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Tax Regs in Plain English

IRS Restructuring and Reform Act of 1998

3442 - Accounting of Sales of Seized Property

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Section 3442

A. Provision covered: RRA § 3442 -- Accounting of Sales of Seized Property -- I.R.C. §§ 6340(a) and (c).

B. Background: Under I.R.C. § 6331(b), the Service is authorized to seize and sell a taxpayer's property to satisfy an unpaid tax liability. The Service is required to give written notice to the taxpayer before seizure of the property under I.R.C. § 6331(d), and is also required to give written notice to the taxpayer 10 days before sale of the property under I.R.C. § 6335(b). Although the Service is required to keep records of all sales of real property which set forth all proceeds and expenses of the sale, no existing provision requires informing the taxpayer of how proceeds are applied.

C. Change(s): RRA § 3442 amends I.R.C. § 6340(a) to require the Service to keep a record of all sales of property under section 6335. The record to be kept must include the date of any deed or certificate of sale of personal property issued. In addition, RRA § 3442 adds new section I.R.C. § 6340(c) that requires the Service to give the taxpayer whose property has been sold or redeemed a copy of the record that the Service is required to keep and the amount from each sale applied to the taxpayer's account and the remaining balance.

D. Impact: Failure to comply could subject the Service to damages imposed under I.R.C. § 7433.

E. Necessary Actions

1. Actions/Procedures: Instructions by memorandum or IRM revision should be issued ASAP, as well as drafting and approval of any required new forms.
2. Things we CAN do: Continue to seize and sell property as, and if, necessary, if the Service provides the taxpayer a copy of the required record of sale following sale or redemption of his or her property.

F. Other Special Comments: The Service already has a Form 2435, Certificate of Sale of Seized Property, which could be renamed or used as the "certificate of sale of personal property." The Service already provides taxpayers with Form 2436, Seized Property Sales Report. This latter form contains most of the information required to be given the taxpayer. It would have to be modified to indicate the date on which a deed or certificate of sale was issued and would have to include a statement as to the taxpayer's remaining outstanding tax balance, if any.

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