

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Fiscal Year 2022 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property

June 17, 2022

Report Number: 2022-30-038

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 2022 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property

Final Audit Report issued on June 17, 2022

Report Number 2022-30-038

Why TIGTA Did This Audit

This audit was initiated because Internal Revenue Code (I.R.C.) § 7803(d)(1)(A)(iv) requires TIGTA to annually evaluate the IRS's compliance with legal seizure provisions. The overall objective of this review was to determine whether seizures of property conducted by the IRS complied with legal provisions set forth in I.R.C. §§ 6330 through 6344 and with the IRS's own internal procedures.

Impact on Tax Administration

Taking a taxpayer's property for unpaid tax is commonly referred to as a seizure. To ensure that taxpayers' rights are protected, the IRS Restructuring and Reform Act of 1998 amended the seizure provisions in I.R.C. §§ 6330 through 6344. These provisions govern many aspects of the seizure process, from notification of the taxpayer through sale or redemption of the property.

What TIGTA Found

TIGTA reviewed 74 of the 97 seizures the IRS conducted from July 1, 2020, through June 30, 2021. The IRS generally adhered to procedures that help ensure compliance with I.R.C. §§ 6330 through 6344. However, TIGTA identified some instances in which the IRS did not comply with a particular internal procedure requirement.

Before the IRS can seize an asset, management must approve the seizure and an advisor will conduct a review for legal sufficiency. For four cases, information was not properly input during the seizure process. [REDACTED]

IRS procedures require the revenue officer to attempt a field visit or telephone call to advise the taxpayer that seizure is the next planned action for the case. In some instances, the revenue officer did not properly contact the taxpayers to notify them that seizure was the next action.

TIGTA uses the IRS's seizure logs to determine which seizures to review for this annual audit [REDACTED]

What TIGTA Recommended

TIGTA recommended that: 1) the Director, Civil Enforcement Advice and Support Operations, Small Business/ Self-Employed Division, emphasize in a message to Advisory the importance of reviewing all items on Form 13719, *Pre-Seizure Checklist and Approval Request*, and Form 2433, *Notice of Seizure*, including the taxpayer's name, for procedural accuracy and legal sufficiency during the pre-seizure review process, and 2) the Director, Collection Policy, Small Business/Self-Employed Division, change the classification code of Personal Residence (PR) seizures to eliminate confusion between Personal Residence seizures and Principal Residence (PRI) seizures in the IRS seizure logs.

IRS management agreed with both TIGTA recommendations and plans to take corrective actions.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

June 17, 2022

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2022 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property
(Audit # 202230002)

This report presents the results of our review to determine whether seizures of property were conducted in accordance with the Internal Revenue Code and Internal Revenue Service (IRS) procedures. This review is part of our Fiscal Year 2022 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

The collection of unpaid tax by the Internal Revenue Service (IRS) generally begins with collection notices, after which the case will usually be assigned either to the IRS's Automated Collection System, Field Collection, or Collection Queue.¹ The IRS considers the taxpayer's ability to pay the tax and discusses alternative payment options such as an installment agreement or an offer in compromise. If the taxpayer is able to pay some or all of the tax but has not taken steps as mentioned previously to address the liability and has had the opportunity to exercise available appeal rights, the IRS then has the authority to levy the taxpayer's funds or seize property for the payment of tax.² Taking a taxpayer's property for unpaid tax is commonly referred to as a seizure. The IRS's property appraisal and liquidation specialists sell seized property by public auction or by public sale under sealed bids.

To ensure that taxpayer rights are protected, the IRS Restructuring and Reform Act of 1998 amended the seizure provisions in Internal Revenue Code (I.R.C.) §§ 6330, 6331, 6334, 6335, 6340, 6343, and 6344.³ These provisions and the IRS's internal procedures govern many aspects of the seizure process, from notification of the taxpayer through sale or redemption of the property. For example, a taxpayer's principal residence cannot be seized without a court order.⁴ Additionally, seizures are not permitted if estimated expenses related to the sale exceed the fair market value of the property at the time of the seizure.⁵

A taxpayer's principal residence cannot be seized without a court order.

The Treasury Inspector General for Tax Administration (TIGTA) is required under I.R.C. § 7803(d)(1)(A)(iv) to annually evaluate the IRS's compliance with the legal seizure provisions in I.R.C. §§ 6330 through 6344.⁶

Figure 1 shows the number of seizures conducted by the IRS from Fiscal Year (FY) 2014 to FY 2021.

