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Tax Regs in Plain English

IRS Restructuring and Reform Act of 1998

3421 - Approval Process for Liens, Levies, and Seizures

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Section 3421

A. Provision covered: Section 3421 (Approval Process for Liens, Levies, and Seizures)

B. Background: This provision was enacted to expand the circumstances under which supervisory approval of liens, levies and seizures will be required.

C. Changes: This provision requires the Service to develop and implement an approval process under which any lien, levy or seizure would, where appropriate, be approved by a supervisor, who would review the taxpayer's information, verify that a balance is due, and affirm that a lien, levy or seizure is appropriate under the circumstances.

Circumstances to be considered may include the amount due and the value of the asset. This provision also provides that appropriate disciplinary action will be taken against employees or supervisors where the approval procedures are not followed.

D. Impact: Procedures have already been developed pursuant to section 3421 and are set forth in a memorandum from the Assistant Commissioner (Collection) for all Regional Chief Compliance Officers and the Assistant Commissioner (International) dated July 30, 1998. A copy of this memorandum is attached. The new procedures are effective as of July 30, 1998, except with respect to ACS actions. Section 3421 is applicable for ACS actions initiated after December 31, 2000.

As discussed in the July 30, 1998 memorandum, section 3421 requires no changes for

approval of seizures, as all seizures presently require managerial approval. With respect to liens, the new procedures now require managerial approval of all determinations to file Notices of Federal Tax Lien by employees who are below grade GS-9. With respect to levies, the new procedures create mandatory minimum delegation levels for managerial approval of specific types of levies. The memorandum also addresses the specific factors required to be taken into consideration by managers when approving liens, levies and seizures.

E. Necessary Actions: Compliance with the procedures outlined in the July 30, 1998 memorandum. Determine the "appropriate" disciplinary actions to be taken for violation of these procedures. The IRM will have to be revised to reflect the new procedures. Changes may be required to implement new procedures for ACS actions after December 31, 2000.

F. Other Special Comments: Note that this provision reserves discretion in the Commissioner to determine where approval procedures would be "appropriate". The Conference Report to accompany H.R. 2676, Internal Revenue Service Restructuring and Reform Act of 1998, further emphasizes that the Commissioner has discretion in promulgating the procedures required by this provision to determine circumstances under which supervisory review of liens or levies issued by ACS is or is not "appropriate".

Reference should also be made to RRA § 1203. RRA § 1203(a) provides that the Commissioner shall terminate the employment of any employee of the Service where there is a final administrative or judicial determination that such employee committed certain enumerated acts or omissions in the course of that employee's performance of official duties. RRA § 1203(b)(1) provides that such acts or omissions include "... willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets" (Emphasis added). This provision is addressed in greater detail by separate template on section 1203. Additional signature approval requirements are also required by RRA § 3445, Procedures for Seizure of Residences and Businesses, which is also addressed by separate template on that section.

Attachment to Section 3421 - Memorandum from A/C Collection

July 30, 1998

MEMORANDUM FOR REGIONAL CHIEF COMPLIANCE OFFICERS ASSISTANT COMMISSIONER (INTERNATIONAL)

FROM: Deborah S. Reilly (Signed) Harry T. Manaka
Assistant Commissioner (Collection) OP:CO

SUBJECT: Approval Process for Notices of Levy, Liens, and Seizures Section 3421
of the Restructuring and Reform Act

Section 3421 of the Restructuring and Reform Act directed the Commissioner to develop

procedures for supervisory review of notices of levy, liens, and seizures, where appropriate. This Section also calls for appropriate disciplinary action against employees if required review processes are not followed. The new procedures in this memorandum do not apply to liens and notices of levy in Automated Collection System (ACS), because this section of the Act only includes ACS actions that are initiated after December 31, 2000.

New instructions about manager's approval of notices of levy are attached, along with a replacement for Exhibit 5.11.1-1 of the Notice of Levy Handbook. The approval process described in the attached instructions applies both to the notices of levy listed in Section II of the Exhibit and to all levies issued by employees who do not have delegated authority to levy, such as revenue officers below GS 9.

A determination to file a Notice of Federal Tax Lien by an employee below grade 9 must be approved by the employee's manager.

All seizures must be approved by the Collection Division Chief, or a higher level of management, already. Because of this, Section 3421 of the law requires no changes to which seizures need managers' approval, i.e., they all do.

The approval process in the attached notice of levy instructions also applies to liens and seizures. In addition, though, another part of the review in determining whether a seizure is appropriate is the amount owed vs. value of the property or right to property to be seized. These changes about manager's approval of notices of levy liens, and seizures are effective as soon as this memorandum is received. If there are any questions, please have the regional, district or service center coordinator for the Restructuring and Reform Act fax them to the National Resource Center at 202-622-6336.

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