal Payment Levy Program improper notice reversals; therefore, we will not be making a separate recommendation.

### **Some Taxpayers were not notified of their CDP rights when additional tax assessments were made**

Our analysis of the population of 423,075 taxpayers with Municipal Tax Levy Program levies issued during FY 2020 identified 630 taxpayers with Municipal Tax Levy Program levies in which an additional tax assessment posted prior to the taxpayer's FY 2020 levy. IRS management reviewed a random sample of 161 of these taxpayers and concurred that, for 135 (83.9 percent) taxpayers, the IRS did not issue a new notice of intent to levy for the additional tax assessments prior to the levies being issued. We reviewed the IRS's responses and agreed. The IRS did not receive levy proceeds from these taxpayers. The other 26 taxpayers' rights were not violated because IRS management provided evidence that the additional tax assessment amount was included on a CDP notice that was issued prior to the levy issuance.

Based on these results, we estimate that the taxpayers' rights were potentially violated for 528 taxpayers.<sup>23</sup> IRS management agreed that the taxpayers should have been issued a new notice of intent to levy and that the taxpayers' rights were potentially violated. IRS management explained that these errors occurred due to a programming error in which taxpayers were selected for the Municipal Tax Levy Program even though a new notice was not issued after the additional tax assessment.

**Management Action:** IRS management informed us that they implemented a programming change on July 16, 2021, to exclude modules from being selected by the Municipal Tax Levy Program when there is no indication of a new notice of intent to levy being sent to the taxpayer after the additional assessment date.

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<sup>23</sup> The point estimate projection for the actual total amount is based on using a two-sided 95 percent confidence interval. We are 95 percent confident that the actual value is between 493 and 557 taxpayers. See Appendix II for more details on how the projection was calculated.

### Some levies were improperly issued while taxpayers had pending CDP hearings

Our analysis of the population of 423,075 taxpayers with Municipal Tax Levy Program levies issued during FY 2020 identified 594 taxpayers with levies that were issued while a CDP hearing was pending. IRS management reviewed a random sample of 132 of these taxpayers and concurred that a levy was issued while the taxpayer had a pending CDP hearing for 38 (28.8 percent) taxpayers. We reviewed the IRS's responses and agreed. The IRS did not receive levy proceeds from these taxpayers. Based on these results, we estimate that the taxpayers' rights were potentially violated for 171 taxpayers.<sup>24</sup>

IRS management stated that these violations occurred due to a delay in processing taxpayer correspondence in campus collection operations. When campus employees do not enter CDP hearing transactions timely, ALPs may issue levies improperly after the taxpayer requested a CDP hearing because the system does not have the updated information. This issue was previously identified in our FY 2019 review.<sup>25</sup> IRS management took corrective actions for this issue, which addressed both the Federal Payment Levy Program and the Municipal Tax Levy Program taxpayer requests for CDP hearings. These actions were completed March 2020.

We determined that the other 94 taxpayers' rights were not violated because those Municipal Tax Levy Program levies were not actually issued. In March 2020, the IRS suspended levies due to the COVID-19 pandemic. The Municipal Tax Levy Program selection transaction code, which we used to identify the levies, was still posting on the taxpayers' accounts; however, the IRS worked with the municipalities to ensure that the levies were not actually processed or issued. Therefore, for these 94 taxpayers, no rights were violated.

**Recommendation 1:** The Director, Headquarters Collection, Small Business/Self-Employed Division, should update the IRM to clarify the procedures for the Federal Payment Levy Program and Municipal Tax Levy Program so that revenue officers do not improperly reverse CDP notices.

**Management's Response:** The IRS agreed with this recommendation. It will update the IRM to clarify the procedures for the Federal Payment Levy Program and Municipal Tax Levy Program levies to ensure that revenue officers do not improperly reverse CDP notices.

**Recommendation 2:** The Director, Collection Inventory, Delivery and Selection, Small Business/Self-Employed Division, should ensure that CDP notices are not reversed for taxpayers identified for the Federal Payment Levy Program at the same time the IRS receives State Income Tax Levy Program proceeds.

**Management's Response:** The IRS agreed with this recommendation. It will implement an additional step to its processes requiring the review of monthly reports to ensure that CDP notices are not reversed for taxpayers who are identified for the Federal Payment Levy Program at the same time the IRS receives State Income Tax Levy Program proceeds.

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<sup>24</sup> The point estimate projection for the actual total amount is based on using a two-sided 95 percent confidence interval. We are 95 percent confident that the actual value is between 132 and 215 taxpayers. See Appendix II for more details on how the projection was calculated.

<sup>25</sup> TIGTA, Report No. 2019-30-070, *Fiscal Year 2019 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* p. 8 (Sept. 2019).

The Director, Collection Policy, Small Business/Self-Employed Division, should:

**Recommendation 3:** Ensure that corrective programming is implemented so that post-levy CDP notices are issued to taxpayers within 30 days of receipt of State Income Tax Levy Program levy proceeds.

**Management's Response:** The IRS disagreed with this recommendation. In their response, IRS management stated that the statute requires the IRS to send the notice to the taxpayer in a "reasonable" period of time, and "reasonable" is not defined in either the statute or the regulations. Whether the notice is mailed in a "reasonable" period of time is dependent on the facts and circumstances of each individual case. After consulting with their attorneys, management determined that establishing a time frame of 30 days of receipt of levy proceeds to assess timeliness does not provide sufficient time to consider the individual facts and circumstances of the individual case, including, but not limited to, offset transmission errors that are not within the IRS's control, which can contribute to the notice time frame. Management further stated they will review reports every 60 days to identify accounts for which a post-levy CDP notice was not sent within a reasonable period and promptly address those situations.

**Office of Audit Comment:** TIGTA took into consideration the reasoning provided by the IRS for CDP notices issued more than 30 days after receipt of levy proceeds and removed any cases in which the late notice was caused by issues that were not within the control of the IRS, such as the annual dead cycle in January of each year. As previously discussed, we believe that it is burdensome to taxpayers to levy their State income tax refunds and not timely provide them with the notice informing them of their right to a CDP hearing. About 38 percent of these taxpayers did not receive their CDP notice until more than 60 days after the State income tax refund was levied. Although I.R.C. § 6330 allows the IRS to obtain these State income tax levy proceeds prior to providing taxpayers with these rights, it is important that taxpayers are afforded their rights timely.

**Recommendation 4:** Ensure that corrective programming is implemented so that, when State levy proceeds are received for a taxpayer account in fully paid status, the account is not frozen with a pending additional tax assessment transaction and that a post-levy CDP notice is properly issued.

**Management's Response:** The IRS agreed with this recommendation. It has requested a programming change on August 4, 2021. Implementation of this programming change is subject to other priorities and available resources, but, once implemented, the program will identify additional or pending assessments, ensuring that an account does not freeze when a levy payment posts to a fully paid module. The program also will ensure that a post-levy CDP notice will be sent on accounts with additional assessments in fully paid status.

## **Some Levies Issued by the Automated Collection System Did Not Comply With Legal Requirements**

Our review of ACS levies showed that taxpayers' rights were not always protected for both systemic and paper levies. If taxpayers do not or are not able to resolve their delinquent accounts through the notice process, the majority of the taxpayer accounts advance to the ACS, where collection representatives speak with taxpayers by telephone and process inventory to resolve their delinquency. If the delinquent accounts cannot be resolved, these representatives have the authority to issue levies.

Systemic levies are generated by the ACS Systemic Levy Program; paper levies are issued by collection representatives through the ACS. The ACS contains a control that compares the date the taxpayer was notified of the pending levy with the requested date to issue the levy. If there are fewer than 30 calendar days between the dates, the ACS will not generate a levy. This control is designed to ensure that taxpayers have been notified of their CDP rights at least 30 calendar days prior to the issuance of any ACS-generated levies; however, our review found some taxpayers for which the levies were issued without the proper notices issued.