¹ See Appendix VI for a glossary of terms.

² Taxpayers have a statutory right to a Collection Due Process hearing on the first issuance of a Notice of Intent to Levy on a delinquent account, pursuant to Internal Revenue Code (I.R.C.) § 6330, as well as upon the first issuance of a Notice of Federal Tax Lien, pursuant to I.R.C. § 6320. Taxpayers additionally have certain administrative rights, such as an appeal through the IRS's Collection Appeal Program. See Internal Revenue Manual (IRM) 5.1.9.3 and 5.1.9.4 (Feb. 7, 2014).

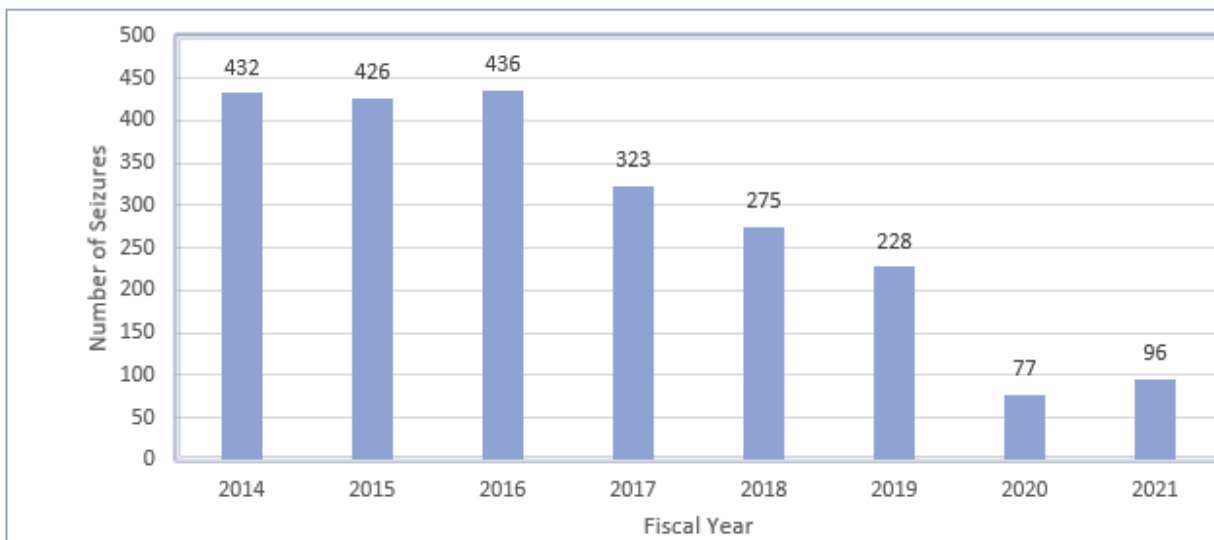
³ Pub. L. No. 105-206, 112 Stat. 687. See Appendix III for a synopsis of selected legal provisions for conducting seizures.

⁴ I.R.C. § 6334(e)(1)(A).

⁵ I.R.C. § 6331(f).

⁶ See Appendix IV for the list of the five prior TIGTA reports on compliance with seizure procedures.

Figure 1: IRS Seizures by Fiscal Year



Source: IRS Data Books 2014 through 2020 and Collection Activity Report 2021.

As shown in Figure 1, the number of seizures the IRS conducted continued to diminish from 432 in FY 2014 to 96 in FY 2021, with the exception of a small increase in FY 2016. During this eight-year period, the number of seizures decreased by 78 percent. The number of revenue officers working cases decreased 31 percent during this same time. The 25 percent increase in seizures from FY 2020 to FY 2021 is likely due to the expiration of the memorandum from the Director, Small Business/Self-Employed (SB/SE) Division, titled *Temporary Relief for Taxpayers – Suspension of Certain Collection Activities*, that suspended certain collection activities, including seizures, during FY 2020 as discussed later in this report.

