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Tax Regs in Plain English

IRS Restructuring and Reform Act of 1998

3431 - Modifications to Certain Levy Exemption Amounts

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Section 3431

A. Provision covered: § 3431 -- Modifications to Certain Levy Exemption Amounts -- I.R.C. §§ 6334(a)(2), (a)(3), and (g)(1).

B. Background: The Service can levy on all non-exempt property of a taxpayer. I.R.C. § 6334(a) lists the types property which are exempt or partially exempt from levy. With respect to levies made prior to the RRA, books and tools of a trade, business or profession which did not exceed in the aggregate \$1,250, as adjusted for inflation, were exempt from levy under I.R.C. § 6334(a)(3). In other words, it was legally and procedurally permissible to seize tools of a trade, provided that the taxpayer had been allowed to keep tools of his or her trade that as a whole totalled \$1,250. In addition, pursuant to I.R.C. § 6334(a)(2), so much of the fuel, provisions, furniture, and personal effects in the taxpayer's household, and arms for personal use, livestock, and poultry of the taxpayer which did not exceed in the aggregate \$2500, as adjusted for inflation, were exempt from levy. Thus, the Service could levy on personal effects, furniture and other items mentioned in I.R.C. § 6334(a)(2), as long as the taxpayer was allowed to retain some or all of those items that in the total equaled \$2500. Congress believed that a higher minimum amount of household items and equipment for a taxpayer's business should be exempt from levy. To ensure that such exemption is meaningful, the amounts were indexed to inflation.

C. Change(s): RRA § 3431 amends I.R.C. § 6334(a)(3) to raise the exemption amount

for books and tools of a trade, business or profession of a taxpayer to \$3,125. RRA § 3431 also amends I.R.C. § 6334(a)(2) to raise the exemption amount to \$6,250 for so much of the fuel, provisions, furniture, and personal effects in the taxpayer's household, and arms for personal use, livestock, and poultry of a taxpayer. Both amounts will be adjusted for inflation occurring in calendar years beginning after 1999.

D. Impact: Revenue officers must know the higher exemption amounts immediately because the effective date is the date of enactment.

E. Necessary Actions

1. Actions/Procedures: Revise IRM provisions and training materials. Publications and forms, such as Form 668-A, Notice of Levy, and Form 668-B, Levy, must be modified to correctly indicate the new dollar value of these exempt amounts.

2. Things we CAN do:

It is legally and procedurally permissible to seize tools of a trade, provided that the taxpayer is allowed to keep tools of his or her trade that as a whole total \$3,125 or more. It is legally and procedurally permissible to seize the Service could levy on personal effects, furniture and other items mentioned in I.R.C. § 6334(a)(2), as long as the taxpayer was allowed to retain some or all of those items that in the total equal \$6,250 or more.

3. Things we CAN'T do:

Allow taxpayers less than the exempt amounts they are entitled to under I.R.C. § 6334(a) as revised.

F. Other Special Comments: The reverse side of Forms 668-A and 668-B contains statutory language which shows the old exemption amounts. While it would be nice to have the new exempt amounts stated on these forms, the continued use of these forms by the Service is not improper or illegal. Pen and ink changes to those forms may be used.

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