Additionally, ACS levies may not be issued while a CDP hearing is pending for those periods that are the subject of the requested hearing. Systemic controls are in place to prevent this from occurring; however, our review found some taxpayers for which ACS levies were issued while a CDP hearing was pending.

ACS levies can also be issued manually, when collection representatives manually type the levy. ACS employees document these levies in the case history. We searched the ACS system and did not identify any ACS manual levies issued in FY 2020. IRS management concurred. It is not unusual to have few or no ACS manual levies. We previously reported in our FY 2019 review that the IRS did not issue any ACS manual levies due to ACS resources focusing on handling incoming calls.<sup>26</sup> In our FY 2020 review, we reported that IRS management stated that so few ACS manual levies were issued because levies are increasingly able to be processed systemically.<sup>27</sup> Additionally, in our FY 2020 review, we reported that the value of issuing a levy manually does not often exceed the expenditure of resources because these levies require employees to manually type the levy and obtain manager approval.

### **Some taxpayers were not notified of their CDP rights**

Our analysis of the population of 180,620 taxpayers with ACS levies issued during FY 2020 identified 88 taxpayers whose rights were potentially violated. Specifically, we identified:

- 81 taxpayers that were not notified of their CDP rights. Specifically, the CDP notice transaction posted on the taxpayers' accounts showing the letter was issued but was subsequently reversed and was not later reissued prior to the levy. The IRS received levy proceeds from these taxpayers totaling \$16,752.

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<sup>26</sup> TIGTA, Report No. 2019-30-070, *Fiscal Year 2019 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* p. 9 (Sept. 2019).

<sup>27</sup> TIGTA, Report No. 2020-30-065, *Fiscal Year 2020 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* p. 9 (Sept. 2020).

- Seven taxpayers that were not timely notified of their CDP rights prior to the levy. The IRS did not receive any levy proceeds from these taxpayers.

For all of these taxpayers, IRS management explained that this occurred due to an isolated event in which an incorrect batch of taxpayer accounts were associated with a new letter pilot program, which we also reported on in our FY 2020 review.<sup>28</sup> Management corrected this error and reversed the notice transactions; however, the date in the final notice field remained in the ACS system, which allowed the taxpayers to be levied. IRS management is seeking corrective action to address this programming error.

### **Some taxpayers were not notified of their CDP rights when additional tax assessments were made**

Our analysis of the population of 180,620 taxpayers with ACS levies issued during FY 2020 identified 190 taxpayers with ACS levies in which an additional tax assessment posted prior to the taxpayer's FY 2020 levy. For the 190 taxpayers, the IRS did not issue a new notice of intent to levy for the additional tax assessments prior to the levies being issued. As a result, rights were potentially violated for these 190 taxpayers. The IRS received levy proceeds from these taxpayers totaling \$27,551.

IRS management agreed that these taxpayers should have been issued a new notice of intent to levy and that the taxpayers' rights were potentially violated. IRS management explained that these errors occurred due to two reasons. For 132 taxpayers, IRS management explained that these taxpayer cases were missed by the IRS's internal validity check and are currently under investigation. For 58 taxpayers, these taxpayers were impacted by the isolated event related to the new letter pilot program, described previously.

### **Some levies were improperly issued while taxpayers had pending CDP hearings**

Our analysis of the population of 180,620 taxpayers with ACS levies issued during FY 2020 identified 46 taxpayers with levies that were issued while a CDP hearing was pending. As a result, these taxpayers' rights were potentially violated. The IRS received levy proceeds from these taxpayers totaling \$14,611.

IRS management stated that these violations occurred due to a timing issue. Specifically, the levy was issued prior to the late input of the CDP hearing request transaction code. These levies were released or refunded. This issue was first identified in our FY 2019 review and continued to impact taxpayers, as reported in FY 2020.<sup>29</sup> IRS management stated that, as of March 2020, all IRS sites certified that they are inputting taxpayer cases into the system timely, as required by the IRM. All of the levies that we identified were issued prior to March 2020.

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<sup>28</sup> TIGTA, Report No. 2020-30-065, *Fiscal Year 2020 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* p. 5 (Sept. 2020).

<sup>29</sup> TIGTA, Report No. 2019-30-070, *Fiscal Year 2019 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* p. 11 (Sept. 2019), and TIGTA, Report No. 2020-30-065, *Fiscal Year 2020 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* p. 7 (Sept. 2020).

The Director, Collection Inventory, Delivery and Selection, Small Business/Self-Employed Division, should:

**Recommendation 5:** Ensure that corrective programming is implemented so that the ACS will block levies for which the final CDP notice is reversed or disqualified.

**Management's Response:** The IRS agreed with this recommendation. It has corrected all active ACS accounts and is monitoring impacted accounts in all other statuses. The IRS does not anticipate ACS levies (will be issued) when the CDP notice is reversed or disqualified in the future, but it requested a programming update to ensure that these levies are systemically blocked. Implementation of this programming change is subject to other priorities and available resources.

**Recommendation 6:** Implement corrective programming so that the ACS's internal validity check blocks levies from being issued for taxpayer accounts to which an additional tax assessment posted but no new CDP notice was sent to the taxpayer.

**Management's Response:** The IRS agreed with this recommendation. It has input a request for a programming change to ensure that the ACS will not levy modules for an additional tax assessment before a new CDP notice is sent to the taxpayer for the additional assessment. Implementation of this programming change is subject to other priorities and available resources.

## Some Levies Issued by Field Collection Did Not Comply With Legal Requirements

Sometimes notices do not successfully resolve delinquent accounts, and taxpayer cases have to be assigned to revenue officers in Field Collection offices for face-to-face contact with taxpayers. Taxpayer cases assigned to revenue officers are controlled on the ICS. Revenue officers use the ICS to record collection activity on the delinquent taxpayer cases and to generate enforcement actions such as levies.

The IRS established an automated control in the ICS similar to the control in the ACS that prevents systemic levies from being issued unless taxpayers have been provided notice of their CDP rights at least 30 calendar days prior to the issuance of the levies. If fewer than 30 calendar days have elapsed since the CDP notice date, the ICS will not generate a levy. When the revenue officer requests a levy through the ICS, it is considered to be an ICS systemic levy. Revenue officers can also request a levy outside of the ICS, using a paper levy form, which is an ICS manual levy.

Our review of levies issued by revenue officers in Field Collection during FY 2020 showed that taxpayers' rights were not always protected for both systemically and manually issued levies.

### **Some taxpayers were not notified of their CDP rights when the IRS issued systemic levies**

We analyzed the population of 35,978 taxpayers with ICS systemic levies issued during FY 2020. Specifically, we identified:

- 22 taxpayers that were not notified of their CDP rights prior to levy issuance. The IRS received levy proceeds from these taxpayers totaling \$8,948.

- 23 taxpayers that were not timely notified of their CDP rights. [REDACTED]  
[REDACTED] The IRS received levy proceeds from these taxpayers totaling \$9,773.
- 28 taxpayers that did not receive the CDP notice because the CDP notice transaction posted to show the CDP notice was issued but was subsequently reversed and was not later reissued prior to the levy. The IRS did not receive erroneous levy proceeds from these taxpayers.