Results of Review

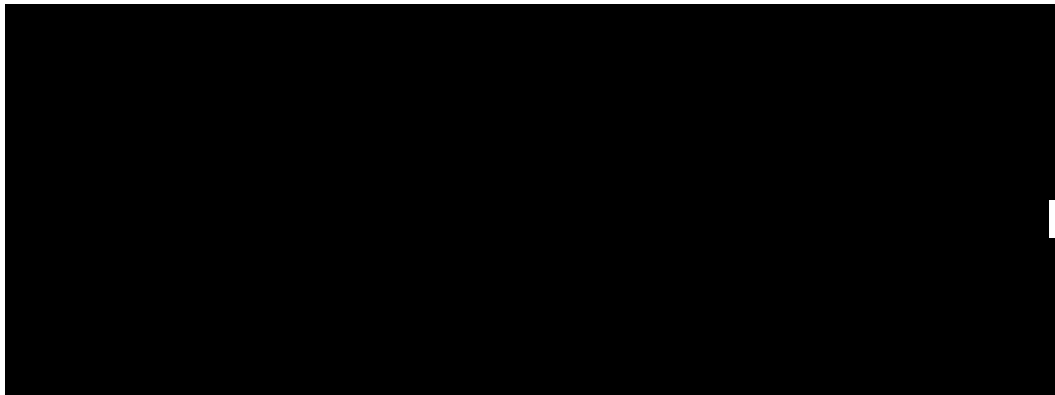
Most of the Seizures Conducted Involved Real Property

This review covers seizures conducted from July 1, 2020, through June 30, 2021, which includes 97 seizures against 74 taxpayers with unpaid liabilities.⁷ The 97 seizures correspond to the number of distinct properties that were seized. Figure 2 summarizes seizures by type of property.

Most of the seizures involved real property, and the majority of them were classified as “other” real property, which is real property other than a taxpayer’s principal or personal residence.

⁷ This number differs from numbers in Figure 1 because the IRS reports by fiscal year in the IRS Data Book. The IRS fiscal year ends September 30. We analyzed a 12-month period ending June 30, 2021, which spanned across parts of two fiscal years.

Figure 2: Seizure by Property Type From July 1, 2020, Through June 30, 2021



Source: TIGTA analysis of IRS seizure logs.⁸

As shown in Figure 2, most seizures involved real property and the majority of them were classified as "other" real property, which is real property other than a taxpayer's principal or personal residence. After "other" real property, the next most common seizures involved vehicles and other business property.

Figure 3 shows the number of seizures conducted by each of the SB/SE Division's six Collection Area Offices over the last four TIGTA reviews and this year's review.

**Figure 3: Seizures by IRS Collection Area Office From
July 1, 2020, Through June 30, 2021, and Prior Periods⁹**

Collection Area Office	July 1, 2016- June 30, 2017	July 1, 2017- June 30, 2018	July 1, 2018- June 30, 2019	July 1, 2019- June 30, 2020	July 1, 2020- June 30, 2021	Percentage July 1, 2020- June 30, 2021
Central	42	31	30	17	11	11%
Gulf States	54	63	71	26	17	18%
North Atlantic	50	36	35	7	9	9%
Northwest	142	67	55	51	12	12%
South Atlantic	45	44	32	34	27	28%
Southwest	26	19	20	10	21	22%
Nation	359	260	243	145	97	100%

Source: TIGTA analysis of IRS seizure logs and prior TIGTA reports on compliance with seizure procedures.

⁸ IRM Exhibit 5.10.2-1 (Aug. 18, 2017) defines a principal residence as the primary dwelling of the taxpayer and the taxpayer's spouse, former spouse, and minor children. A personal residence is defined as the primary residence of someone other than the taxpayer and the taxpayer's spouse, former spouse, and minor children. There were no principal residence seizures in the seizure logs. [REDACTED]

⁹ The audit period runs from July 1 through June 30 of each year and comprises parts of two fiscal years. Also, in October 2017, the Midwest and Western Areas disbanded. The States in the Midwest area became part of the Gulf States Area, Central Area, and newly established Northwest Area. The States in the Western Area became part of the Southwest Area and the new Northwest Area. For the purposes of this report, the applicable seizures that were reported under the Midwest and Western Areas for periods ending June 30, 2017, and June 30, 2018, were included under the Northwest Area.

During this year's audit period (July 1, 2020, through June 30, 2021), the South Atlantic Area Office had the largest number of seizures with 27 (28 percent), followed by the Southwest Area Office, with 21 (22 percent) seizures. The North Atlantic Area Office conducted the fewest number with nine (9 percent) seizures. The trend in number of seizures by Collection Area Office over the last five years appears to fluctuate with an overall downward trend across all areas.

