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Tax Regs in Plain English

IRS Restructuring and Reform Act of 1998

3441 - Prohibition of Sales of Seized Property at Less Than Minimum Bid

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Section 3441

A. Provision covered: RRA § 3441 -- Prohibition of Sales of Seized Property at Less Than Minimum Bid -- I.R.C. §§ 6335(e)(1) and (e)(4).

B. Background: I.R.C. § 6335(e) requires that a minimum bid price be established for seized property offered for sale. To conserve the taxpayer's equity, the minimum bid price normally should be set at 80 percent or more of the forced sale value of the property less encumbrances having priority over the Federal tax lien. IRM 56(13)5.1:(1) provides that the minimum bid should normally be computed at 80 percent or more of the forced sale value. The manual provision goes on to provide that exceptions can be made to the 80 percent basis if, due to the situation, the revenue officer, with group manager concurrence, needs to compute the minimum bid at a lesser percentage. The taxpayer is to receive notice of the minimum bid price within 10 days of the sale. The taxpayer has the opportunity to challenge the minimum bid price. The minimum bid price cannot be more than the tax liability plus the expenses of sale. Accordingly, if the minimum bid price is set at the tax liability plus the expenses of sale, the taxpayer's concurrence is not required. IRM 56(13)5.1:(4). Section 6335 does not contemplate a sale of the seized property at less than the minimum bid price. If no one offers the minimum bid price and the Service has determined that the purchase of the property by the United States would be in the best interest of the United States, the Service must bid-in and buy the property

at the minimum bid price. If no one offers the minimum bid price and the Service has determined that the purchase of the property by the United States would not be in the best interest of the United States, the Service must release the property back to the owner.

C. Change(s): RRA § 3441 amends I.R.C. § 6335(e)(1)(A)(i) to provide that the Service must determine a minimum bid price below which the seized property must not be sold. In addition, RRA § 3441 adds a new I.R.C. § 6335(e)(4) which makes a violation of I.R.C. § 6335(e)(1)(A)(i) subject to the civil damages provided under I.R.C. § 7433.

D. Impact: Applies to all sales after the date of enactment.

E. Necessary Actions

1. Actions/Procedures: Requires changes in the procedures and instructions regarding sales of seized property and the establishment of the minimum bid price.
2. Things we CAN'T do: Sell property for less than the minimum bid price or adjourn sales for the sole purpose of re-computing the minimum bid to facilitate the sale of the property.

F. Other Special Comments: Unresolved at the present is the question of whether the Service may adjourn a sale to re-compute the minimum bid where the taxpayer agrees, in writing, to the re-computed minimum bid.

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