As a result, these taxpayers' rights were potentially violated. IRS management stated that these violations occurred for several reasons, some of which were also identified in prior year reports.<sup>30</sup> For example, for:

- 32 taxpayers – there was an erroneous identification of disqualified employment tax levies or jeopardy levies, which bypassed the systemic levy block when no CDP notice had been issued. This issue was also reported in our FY 2019 and FY 2020 reviews. A programming fix was implemented in January 2021.
- 29 taxpayers – the ICS did not block the issuance of the levy despite the previous CDP notice being reversed and not reissued. This issue was also reported in our FY 2019 and FY 2020 reviews. A programming fix was implemented in Calendar Year 2021; however, it is not working as intended. IRS management will meet with ICS programmers in July 2022 to determine what is needed for the programming to address this issue.
- Six taxpayers – there was a systemic issue that, when employees generated a levy and identified it as a disqualified employment tax levy, the system did not process the levy properly, did not post in the case history, and did not send a post-levy notice. This issue was also reported in our FY 2020 review. A programming fix is expected to be completed in January 2022.
- Four taxpayers – revenue officers bypassed systemic controls and issued levies without a proper, timely CDP notice issuance prior to the levy.
- [REDACTED]  
[REDACTED]<sup>31</sup> This issue was also reported in our FY 2020 review. IRS management expects a programming fix to be implemented to address this issue in January 2022.

### **Some taxpayers were not notified of their CDP rights when additional tax assessments were included in systemic levies**

Our analysis of the population of 35,978 taxpayers with Field Collection levies issued during FY 2020 identified 18 taxpayers for which an additional tax assessment posted prior to a FY 2020 levy and the IRS did not issue a new CDP notice prior to the levy being issued. The IRS received levy proceeds from these taxpayers totaling \$11,945.

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<sup>30</sup> TIGTA, Report No. 2019-30-070, *Fiscal Year 2019 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* p. 13 (Sept. 2019), and TIGTA, Report No. 2020-30-065, *Fiscal Year 2020 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* p. 8-9 (Sept. 2020).

<sup>31</sup> [REDACTED]

IRS management concurred with these violations and agreed that these taxpayers' rights were potentially violated. IRS management stated that these violations occurred for several reasons. For example, for:

- Seven taxpayers – there was an erroneous identification of disqualified employment tax levies or jeopardy levies, which bypassed the systemic levy block when no CDP notice had been issued, as discussed in the previous section.
- Six taxpayers – the balance due module was created in the ICS by the revenue officer, and the system did not pull in all of the Integrated Data Retrieval System information to flag that a new notice was not issued after the additional tax assessment. IRS management expects a programming fix to be implemented in January 2022 to address this issue.
- Three taxpayers – the levy was a jeopardy levy that did not receive a post-levy notice as required, as discussed in the previous section.
- [REDACTED]

### **Some systemic levies were improperly issued while taxpayers had pending CDP hearings**

Our analysis of the population of 35,978 taxpayers with Field Collection levies issued during FY 2020 identified 32 taxpayers with levies that were issued while a CDP hearing was pending. As a result, these taxpayers' rights were violated. The IRS received levy proceeds from these taxpayers totaling \$51,662.

IRS management concurred with 29 of these violations and agreed that these taxpayers' rights were violated. IRS management disagreed with three of these violations. IRS management stated that these violations occurred for several reasons. For example, for:

- 21 taxpayers – the IRS received the CDP hearing request in Field Collection, but the revenue officers either did not know the request had been received, did not input the request timely, or did not input the request properly before they levied the taxpayer. It is important that employees check for CDP hearing requests and input these requests timely and properly when received in order to allow systemic controls to prevent improper levies. In February 2021, IRS management issued a memorandum to revenue officers with specific information on timely identifying and inputting CDP hearing requests prior to issuing ICS levies.
- Five taxpayers – the IRS received the CDP hearing request in the ACS, but the request was not input timely; therefore, the revenue officers did not know that a request had been received when they levied the taxpayer. This issue was identified in a prior TIGTA report, in which we recommended that the IRS take action to provide reasonable assurance that misdirected CDP hearing requests are forwarded to the correct location on the day that they are received.<sup>32</sup> The IRS agreed and updated the IRM in December 2019 to require that requests be forwarded the same business day that they are received. Most of these CDP hearings were input prior to this change to the IRM.

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<sup>32</sup> TIGTA, Report No. 2019-10-058, *Review of the Office of Appeals Collection Due Process Program* p. 9 (Sept. 2019).

- Three taxpayers – the balance due module was created in the ICS by the revenue officer, and the system did not pull in all of the Integrated Data Retrieval System information to flag that there was a pending CDP hearing. This issue was also reported in our FY 2020 review. IRS management expects a programming fix to be implemented in January 2022.
- Three taxpayers – revenue officers bypassed systemic controls and issued levies despite a pending CDP hearing.

### Manual levies were not always issued properly

Revenue officers most commonly issue systemic levies through the ICS. However, they are also authorized to issue manually prepared levies on any case as needed. Manual levies are issued outside of the ICS and its controls. Managerial review or approval is generally not required when revenue officers issue manual levies. According to the IRS, revenue officers issued an estimated 1,441 manual levies in FY 2020. However, because details of these levies are not tracked, we were unable to identify this population.<sup>33</sup> Therefore, we reviewed a judgmental sample of 27 ICS manual levies issued during FY 2020.<sup>34</sup>

[REDACTED]

When a levy is issued manually outside of the system, there are no systemic checks to prevent improper levy issuance. IRS management issued a memorandum to revenue officers in February 2021 with specific information on preparing manual levies.

The Director, Collection Policy, Small Business/Self-Employed Division, should:

**Recommendation 7:** Ensure that corrective programming changes are implemented to block the issuance of levies when previous CDP notices were reversed and not reissued.

**Management's Response:** The IRS agreed with this recommendation. Collection will submit a programming request to block the issuance of levies when previous CDP notices were reversed and not reissued.

**Recommendation 8:** Provide revenue officers with clarification and reinforcement of the requirements for timely issuing CDP notices when systemic controls are bypassed.

**Management's Response:** The IRS agreed with this recommendation. Collection will issue an all-employee e-mail from the Director, Field Collection Operations, highlighting the requirements for timely issuing CDP notices when systemic controls are bypassed.

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<sup>33</sup> See Appendix I for information on how we obtained the judgmental sample.

<sup>34</sup> A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

## Appendix I

### Detailed Objective, Scope, and Methodology

The overall objective was to determine whether the IRS complied with the IRS Restructuring and Reform Act of 1998 requirements and IRS policy to notify taxpayers and their authorized representatives of the right to a CDP hearing prior to issuing levies and to suspend levy action during the time frames required pursuant to I.R.C. § 6330. To accomplish our objective, we:

- Evaluated the adequacy of controls, requirements, and processes for issuing levies as per I.R.C. § 6330.
- Determined whether controls for levies issued by ALPs were adequate to comply with legal and procedural guidelines for timely notification to taxpayers.
- Identified potential error cases in which taxpayers' rights may have been violated because levies were issued during a pending CDP hearing. From the population of 2,881 Federal Payment Levy Program CDP hearing potential violations, IRS management reviewed a random statistical sample of 1,310 taxpayer cases and concurred that 15 were actual violations. We used a 1.1 percent error rate, a 0.5 percent precision, and a two-sided 95 percent confidence interval to estimate the number of violations in the population.<sup>1</sup> Our contracted statistician assisted with developing the projections. See Appendix II for details.
- Identified potential error cases in which taxpayers may have been burdened because the CDP notice was not issued timely after the post-levy proceeds were received. From the population of 2,463 total State Income Tax levy Program timeliness potential violations, IRS management reviewed a random stratified statistical sample of the following:
  - Of 1,222 taxpayer cases in the first strata, 138 were reviewed, and 92 taxpayer cases were actual violations. We used a 66.7 percent error rate, a 7.7 percent precision, and a two-sided 95 percent confidence interval to estimate the number of violations in the population. Our contracted statistician assisted with developing the projections. See Appendix II for details.
  - Of 880 taxpayer cases in the second strata, 120 were reviewed, and four taxpayer cases were actual violations. We used a 3.3 percent error rate, a 3.4 percent precision, and a two-sided 95 percent confidence interval to estimate the number of violations in the population. Our contracted statistician assisted with developing the projections. See Appendix II for details.
  - Of 11 taxpayer cases in the third strata, all were reviewed, and eight were actual violations.
  - Of 350 taxpayer cases in the fourth strata, 67 were reviewed, and 64 taxpayer cases were actual violations. We used a 95.5 percent error rate, a 5.1 percent precision, and a two-sided 95 percent confidence interval to estimate the number

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<sup>1</sup> The initial calculations were performed using the actual numbers rather than the rounded numbers that appear in the report.

of violations in the population. Our contracted statistician assisted with developing the projections. See Appendix II for details.