Seizure Procedures Were Generally Followed

To determine the IRS's compliance with seizure procedures and guidelines, we reviewed a judgmental sample of 74 of the 97 seizures that the IRS conducted from July 1, 2020, through June 30, 2021.¹⁰ The judgmental sample of 74 seizures consisted of 49 other real properties, 11 vehicles, six other business properties, five personal residences, [REDACTED]
[REDACTED]

The balance due amounts for taxpayers at the time of the seizure for the tax modules pertaining to these seizures ranged from approximately \$30,000 to almost \$4 million, with an average balance due of \$588,209. Our review of the 74 seizures identified 11 exceptions, involving 10 taxpayers, in which the IRS did not comply with a particular Internal Revenue Manual (IRM) requirement or an error was missed during the seizure review process.¹¹ Our review noted the following exceptions:

- Six cases – in which the revenue officer did not properly inform the taxpayer that seizure was the next planned action.
- Four cases – in which information was not properly input during the seizure process.
- [REDACTED]

Some revenue officers did not properly inform the taxpayer that seizure was the next planned action

I.R.C. § 6330(a) requires that no levy may be made on any property or right to property of any person unless the owner of such property has been notified, in writing, of their rights to a hearing under this section before such levy is made. A revenue officer can satisfy this requirement with the issuance of Letter 1058, *Notice of Intent to Levy and Notice of Your Right to a Hearing*. Letter 1058 informs the taxpayer of their Collection Due Process rights to appeal and the expiration of Collection Due Process rights. If a taxpayer does not pay overdue taxes, make other arrangements to satisfy the tax debt, or request a hearing within 30 calendar days of the date of the notice, the IRS may seize the taxpayer's property.¹² We did not find any evidence within our sample of 74 seizures that the IRS seized taxpayer's property in violation of I.R.C. § 6330.

¹⁰ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

¹¹ Instance count is by seizure and not by each asset seized. For example, if three assets were seized during one seizure, then we counted that as one instance.

¹² IRM 5.1.9.3.1(1) and (3) (August 27, 2021).

However, IRM 5.10.1.6.1 adds an additional requirement on the revenue officer. It states that the revenue officer must attempt to contact the taxpayer by either a telephone call or a field visit prior to seizure. During this contact, the revenue officer should:

- Advise the taxpayer that seizure is the next planned action.
- Give the taxpayer an opportunity to resolve the tax liability voluntarily and provide and explain Publication 1, *Your Rights as a Taxpayer*, and Publication 594, *The IRS Collection Process*.
- Advise the taxpayer about the Taxpayer Advocate and provide Form 911, *Request for Taxpayer Advocate Service Assistance*.
- Provide the taxpayer with the name and location of the immediate supervisor if the taxpayer requests a managerial review.
- Document Form 9297, *Summary of Taxpayer Contact*, with specific actions and deadlines communicated to the taxpayer.

In six cases, the revenue officer did not properly contact the taxpayer to notify them that seizure was the next action. In all six cases, the revenue officer mailed a letter to the taxpayer in lieu of following proper IRM procedures previously noted that require the revenue officer to attempt a field visit or telephone call to the taxpayer.

¹³ A recommendation was made in that report to emphasize in a message to all revenue officers the existing IRM requirement to conduct a field visit or a telephone call notifying the taxpayer of the next action planned such as a seizure.

IRS management agreed with this recommendation and issued an e-mail on September 20, 2021, to Field Collection revenue officers emphasizing the existing IRM requirement to conduct a field visit or telephone call notifying the taxpayer that seizure is the next planned action. In all six cases identified in which the IRM requirement was not followed, the seizure was performed before September 20, 2021. Given that the message issued on September 20, 2021, appears to have been effective in correcting this issue, we are not making a recommendation this year.

Information was not always properly input during the seizure process

When a revenue officer determines that seizure is the next appropriate action, they will prepare the seizure approval package. The approval package must contain the following information:

- Form 13719, *Pre-Seizure Checklist and Approval Request*.
- Form 668-B, *Levy*.
- Copies of the Notice of Federal Tax Liens.
- Preliminary Form 2434-B, *Notice of Encumbrances Against or Interests in Property Offered for Sale* (not applicable if only cash is to be seized).

¹³ TIGTA, Report No. 2021-30-055, *Fiscal Year 2021 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property*.

- For real property seizures, include Form 2433, *Notice of Seizure*, and deed(s).¹⁴

All Collection seizures require a minimum approval level of the group manager. The group manager will review the case file for accuracy and once approved, the manager forwards the approved file to Advisory.¹⁵ Advisory reviews Form 13719 for legal sufficiency. Once Advisory is satisfied that all items on Form 13719 are procedurally accurate, they forward the seizure file back to the group manager unless a higher level of approval is required.¹⁶

After the seizure takes place, the revenue officer must send all seizure documents back to Advisory within five workdays.¹⁷ Advisory then conducts a post-seizure review. This review of post-seizure items will include the following:

- Proper approval secured.
- Integrated Data Retrieval System research prior to seizure.
- Consent/Writ secured when required.
- Form 668-B delivery to taxpayer meets legal sufficiency.
- Form 2433 delivery to taxpayer/owner meets legal sufficiency.
- Publication 1660, *Collection Appeal Rights*, provided with Form 2433.
- Not a prohibited seizure.
- Notice of Federal Tax Lien filed on all modules.
- Letter 1058 sent for all modules on Form 668-B.
- Form 13360, *Seizure and Sale Checklist*.¹⁸



¹⁴ IRM 5.10.2.2(8) (July 12, 2019).

¹⁵ IRM 5.10.2.2(9) (July 12, 2019).

¹⁶ IRM 5.10.2.2(10) (July 12, 2019).

¹⁷ IRM 5.10.3.23(3) (April 21, 2020).

¹⁸ IRM 5.10.3.23(6) (April 21, 2020).

The classification of a seizure type was erroneously coded on the seizure log

When conducting this annual review we rely on IRS seizure logs to determine which seizures should be reviewed to ensure taxpayer rights are not being infringed upon. The IRS codes these seizure logs using two or three letter codes. For example, a principal residence, where a taxpayer personally lives or the taxpayer's spouse, former spouse, or minor children lives, is coded as PRI in these logs. A personal residence, which a taxpayer owns, but does not personally (nor does the spouse, former spouse or minor children) live in is coded as PR. When reviewing these logs it is important for them to be accurate.

These codes appear to be too closely named and coded to avoid confusion. During the review we noted

A seizure of a taxpayer's principal residence where they maintain their abode is a serious matter and should be done only as a last resort. It is important that these seizures can be accurately identified when reviewing the seizure logs.

Recommendation 1: The Director, Civil Enforcement Advice and Support Operations, SB/SE Division, should emphasize in a message to Advisory employees the importance of reviewing all items on Form 13719 and Form 2433, including the taxpayer's name, for procedural accuracy and legal sufficiency during the pre-seizure review process.

Management's Response: IRS management agreed with this recommendation and will emphasize in a message to Advisory employees the importance of reviewing all items on Form 13719 and Form 2433, including the taxpayer's name, for procedural accuracy and legal sufficiency during the pre-seizure review process.

Recommendation 2: The Director, Collection Policy, SB/SE Division, should change the classification code of Personal Residence (PR) seizures to eliminate confusion between Personal Residence seizures and Principal Residence (PRI) seizures in the IRS seizure logs.

Management's Response: IRS management agreed with this recommendation and will change the classification code of Personal Residence (PR) seizures in the seizure logs to eliminate confusion between principal residence and personal residence seizures.

The COVID-19 Pandemic Delayed Some Seizure Actions

On March 13, 2020, the President declared a national state of emergency due to the COVID-19 pandemic. On March 30, 2020, the Director, SB/SE Division, issued a memorandum titled *Temporary Relief for Taxpayers – Suspension of Certain Collection Activities*. This memorandum suspended a number of collection activities until after July 15, 2020, with an exception for cases meeting exigent circumstances, which required approval of the Director, Collection, SB/SE Division. One of the activities suspended was the scheduling or taking of any seizure action. On

July 16, 2020, collection enforcement processes resumed; however, fieldwork was still limited. Field employees were permitted to conduct essential face-to-face public contact/field activities on a voluntary basis only when necessary and appropriate, and with Territory manager concurrence. The guidance on limited fieldwork was extended and reinforced through memorandums issued on August 25, 2020, and October 1, 2020.

We found 39 instances out of the 74 cases in our sample in which COVID-19 restrictions affected or delayed seizure actions. Thirty-one of the 39 instances dealt with the seizure of the asset. Due to the unique nature of the pandemic, the delays appeared appropriate.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this audit was to determine whether seizures of property were conducted in accordance with I.R.C. and IRS procedures. To accomplish our objective, we:

- Identified current IRS procedures and guidelines used by SB/SE Division employees during the audit period for achieving compliance with I.R.C. §§ 6330 through 6344.¹
- Evaluated the IRS's compliance with the seizure procedures of I.R.C. §§ 6330 through 6344 and its internal procedures through reviewing a judgmental sample of 74 of the 97 seizures conducted from July 1, 2020, through June 30, 2021.²

Performance of This Review

This review was performed with information obtained from the offices of the SB/SE Division Headquarters located in Lanham, Maryland, during the period September 2021 through January 2022. 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); Christina Dreyer, Director; Timothy Greiner, Acting Director; Lee Hoyt, Audit Manager; and Shaun Starnes, Lead Auditor.