- Identified potential error cases in which taxpayers' rights may have been violated because the CDP notice was not issued after an additional tax assessment was made. From the population of 151 State Income Tax Levy Program additional tax assessment potential violations, IRS management reviewed a random statistical sample of 40 taxpayer cases and concurred that nine taxpayer cases were actual errors. We used a 22.5 percent error rate, an 11.6 percent precision, and a two-sided 95 percent confidence interval to estimate the number of violations in the population. Our contracted statistician assisted with developing the projections. See Appendix II for details.
- Identified potential error cases in which taxpayers' rights may have been violated because the CDP notice was not issued after an additional tax assessment was made. From the population of 630 Municipal Tax Levy Program additional tax assessment potential violations, IRS management reviewed a random statistical sample of 161 taxpayer cases and concurred that 135 taxpayer cases were actual errors. We used an 83.9 percent error rate, a 5.1 percent precision, and a two-sided 95 percent confidence interval to estimate the number of violations in the population. Our contracted statistician assisted with developing the projections. See Appendix II for details.
- Identified potential error cases in which taxpayers' rights may have been violated because levies were issued during a pending CDP hearing. From the population of 594 Municipal Tax Levy Program CDP hearing potential violations, IRS management reviewed a random statistical sample of 132 taxpayer cases and concurred that 38 taxpayer cases were actual errors. We used a 28.8 percent error rate, a 7.0 percent precision, and a two-sided 95 percent confidence interval to estimate the number of violations in the population. Our contracted statistician assisted with developing the projections. See Appendix II for details.
- Determined whether controls for levies issued through the ACS were adequate to comply with legal and procedural guidelines for notification to taxpayers prior to levy issuance.
- Determined whether controls for ICS systemic levies issued by revenue officers were adequate to comply with legal and procedural guidelines for notification to taxpayers prior to levy issuance.
- Determined whether controls for manual ICS levies issued by revenue officers were adequate to comply with legal and procedural guidelines for notification to taxpayers prior to levy issuance.
- Identified a judgmental sample of 27 manual ICS levies issued by revenue officers outside of the ICS during FY 2020.<sup>2</sup> We used a judgmental sample because the exact population of manual ICS levies cannot be identified because the IRS does not track them. We also worked with the Applied Research and Technology group to mine the

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<sup>2</sup> A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

data in the ICS histories for text references to manual levies. IRS management confirmed that these 27 levies were manual levies issued by revenue officers.

### **Performance of This Review**

This review was performed with information obtained from the Small Business/Self-Employed Division National Headquarters Collection function located in Lanham, Maryland, during the period November 2020 through July 2021. 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); Phyllis Heald London, Director; Autumn Macik, Audit Manager; Myriam Dolsaint, Lead Auditor; My-Nga T. Diep, Auditor; and Lance Welling, Information Technology Specialist (Data Analytics).

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

We performed tests to assess the reliability of data from the ACS, ICS, Individual Master File, and Business Master File systems. We evaluated the data by (1) performing electronic testing of required data elements, (2) reviewing existing information about the data and the system that produced them, and (3) interviewing agency officials knowledgeable about the data. We determined that the data were sufficiently reliable for purposes of this report.

### **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: Small Business/Self-Employed Division Collection function's automated controls in place that prevent the issuance of levies prior to 30 calendar days before initiating any levy action and to prevent levy enforcement actions being taken on taxpayers that request CDP levy hearings. We evaluated these controls by reviewing populations and samples of taxpayer levies and CDP levy hearings.

## Appendix II

### Outcome Measures

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

#### **Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; nine taxpayer accounts for which the IRS did not issue the final CDP rights notification letter before issuing the levy (see Recommendation 1).

#### **Methodology Used to Measure the Reported Benefit:**

From a population of 1,018,356 taxpayers with Federal Payment Levy Program levies issued during FY 2020, we identified nine taxpayers for which the IRS did not issue the final CDP rights notification letter before issuing the levy.

#### **Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; 33 taxpayer accounts for which the IRS issued a levy while the taxpayer had a pending CDP hearing (see Page 4).

#### **Methodology Used to Measure the Reported Benefit:**

From a population of 1,018,356 taxpayers with Federal Payment Levy Program levies issued during FY 2020, we initially identified 2,881 potential violations in which the IRS issued a levy while the taxpayer had a pending CDP hearing.

From the population of 2,881 potential violations, IRS management reviewed a random sample of 1,310 total taxpayer cases. We used the TIGTA contract statistician to assist with calculating projections and projected the mutually agreed-upon violations to the potential violations populations as follows:

- IRS management reviewed a random sample of 1,310 of 2,881 potential taxpayer cases with levies that were issued while a CDP hearing was pending. We determined that there were 15 violations. Based on the population of 2,881 potential violations, using a 1.1 percent error rate and a two-sided 95 percent confidence interval, we estimate that 33 taxpayers' rights were potentially violated because they had levies issued while a CDP hearing was pending.<sup>1</sup>

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<sup>1</sup> The point estimate projection for the actual total amount is based on using a two-sided 95 percent confidence interval. We are 95 percent confident that the actual value is between 22 and 48 taxpayers. The initial calculations were performed using the actual numbers rather than the rounded numbers that appear in the report.

### **Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; 36 taxpayer accounts for which the IRS did not issue the final CDP rights notification letter (see Page 4).

### **Methodology Used to Measure the Reported Benefit:**

From a population of 1,944 taxpayers with disqualified employment tax levies and a population of 1,034 taxpayers with Federal contractor levies issued during FY 2020, we identified 36 taxpayers that were not notified of their CDP rights.

### **Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; 18 taxpayer accounts for which the IRS did not timely issue the final CDP rights notification letter (see Page 4).

### **Methodology Used to Measure the Reported Benefit:**

From a population of 1,944 taxpayers with disqualified employment tax levies and a population of 1,034 taxpayers with Federal contractor levies issued through the Federal Payment Levy Program during FY 2020, we identified 18 taxpayers that were not timely notified of their CDP rights.

**Management’s Response:** IRS management did not agree with this outcome measure, stating that all taxpayers received their post-levy CDP rights. While TIGTA defined timely as 30 days, the statute requires the IRS to send the notice to the taxpayer in a “reasonable” period of time, and “reasonable” is not defined in the statute or regulations. Whether the notice was mailed in a “reasonable” period of time is dependent on the facts and circumstances of each individual case.

**Office of Audit Comment:** We believe that it is burdensome to taxpayers to levy their Federal payments and not timely provide them with the notice informing them of their right to a CDP hearing. Although I.R.C. § 6330 allows the IRS to obtain these levy proceeds prior to providing taxpayers with these rights, it is important that taxpayers are afforded their rights timely.

### **Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; 28 taxpayer accounts for which the IRS did not issue the final CDP rights notification letter (see Recommendation 2).

### **Methodology Used to Measure the Reported Benefit:**

From a population of 367,293 taxpayers with State Income Tax Levy Program levies issued during FY 2020, we identified 28 taxpayers for which the IRS did not issue the final CDP rights notification letter.