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: SB/SE Division Collection function's policies, procedures, and practices for conducting seizures of taxpayers' property under the provisions of I.R.C. §§ 6330 through 6344. We evaluated these controls by reviewing appropriate internal procedures and guidelines and completed a review of seizure case files.

¹ See Appendix III for additional details on I.R.C. requirements related to IRS seizures.

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

Appendix II

Outcome Measure

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

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 10 taxpayers for whom the IRS did not comply with a particular IRM section or failed to identify information which was improperly input (see page 4 and Recommendations 1 and 2).

Methodology Used to Measure the Reported Benefit:

We reviewed a judgmental sample of 74 seizures from the 97 that the IRS conducted from July 1, 2020, through June 30, 2021. We identified 11 exceptions involving 10 taxpayers in which the IRS did not comply with a particular IRM section or failed to identify information which was improperly input.

Appendix III

Synopsis of Selected Legal Provisions for Conducting Seizures

I.R.C. § 6330 requires the IRS to issue the taxpayer a notice of their right to a hearing prior to any seizure action. The notice must be: 1) given in person, 2) left at the taxpayer's home or business, or 3) mailed as certified–return receipt requested no fewer than 30 calendar days before the day of the first levy. The notice must explain in simple terms: 1) the amount owed, 2) the right to request a hearing during the 30-calendar-day period, and 3) the proposed action by the IRS and the taxpayer's rights with respect to such action.

The statute of limitations for collection is suspended from the time a taxpayer requests a hearing and while such hearings and appeals are pending, except when the underlying tax liability is not at issue in the appeal and the court determines that the IRS has shown good cause not to suspend the seizure. No limitation period may expire before 90 calendar days after a final determination. These procedures do not apply if the collection of tax is in jeopardy.

I.R.C. § 6331 authorizes the IRS to seize a taxpayer's property for unpaid tax after sending the taxpayer a 30-calendar-day notice of intent to levy. This section also prohibits seizure: 1) during a pending suit for the refund of any payment of a divisible tax, 2) before a thorough investigation of the status of any property subject to seizure, or 3) while either an offer in compromise or an installment agreement is being evaluated and, if necessary, for 30 additional calendar days during which the taxpayer may appeal the rejection of the offer in compromise or installment agreement.

I.R.C. § 6332 requires that a third party in possession of property subject to seizure surrender such property when a levy notice is received. It contains sanctions against third parties that do not surrender such property when a levy notice is received.

I.R.C. § 6333 requires that a third party with control of books or records containing evidence or statements relating to property subject to seizure exhibit such books or records to the IRS when a levy notice is received.

I.R.C. § 6334 enumerates property exempt from seizure. The exemption amounts are adjusted each year and include \$9,690 in fuel, provisions, furniture, and personal effects and \$4,850 in books and tools necessary for business purposes for Calendar Year 2020. For Calendar Year 2021, the amounts are \$9,790 for fuel, provisions, *etc.*, and \$4,890 for books and tools of a trade. Also, any real property used as a residence, not just by the taxpayer, is exempt from seizure when the amount owed is \$5,000 or less other than real property that is rented. Seizure of the taxpayer's principal residence is allowed only with the approval of a U.S. District Court judge or magistrate. Property used in the individual taxpayer's business is exempt except with written approval of the Area Director, and the seizure may only be approved if other assets are not sufficient to pay the liability.

I.R.C. § 6335 contains procedures for the sale of seized property. Notice must be given to the taxpayer; the property must be advertised in the county newspaper or posted at the nearest U.S. Postal Service office; and such notices shall specify the time, place, manner, and conditions of sale. This section requires that the property be sold no fewer than 10 calendar days or no more than 40 calendar days from the time of giving public notice. Finally, this section expressly prohibits selling seized property for less than the minimum bid.

I.R.C. § 6336 contains procedures for seized property that is likely to perish.

I.R.C. § 6337 allows the taxpayer to redeem seized property prior to sale by paying the amount due plus the expenses of the seizure. It also allows a taxpayer to redeem real property within 180 calendar days of the sale by paying the successful bidder the purchase price plus 20 percent per annum interest.

I.R.C. § 6338 requires that the IRS give purchasers of seized property a certificate of sale upon full payment of the purchase price. This includes issuing a deed to real property after expiration of the 180-calendar-day period required by I.R.C. § 6337. The deed is exchanged for the certificate of sale issued at the time of the sale.

I.R.C. § 6339 provides the legal effect of the certificate of sale for personal property and the transfer deed for real property.

I.R.C. § 6340 requires that each internal revenue district keep a record of all sales of seized property. This record must include the tax for which such sale was made, the dates of seizure and sale, the name of the party assessed, all proceedings in making such sale, the amount of expenses, the names of the purchasers, and the date of the deed or certificate of sale of personal property. The taxpayer will be furnished: 1) the previous listed information except for the purchasers' names, 2) the amount of such sale applied to the taxpayer's liability, and 3) the remaining balance of such liability.

I.R.C. § 6341 allows expenses for all seizure and sale cases.

I.R.C. § 6342 enumerates how the proceeds of a seizure and sale are to be applied to a taxpayer's account. Proceeds are applied first to the expenses of the seizure and sale proceedings. Any remainder is then applied to the taxpayer's liability.

I.R.C. § 6343 outlines various conditions under which a seizure may be released and property returned to the taxpayer. These conditions include full payment of the liability, determination of a wrongful seizure, levy is creating an economic hardship due to the financial condition of the taxpayer, *etc.* This section allows a consent agreement between the United States and either the taxpayer or the National Taxpayer Advocate when the return of seized property would be in the taxpayer's best interest.

I.R.C. § 6344 contains cross-references to other I.R.C. sections that may be relevant.

I.R.C. § 6622 requires when computing the amount of any interest required to be paid under Title 26 or §§ 1961(c)(1) or 2411 of Title 28, United States Code, that the interest amount will be compounded daily.

Public Law Number 105-206 (IRS Restructuring and Reform Act of 1998) § 3421 requires the IRS to employ a supervisory review of seizures before action is taken.¹

¹ Pub. L. No. 105-206, 112 Stat. 685.

Public Law Number 105-206 (IRS Restructuring and Reform Act of 1998) § 3443 required the IRS to implement a uniform asset disposal mechanism by July 22, 2000, for sales of seized property under I.R.C. § 6335. This mechanism was designed to remove revenue officers from participating in the sales of seized assets.

Appendix IV

Prior Reports on Compliance With Seizure Procedures

TIGTA, Report No. 2021-30-055, *Fiscal Year 2021 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (Sept. 2021).

TIGTA, Report No. 2020-30-058, *Fiscal Year 2020 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (Sept. 2020).

TIGTA, Report No. 2019-30-075, *Fiscal Year 2019 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (Sept. 2019).

TIGTA, Report No. 2018-30-067, *Fiscal Year 2018 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (Sept. 2018).

TIGTA, Report No. 2017-30-063, *Fiscal Year 2017 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (Aug. 2017).

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

May 26, 2022

MEMORANDUM FOR MICHAEL E. McKENNEY

DEPUTY INSPECTOR GENERAL FOR AUDIT
Amalia C.

FROM: Lia Colbert Colbert
Commissioner, Small Business/Self-Employed Division

Digitally signed by Amalia C.
Colbert
Date: 2022.05.26 11:30:00
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SUBJECT: Draft Audit Report – Fiscal Year 2022 Review of Compliance
With Legal Guidelines When Conducting Seizures of Taxpayers'
Property (Audit #202230002)

Thank you for the opportunity to review the subject draft audit report. Our seizure program is a vital enforcement tool that requires our employees to exercise sound judgment and extreme accuracy in execution. Your acknowledgement that our employees generally followed our seizure procedures and guidelines confirms their dedication to effectively administering the tax laws while protecting taxpayer rights.

For this year's report, TIGTA reviewed 74 of the 97 seizures the IRS conducted from July 1, 2020, through June 30, 2021. Generally, you found that our employees met all legal and statutory requirements prior to seizing taxpayer property. As a result of fiscal year 2021's audit, we issued a message on September 20, 2021, to Field Collection revenue officers emphasizing the existing Internal Revenue Manual (IRM) requirement to conduct a field visit or telephone call notifying the taxpayer that seizure is the next planned action. This action proved effective in correcting the issue for cases identified during this 2022 audit, and we appreciate your acknowledgement of this action.