### **Type and Value of Outcome Measure:**

- Taxpayer Burden – Potential; 1,186 taxpayer accounts for which the IRS did not timely issue the final CDP rights notification letter after the levy (see Recommendation 3).

## Methodology Used to Measure the Reported Benefit:

From a population of 367,293 taxpayers with State Income Tax Levy Program levies issued during FY 2020, we initially identified 2,463 potential violations for which the IRS did not timely issue the final CDP rights notification letter after the levy.

From the population of 2,463 potential violations, IRS management reviewed a stratified random sample of 336 total taxpayer cases. We considered taxpayers' notices to be timely if the notice was issued within 30 days after the levy proceeds were received. We used the TIGTA contract statistician to assist with calculating projections and projected the violations to the stratified samples as follows:

- IRS management reviewed a random sample of 138 of the 1,222 potential taxpayer cases for which the CDP notice was not timely sent to the taxpayer after the levy (from 31 to 40 days). We determined that there were 92 violations. Based on the population of 1,222 potential violations, using a 66.7 percent error rate and a two-sided 95 percent confidence interval, we estimate that 815 taxpayers were potentially burdened because they were not timely notified of their CDP rights after the levy.<sup>2</sup>
- IRS management reviewed a random sample of 120 of the 880 potential taxpayer cases for which the CDP notice was not timely sent to the taxpayer after the levy (from 41 to 50 days). We determined that there were four violations. Based on the population of 880 potential violations, using a 3.3 percent error rate and a two-sided 95 percent confidence interval, we estimate that 29 taxpayers were potentially burdened because they were not timely notified of their CDP rights after the levy.<sup>3</sup>
- IRS management reviewed all 11 potential taxpayer cases for which the CDP notice was not timely sent to the taxpayer after the levy (from 51 to 60 days). We determined that eight were violations and that these taxpayers were potentially burdened.
- IRS management reviewed a random sample of 67 of the 350 potential taxpayer cases for which the CDP notice was not timely sent to the taxpayer after the levy (over 60 days). We determined that there were 64 violations. Based on the population of 350 potential violations, using a 95.5 percent error rate and a two-sided 95 percent confidence interval, we estimate that 334 taxpayers were potentially burdened because they were not timely notified of their CDP rights after the levy.<sup>4</sup>

**Management's Response:** IRS management did not agree with this outcome measure for the same reason summarized on page 23.

**Office of Audit Comment:** We believe the outcome measure is valid for the same reason that we summarized on page 23.

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<sup>2</sup> The point estimate projection for the actual total amount is based on using a two-sided 95 percent confidence interval. We are 95 percent confident that the actual value is between 717 and 904 taxpayers.

<sup>3</sup> The point estimate projection for the actual total amount is based on using a two-sided 95 percent confidence interval. We are 95 percent confident that the actual value is between 10 and 70 taxpayers.

<sup>4</sup> The point estimate projection for the actual total amount is based on using a two-sided 95 percent confidence interval. We are 95 percent confident that the actual value is between 309 and 345 taxpayers.

### Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 34 taxpayer accounts for which the IRS did not issue a new CDP notice after the additional tax assessment (see Recommendation 4).

### Methodology Used to Measure the Reported Benefit:

From a population of 367,293 taxpayers with State Income Tax Levy Program levies issued during FY 2020, we initially identified 151 potential violations for which the IRS did not issue a new CDP notice after the additional tax assessment.

We used the TIGTA contract statistician to assist with calculating projections and projected the mutually agreed-upon violations to the potential violations populations as follows:

- IRS management reviewed a random sample of 40 of the 151 potential taxpayer cases for which an additional tax assessment posted prior to the taxpayer's levy. We determined that there were nine violations. Based on the population of 151 potential violations, using a 22.5 percent error rate and a two-sided 95 percent confidence interval, we estimate that 34 taxpayers' rights were potentially violated because the IRS did not timely issue a new CDP notice after the additional tax assessment.<sup>5</sup>

**Management's Response:** IRS management partially agreed with this outcome measure, stating they believe that the potential number of taxpayer accounts for which the IRS did not issue a new CDP notice after the additional tax assessment is 19 taxpayer accounts. The number of accounts is adjusted to exclude the potential accounts for which a State Income Tax Levy Program sent in payments to an incorrect account due to an error in the State's Electronic Federal Tax Payment System payment file. The IRS determined that CDP notices were issued appropriately on certain module(s) included in the levy or levy proceeds were refunded in full or are set to receive refunds.

**Office of Audit Comment:** We agreed there were nine levies with violations and then projected the nine to the population of 151 potential cases with errors, resulting in an estimate of 34 taxpayer accounts. These taxpayers' rights were violated because taxpayers were levied and never received their CDP rights. Refunding the proceeds is a corrective action in response to the rights violation.

### Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; [REDACTED] (see Page 4).

### Methodology Used to Measure the Reported Benefit:

From a population of 423,075 taxpayers with Municipal Tax Levy Program levies issued during FY 2020, [REDACTED]

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<sup>5</sup> The point estimate projection for the actual total amount is based on using a two-sided 95 percent confidence interval. We are 95 percent confident that the actual value is between 19 and 54 taxpayers.

**Management's Response:** IRS management did not agree with this outcome measure, stating

[REDACTED]

**Office of Audit Comment:**

[REDACTED]

### **Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; 528 taxpayer accounts for which the IRS did not issue a new CDP notice after the additional tax assessment (see Page 10).

### **Methodology Used to Measure the Reported Benefit:**

From a population of 423,075 taxpayers with Municipal Tax Levy Program levies issued during FY 2020, we initially identified 630 potential violations for which the IRS did not issue a new CDP notice after the additional tax assessment.

We used the TIGTA contract statistician to assist with calculating projections and projected the mutually agreed-upon violations to the potential violation populations as follows:

- IRS management reviewed a random sample of 161 of the 630 potential taxpayer cases in which an additional tax assessment posted prior to the taxpayer's levy. We determined that there were 135 violations. Based on the population of 630 potential violations, using an 83.9 percent error rate and a two-sided 95 percent confidence interval, we estimate that 528 taxpayers' rights were potentially violated because the IRS did not timely issue a new CDP notice after the additional tax assessment.<sup>6</sup>

### **Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; 171 taxpayer accounts for which the IRS issued a levy while the taxpayer had a pending CDP hearing (see Page 4).

### **Methodology Used to Measure the Reported Benefit:**

From a population of 423,075 taxpayers with Municipal Tax Levy Program levies issued during FY 2020, we initially identified 594 potential violations in which the IRS issued a levy while the taxpayer had a pending CDP hearing.

We used the TIGTA contract statistician to assist with calculating projections and projected the mutually agreed-upon violations to the potential violations populations as follows:

- IRS management reviewed a random sample of 132 of the 594 potential taxpayer cases with levies that were issued while a CDP hearing was pending. We determined that there were 38 violations. Based on the population of 594 potential violations, using a 28.8 percent error rate and a two-sided 95 percent confidence interval, we estimate that

<sup>6</sup> The point estimate projection for the actual total amount is based on using a two-sided 95 percent confidence interval. We are 95 percent confident that the actual value is between 493 and 557 taxpayers.

171 taxpayers' rights were potentially violated because they had levies issued while a CDP hearing was pending.<sup>7</sup>

**Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; 81 taxpayer accounts for which the IRS did not issue the final CDP rights notification letter before issuing the levy (see Recommendation 5).

**Methodology Used to Measure the Reported Benefit:**

From a population of 180,620 taxpayers with levies issued through the ACS during FY 2020, we identified 81 taxpayers for which the IRS did not issue the final CDP rights notification letter before issuing the levy.

**Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; seven taxpayer accounts for which the IRS did not timely issue the final CDP rights notification letter before issuing the levy (see Page 13).