As your report notes, the IRS seizure logs are an important component of the seizure process. We agree that the codes utilized to identify a principal residence and a personal residence need to be accurate and distinguishable. As a result, we will update the codes to eliminate confusion between personal residence seizures and principal residence seizures in the IRS seizure logs.

We understand the importance of protecting taxpayer rights while fairly and effectively collecting taxes owed through all manners allowed by the Internal Revenue Code. We

will continue to strive to improve our seizure process and value your 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, Civil Enforcement Advice and Support Operations, SB/SE Division, should emphasize in a message to Advisory employees the importance of reviewing all items on Form 13719 and Form 2433, including the taxpayer's name, for procedural accuracy and legal sufficiency during the pre-seizure review process.

CORRECTIVE ACTION:

The Director, Civil Enforcement Advice and Support Operations, SB/SE Division, will emphasize in a message to Advisory employees the importance of reviewing all items on Form 13719, *Pre-Seizure Checklist and Approval Request* and Form 2433, *Notice of Seizure*, including the taxpayer's name, for procedural accuracy and legal sufficiency during the pre-seizure review process.

IMPLEMENTATION DATE:

November 15, 2022

RESPONSIBLE OFFICIAL:

Director, Civil Enforcement and Support Operations, 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 Policy, SB/SE Division, should change the classification code of Personal Residence (PR) seizures to eliminate confusion between Personal Residence seizures and Principal Residence (PRI) seizures in the IRS seizure logs.

CORRECTIVE ACTION:

The Director, Collection Policy, SB/SE Division, will change the classification code of Personal Residence (PR) seizures in the seizure logs to eliminate confusion between principal residence and personal residence seizures.

IMPLEMENTATION DATE:

March 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.

OUTCOME MEASURE:

Taxpayer Rights and Entitlements – Potential; 10 taxpayers for whom the IRS did not comply with a particular IRM section or failed to identify information which was improperly input (see page 4 and Recommendations 1 and 2).

IRS RESPONSE:

The IRS agrees with this outcome measure. These exceptions have been previously addressed and corrective actions have been taken. Additionally, the planned corrective actions associated with recommendations 1 and 2 will address and prevent future potential exceptions.

Appendix VI

Glossary of Terms

Term	Definition
Advisory	Advisory gives technical guidance to revenue officers and other Collection personnel about liens, levies, litigation, and more. It reviews proposed suits, seizures, summons enforcement, special condition Notice of Federal Tax Liens, and other technical items for Collection. Advisory became part of Civil Enforcement Advice and Support Operations on October 1, 2017.
Area Office	A geographic organizational level used by IRS business units and offices to help their specific types of taxpayers understand and comply with tax laws and issues.
Automated Collection System	A telephone contact system through which telephone assistants collect unpaid taxes and secure tax returns from delinquent taxpayers who have not complied with previous notices.
Civil Enforcement Advice and Support Operations	Group of technical experts within the SB/SE Division who handle the most complex aspects of Field Collection activities.
Field Collection	An IRS function within the SB/SE 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	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.
Installment Agreement	The IRS allows taxpayers who are unable to pay their tax debt immediately to make periodic payments over time.
Integrated Data Retrieval System	IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.
Internal Revenue Service Data Book	Provides information on activities conducted by the IRS, such as taxes collected, enforcement, taxpayer assistance, budget, workforce, and other selected activities.
Levy	A method used by the IRS to collect outstanding taxes from sources such as bank accounts and wages or a legal seizure of property to satisfy a tax debt.
Offer in Compromise	An agreement between a taxpayer and the Government that settles a tax liability for payment of less than the full amount owed.
Queue	An automated holding file for unassigned inventory of delinquent cases for which the Collection function does not have enough resources to immediately assign for contact.

**Fiscal Year 2022 Review of Compliance With Legal
Guidelines When Conducting Seizures of Taxpayers' Property**

Term	Definition
Revenue Officer	Employees in the Field Collection who attempt to contact taxpayers and resolve collection matters that have not been resolved through notices sent by IRS campuses.
Seizure	The taking of a taxpayer's property to satisfy their outstanding tax liability.
Tax Module	Part of a taxpayer's account that reflects tax data for one tax class and one tax period.

Appendix VII

Abbreviations

FY	Fiscal Year
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
SB/SE	Small Business/Self-Employed
TIGTA	Treasury Inspector General for Tax Administration



**To report fraud, waste, or abuse,
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Or Write:

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Ben Franklin Station
Washington, D.C. 20044-0589

Information you provide is confidential, and you may remain anonymous.