**Methodology Used to Measure the Reported Benefit:**

From a population of 180,620 taxpayers with levies issued through the ACS during FY 2020, we identified seven taxpayers for which the IRS did not timely issue the final CDP rights notification letter before issuing the levy.

**Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; 190 taxpayer accounts for which the IRS did not issue a new CDP notice after the additional tax assessment (see Recommendation 6).

**Methodology Used to Measure the Reported Benefit:**

From a population of 180,620 taxpayers with levies issued through the ACS during FY 2020, we identified 190 taxpayers for which the IRS did not issue a new CDP notice after the additional tax assessment.

**Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; 46 taxpayer accounts for which the IRS issued a levy while the taxpayer had a pending CDP hearing (see Page 13).

**Methodology Used to Measure the Reported Benefit:**

From a population of 180,620 taxpayers with levies issued through the ACS during FY 2020, we identified 46 taxpayers for which the IRS issued a levy while the taxpayer had a pending CDP hearing.

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<sup>7</sup> The point estimate projection for the actual total amount is based on using a two-sided 95 percent confidence interval. We are 95 percent confident that the actual value is between 132 and 215 taxpayers.

**Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; 50 taxpayer accounts for which the IRS did not issue the final CDP rights notification letter (see Recommendations 7 and 8).

**Methodology Used to Measure the Reported Benefit:**

From a population of 35,978 taxpayers with systemic ICS levies issued by revenue officers through the ICS during FY 2020, we identified 50 taxpayers for which the IRS did not issue the final CDP rights notification letter.

**Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; 23 taxpayer accounts for which the IRS did not timely issue the final CDP rights notification letter before issuing the levy (see Recommendations 7 and 8).

**Methodology Used to Measure the Reported Benefit:**

From a population of 35,978 taxpayers with systemic ICS levies issued by revenue officers through the ICS during FY 2020, we identified 23 taxpayers for which the IRS did not timely issue the final CDP rights notification letter. [REDACTED].

**Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; 18 taxpayer accounts for which the IRS did not issue a new notice of intent to levy for the additional tax assessment prior to the levies being issued (see Recommendation 7).

**Methodology Used to Measure the Reported Benefit:**

From a population of 35,978 taxpayers with levies issued by revenue officers through the ICS during FY 2020 that had an additional tax assessment issued prior to the levy, we identified 18 taxpayers for which the IRS did not issue a new CDP notice after the additional tax assessment.

**Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; 32 taxpayer accounts for which the IRS issued a levy while the taxpayer had a pending CDP hearing (see Recommendation 8).

**Methodology Used to Measure the Reported Benefit:**

From a population of 35,978 taxpayers with levies issued by revenue officers through the ICS during FY 2020, we identified 32 taxpayers for which the IRS issued a levy while the taxpayer had a pending CDP hearing. IRS management disagreed with three of these violations.

**Management's Response:** IRS management partially agreed with this outcome measure, stating they believe the number of potential exceptions is 29 taxpayers. To address this issue, the Director, Field Collection, on February 8, 2021, reminded all revenue officers to comply with the requirements in IRM 5.11.2 when ICS levy generation fails, when the taxpayer requests a CDP hearing, and when manual levies are prepared.

**Office of Audit Comment:** The IRS did not agree with three of the 32 violations we identified. However, in all of three cases, the revenue officer improperly issued the levy when there was a pending CDP hearing, violating the taxpayer's rights.

**Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; [REDACTED] (see Page 15).

**Methodology Used to Measure the Reported Benefit:**

From a judgmental sample of 27 taxpayers with manual levies issued by revenue officers during FY 2020, [REDACTED].<sup>8</sup>

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<sup>8</sup> A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

## Appendix III

### Example of Form 668-A, Notice of Levy

Form <b>668-A</b> (April 2020)		Department of the Treasury - Internal Revenue Service <b>Notice of Levy</b>		
Date		Telephone number of IRS office		
Reply to		Name and address of taxpayer		
To		Identifying number(s)		
Special instructions for certain property levied				
This isn't a bill for taxes you owe. This is a notice of levy we are using to collect money owed by the taxpayer named above.				
Kind of Tax	Tax Period Ended	Unpaid Balance of Assessment	Statutory Additions	Total
<b>Total Amount Due</b>				
We figured the interest and late payment penalty to _____				
<p>The Internal Revenue Code provides that there is a lien for the amount that is owed. Although we have given the notice and demand required by the Code, the amount owed hasn't been paid. This levy requires you to turn over to us this person's property and rights to property (such as money, credits, and bank deposits) that you have or which you are already obligated to pay this person. However, don't send us more than the "Total Amount Due."</p> <p><b>Money in banks, credit unions, savings and loans, and similar institutions described in section 408(n) of the Internal Revenue Code must be held for 21 calendar days from the day you receive this levy before you send us the money. Include any interest the person earns during the 21 days. Turn over any other money, property, credits, etc. that you have or are already obligated to pay the taxpayer, when you would have paid it if this person asked for payment. This levy does not attach to funds in IRAs, Self-Employed Individuals' Retirement Plans, or any other retirement plans in your possession or control.</b></p> <p>Make a reasonable effort to identify all property and rights to property belonging to this person. At a minimum, search your records using the taxpayer's name, address, and identifying numbers(s) shown on this form. Don't offset money this person owes you without contacting us at the telephone number shown above for instructions. You may not subtract a processing fee from the amount you send us.</p> <p><b>To respond to this levy —</b></p> <ol style="list-style-type: none"> <li>1. Make your check or money order payable to <b>United States Treasury</b>.</li> <li>2. Write the taxpayer's name, identifying number(s), kind of tax and tax period shown on this form, and "LEVY PROCEEDS" on your check or money order (not on a detachable stub.)</li> <li>3. Complete the back of Part 3 of this form and mail it to us with your payment in the enclosed envelope.</li> <li>4. Keep Part 1 of this form for your records and give the taxpayer Part 2 within 2 days.</li> </ol> <p>If you don't owe any money to the taxpayer, please complete the back of Part 3, and mail that part back to us in the enclosed envelope.</p>				
Signature of Service Representative		Title		
Catalog Number 20435N		www.irs.gov		Form <b>668-A</b> (Rev. 4-2020)
Part 1 — For Addressee				

## Appendix IV

### Previous Five Audit Reports Related to This Statutory Review

TIGTA, Report No. 2016-30-052, *Fiscal Year 2016 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (July 2016).

TIGTA, Report No. 2017-30-065, *Fiscal Year 2017 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (Aug. 2017).

TIGTA, Report No. 2018-30-068, *Fiscal Year 2018 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (Sept. 2018).

TIGTA, Report No. 2019-30-070, *Fiscal Year 2019 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (Sept. 2019).

TIGTA, Report No. 2020-30-065, *Fiscal Year 2020 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (Sept. 2020).

## Appendix V

### 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 10, 2021

MEMORANDUM FOR MICHAEL E. MCKENNEY  
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Darren John Guillot  Digitally signed by Darren J. Guillot  
Date: 2021.09.10 11:08:42 -0400  
Commissioner, Small Business/Self-Employed, Collection

SUBJECT: Draft Audit Report – Fiscal Year 2021 Statutory Review of  
Compliance With Legal Guidelines When Issuing Levies  
(Audit #202130003)

Thank you for the opportunity to review and comment on the subject draft audit report, which evaluates whether the IRS complied with the statutory requirement to notify taxpayers and their authorized representatives of the right to a Collection Due Process (CDP) hearing prior to issuing levies and to suspend levy action as required by Internal Revenue Code § 6330. The IRS is committed to helping taxpayers meet their tax responsibilities while ensuring that the rights of the taxpayer are respected and protected by the agency.

During this audit, TIGTA reviewed more than 2 million levies issued by our automated levy program, automated collection system and field collection revenue officers in fiscal year (FY) 2020. TIGTA determined we complied with all legal requirements in more than 99.98%, 99.81%, and 99.65% of the levies issued by our automated levy program, automated collection system and field collection revenue officers, respectively. We are extremely proud of the hard work and dedication of our IRS employees who effectively administer these programs.

Notwithstanding these successful measures of our levy programs, TIGTA did identify issues with our programs that can potentially affect some taxpayers. In response to your findings, we have developed and implemented:

- A process to review the monthly proceeds report for the State Income Tax Levy Program (SITL) and the Federal Payment Levy Program (FPLP) monthly reports

to ensure that taxpayers who appear on both reports receive their required CDP notice;

- Programming to ensure that post-levy CDP notices are issued after FPLP federal contractor levies, regardless of the balance due status when the notice is issued; and
- Programming to ensure that tax modules are not selected for the Municipal Tax Levy Program (MTLP) if a new CDP notice was not issued after an additional tax assessment is not selected for the MTLP.

We also will:

- Update our procedures to ensure that revenue officers do not reverse CDP notices for the FPLP and MTLP;
- Ensure that our collection campus operations input CDP hearing request correspondence timely to prevent levies on taxpayers who timely requested a hearing;
- Submit unified work requests for programming changes that block levies from being issued on accounts in which an additional tax assessment posts, but no new CDP notice was sent to the taxpayer and block the issuance of levies when previous CDP notices were reversed and not re-issued; and
- Issue an email to field collection revenue officers highlighting the requirements for timely issuing CDP notices when systemic controls are bypassed.

The IRS is committed to fairly and effectively collecting taxes owed through all means allowed by the Internal Revenue Code. Enforcement is never our first resort, but our last, and we stress the importance of working with taxpayers to gain compliant behavior prior to levy actions. We will continue to find ways to improve our levy processes to ensure that the rights of all taxpayers are protected, and we value TIGTA's insights and recommendations.

Attached are our comments and proposed actions to your recommendations. If you have any questions, please contact me, or Frederick W. Schindler, Director, Collection, Small Business/Self-Employed Division.

Attachment

**RECOMMENDATION 1:**

The Director, Headquarters Collection, Small Business/Self-Employed Division, should update the IRM to clarify the procedures for the Federal Payment Levy Program and Municipal Tax Levy Program so that revenue officers do not improperly reverse CDP notices.

**CORRECTIVE ACTION:**

We will update the Internal Revenue Manual (IRM) to clarify the procedures for the Federal Payment Levy Program and Municipal Tax Levy Program levies to ensure that revenue officers do not improperly reverse CDP notices.

**IMPLEMENTATION DATE:**

November 15, 2022

**RESPONSIBLE OFFICIAL:**

Director, Headquarters Collection, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN:**

IRS will monitor this corrective action as part of our internal management system of controls.

**RECOMMENDATION 2:**

The Director, Collection Inventory, Delivery and Selection, Small Business/Self-Employed Division, should ensure that CDP notices are not reversed for taxpayers identified for the Federal Payment Levy Program at the same time the IRS receives State Income Tax Levy Program proceeds.

**CORRECTIVE ACTION:**

We will implement an additional step to our processes, requiring the review of monthly reports to ensure that CDP notices are not reversed for taxpayers who are identified for the Federal Payment Levy Program at the same time the IRS receives State Income Tax Levy Program proceeds.

**IMPLEMENTATION DATE:**

February 15, 2022

**RESPONSIBLE OFFICIAL:**

Director, Collection Inventory Delivery and Selection, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN:**

IRS will monitor this corrective action as part of our internal management system of controls.

**RECOMMENDATION 3:**

The Director, Collection Policy, Small Business/Self-Employed Division, should ensure that corrective programming is implemented so that post-levy CDP notices are issued to taxpayers within 30 days of receipt of State Income Tax Levy Program levy proceeds.

**CORRECTIVE ACTION:**

The statute requires the IRS to send the notice to the taxpayer in a "reasonable" period of time, and "reasonable" is not defined in either the statute or the regulations. Whether the notice is mailed in a "reasonable" period of time is dependent on the facts and circumstances of each individual case. After consulting with our attorneys, we determined that establishing a timeframe of 30 days of receipt of levy proceeds to assess timeliness does not provide sufficient time to consider the individual facts and circumstances of the individual case, including, but not limited to, offset transmission errors that are not within the IRS's control, which can contribute to the notice timeframe. We will, however, review reports every 60 days to identify accounts where a post-levy CDP notice was not sent within a reasonable period and promptly address those situations.

**IMPLEMENTATION DATE:**

Not Applicable

**RESPONSIBLE OFFICIAL:**

Not Applicable

**CORRECTIVE ACTION MONITORING PLAN:**

Not Applicable

**RECOMMENDATION 4:**

The Director, Collection Policy, Small Business/Self-Employed Division, should ensure that corrective programming is implemented so that, when State levy proceeds are received for a taxpayer account in fully paid status, the account is not frozen with a pending additional tax assessment transaction and that a post-levy CDP notice is properly issued.

**CORRECTIVE ACTION:**

We requested a programming change on August 4, 2021. Implementation of this programming change is subject to other priorities and available resources, but, once implemented, the program will identify additional or pending assessments, ensuring an account does not freeze when a levy payment posts to a full paid module. The program also will ensure that a post-levy CDP notice will be sent on accounts with additional assessments in full paid status.

**IMPLEMENTATION DATE:**

February 15, 2023

**RESPONSIBLE OFFICIAL:**

Director, Collection Inventory Delivery and Selection, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN:**

IRS will monitor this corrective action as part of our internal management system of controls.

**RECOMMENDATION 5:**

The Director, Collection Inventory, Delivery and Selection, Small Business/Self-Employed Division, should ensure that corrective programming is implemented so that the ACS will block levies for which the final CDP notice is reversed or disqualified.

**CORRECTIVE ACTION:**

We corrected all active automated collection system (ACS) accounts and are monitoring impacted accounts in all other statuses. We do not anticipate ACS levies when the CDP notice is reversed or disqualified in the future, but we requested a programming update to ensure that these levies are systemically blocked. Implementation of this programming change is subject to other priorities and available resources.

**IMPLEMENTATION DATE:**

May 15, 2022

**RESPONSIBLE OFFICIAL:**

Director, Collection Inventory Delivery and Selection, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN:**

IRS will monitor this corrective action as part of our internal management system of controls.

**RECOMMENDATION 6:**

The Director, Collection Inventory, Delivery and Selection, Small Business/Self-Employed Division, should implement corrective programming so that the ACS's internal validity check blocks levies from being issued for taxpayer accounts to which an additional tax assessment posted but no new CDP notice was sent to the taxpayer.

**CORRECTIVE ACTION:**

We have input a request for a programming change to ensure that ACS will not levy modules for an additional tax assessment before a new CDP notice is sent to the taxpayer for the additional assessment. Implementation of this programming change is subject to other priorities and available resources

**IMPLEMENTATION DATE:**

March 15, 2022

**RESPONSIBLE OFFICIAL:**

Director, Collection Inventory Delivery and Selection, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN:**

IRS will monitor this corrective action as part of our internal management system of controls.

**RECOMMENDATION 7:**

The Director, Collection Policy, Small Business/Self-Employed Division, should ensure that corrective programming changes are implemented to block the issuance of levies when previous CDP notices were reversed and not reissued.

**CORRECTIVE ACTION:**

Collection will submit a programming request to block the issuance of levies when previous CDP notices were reversed and not re-issued.

**IMPLEMENTATION DATE:**

February 15, 2023

**RESPONSIBLE OFFICIAL:**

Director, Collection Policy, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN:**

IRS will monitor this corrective action as part of our internal management system of controls.

**RECOMMENDATION 8:**

The Director, Collection Policy, Small Business/Self-Employed Division, should provide revenue officers with clarification and reinforcement of the requirements for timely issuing CDP notices when systemic controls are bypassed.

**CORRECTIVE ACTION:**

Collection will issue an all-employee e-mail from the Director of Field Collection Operations highlighting the requirements for timely issuing CDP notices when systemic controls are bypassed.

**IMPLEMENTATION DATE:**

May 15, 2022

**RESPONSIBLE OFFICIAL:**

Director, Collection Policy, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN:**

IRS will monitor this corrective action as part of our internal management system of controls.

**OUTCOME MEASURE #4:**

Type and Value of Outcome Measure: Taxpayer Rights and Entitlements – Potential; 18 taxpayer accounts for which the IRS did not timely issue the final CDP rights notification letter (see Page 6).

**IRS RESPONSE:**

All taxpayers received their post-levy CDP rights. While TIGTA defined timely as 30 days, the statute requires the IRS to send the notice to the taxpayer in a “reasonable” period of time, and “reasonable” is not defined in the statute or regulations. Whether the notice was mailed in a “reasonable” period of time is dependent on the facts and circumstances of each individual case.

**OUTCOME MEASURE #6:**

Taxpayer Burden – Potential; 1,186 taxpayer accounts for which the IRS did not timely issue the final CDP rights notification letter after the levy (See Recommendation 3).

**IRS RESPONSE:**

We considered the 30-day timeframe used by TIGTA, and also that the statute requires the IRS to send the notice to the taxpayer in a “reasonable” period of time. “Reasonable” is not defined in the statute or regulations. We believe whether the notice was mailed in a “reasonable” period of time is dependent on the facts and circumstances of each individual case.

**OUTCOME MEASURE #7:**

Taxpayer Rights and Entitlements – Potential; 34 taxpayer accounts for which the IRS did not issue a new CDP notice after the additional tax assessment (see Recommendation 4).

**IRS RESPONSE:**

We believe that the potential number of taxpayer accounts for which the IRS did not issue a new CDP notice after the additional tax assessment is 19. The number of accounts is adjusted to exclude the potential accounts for which a State Income Tax Levy Program (SITLP) state sent in payments to an incorrect account due to an error in the state's Electronic Federal Tax Payment System (EFTPS) payment file. The IRS determined that CDP notices were issued appropriately on certain module(s) included in the levy or levy proceeds were refunded in full or are set to receive refunds.

[REDACTED]

[REDACTED]

**OUTCOME MEASURE #18:**

Type and Value of Outcome Measure: Taxpayer Rights and Entitlements – Potential; 32 taxpayer accounts for which the IRS issued a levy while the taxpayer had a pending CDP hearing (see Recommendation 8).

**IRS RESPONSE:**

We believe the number of potential exceptions is 29. To address this issue, the Director, Field Collection, on February 8, 2021, reminded all revenue officers to comply with the requirements in Internal Revenue Manual 5.11.2 when ICS levy generation fails, when the taxpayer requests a CDP hearing, and when manual levies are prepared

## Appendix VI

### Glossary of Terms

<b>Term</b>	<b>Definition</b>
Alaska Permanent Fund Dividend Levy Program	An ALP that operates in conjunction with the State of Alaska, Department of Revenue, Permanent Fund Dividend Division.
Automated Collection System	A telephone contact system through which collection representatives collect unpaid taxes and secure tax returns from delinquent taxpayers that have not complied with previous notices.
Automated Levy Program	A levy program in which selected Federal tax debts are matched with State taxing authorities, municipal taxing authorities, and Federal agencies disbursing funds such as salary, pension, and vendor payments.
Business Master File	The IRS database that consists of Federal tax-related transactions and accounts for businesses. These include employment taxes, income taxes on businesses, and excise taxes.
Campus	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.
Collection Due Process Rights	I.R.C. § 6330 gives the taxpayer the right to appeal before the proposed levy action and after a jeopardy levy, a disqualified employment tax levy, a levy on a Federal contractor, and a levy on State tax refunds. The IRS notifies taxpayers of their CDP rights by issuing a notice explaining their right to request a hearing.
Collection Representative	The duties of a collection representative are varied and include collecting unpaid taxes and securing tax returns from delinquent taxpayers that have not complied with previous notices along with securing, verifying, and updating levy sources and timely issuing notices of tax levy.
Data Center Warehouse	A TIGTA repository of IRS data.
Disqualified Employment Tax Levy	A levy served to collect an employment tax liability for taxpayers that previously requested a CDP hearing involving unpaid employment tax that arose in the two-year period before the period for which the levy is served.
Federal Contractor Levy	Any levy if the person whose property is subject to the levy is a Federal contractor.
Federal Payment Levy Program	The Federal Payment Levy Program is an automated levy program that the IRS operates with the Bureau of the Fiscal Service as a systemic means for the IRS to collect delinquent taxes by levying Federal payments.
Field Collection	An IRS function within the Small Business/Self-Employed Division that helps taxpayers understand and comply with all applicable tax laws and applies the tax laws with integrity and fairness. It is also responsible for protecting the revenue and the interests of the Government through direct collection and enforcement activity with taxpayers or their representatives.

## Fiscal Year 2021 Statutory Review of Compliance With Legal Guidelines When Issuing Levies

Term	Definition
Fiscal Year	Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.
Individual Master File	The IRS database that maintains transactions or records of individual tax accounts.
Integrated Collection System	A system used by Field Collection function employees (revenue officers) to report taxpayer case time and activity.
Integrated Data Retrieval System	An IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.
Internal Revenue Code	The body of law that codifies all Federal tax laws, including income, estate, gift, excise, alcohol, tobacco, and employment taxes. These laws constitute Title 26 of the United States Code. The United States Code is a consolidation and codification by subject matter of the general and permanent laws of the United States.
Internal Revenue Manual	The primary, official source of IRS "instructions to staff" related to the organization, administration, and operation of the IRS.
Jeopardy Levy	A levy that is issued if collection is in jeopardy. The taxpayer must be offered CDP rights within a reasonable period after the levy if not provided prior to the levy.
Manual Levy	A paper levy form that is manually prepared and issued by a revenue officer. A manual ACS levy is initiated through the system by a collection representative, resulting in levy preparation and issuance by the system.
Module	Refers to one specific tax return filed by the taxpayer for one specific tax period (year or quarter) and type of tax.
Municipal Tax Levy Program	An ALP that matches a Master File database of delinquent taxpayers eligible to be levied against a database of local income tax refunds for each municipality participating in the program.
Paper Levy	A levy generated on a Form 668-A or Form 668-W, <i>Notice of Levy on Wages, Salary and Other Income</i> , and issued through the ACS either systemically or by an employee.
Revenue Officer	Employees in the Field Collection function who attempt to contact taxpayers and resolve collection matters that have not been resolved through notices sent by the IRS campuses.
State Income Tax Levy Program	An ALP that matches a Master File database of delinquent taxpayers eligible to be levied against a database of State tax refunds for each State participating in the program.
Systemic Levy	ACS systemic levies are initiated, prepared, and issued completely by the ACS with no manual intervention necessary. ICS systemic levies are initiated by revenue officers resulting in levy preparation and issuance by the system.
Tax Period	Each tax return filed by the taxpayer for a specific period (year or quarter) during a calendar year for each type of tax.

## Appendix VII

### Abbreviations

ACS	Automated Collection System
ALP	Automated Levy Program
CDP	Collection Due Process
COVID-19	Coronavirus Disease 2019
FY	Fiscal Year
ICS	Integrated Collection System
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
TIGTA	Treasury Inspector General for Tax Administration



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