

**The Internal Revenue Service Has Not Fully
Implemented Procedures to Notify Taxpayers
Before Taking Their Funds For Payment of
Tax**

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DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

September 29, 1999

MEMORANDUM FOR COMMISSIONER ROSSOTTI

A handwritten signature in cursive script that reads "Pamela J. Gardiner".

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – The Internal Revenue Service Has Not Fully Implemented Procedures to Notify Taxpayers Before Taking Their Funds For Payment of Tax

This report presents the results of our review to determine whether levies issued by the Internal Revenue Service (IRS) comply with the legal guidelines in 26 U.S.C. § 6330 (1986). Beginning January 19, 1999, 26 U.S.C. § 6330 (1986) requires the IRS to advise taxpayers of their right to have their case heard by the Appeals Office, and potentially a court, prior to the IRS taking money from taxpayers' bank accounts, employers or other parties to pay delinquent taxes. The IRS must wait at least 30 calendar days from the date the taxpayer is notified before issuing a levy.

In summary, we found the IRS' efforts to fully implement changes in 26 U.S.C. § 6330 (1986) related to taxpayer levies were not effective in the offices we tested. The IRS did not consistently notify taxpayers of their appeal rights and of the intent to levy, as required by 26 U.S.C. § 6330 (1986) and its own guidelines. As a result, taxpayers' rights were potentially violated in some instances.

We recommended implementing additional safeguards to ensure the applicable legal and IRS procedures are followed when issuing levies. We also recommended that Collection and Customer Service management request an opinion from the IRS Chief Counsel on those levy cases where money may have been taken improperly, to determine if restitution to the taxpayers is warranted.

IRS management agreed with the majority of observations and findings and also concurred with all recommendations in this report. Management's comments have

been incorporated into the report where appropriate, and the full text of their comments is included as an appendix.

There were two areas where management offered comments. First, National Office management disagreed that eight levies printed by the Integrated Collection System were actually issued and that, therefore, no taxpayer rights were violated for those cases. During the audit fieldwork, we shared the results of our tests and obtained agreement on our conclusions with management in each local office. Management was given the opportunity and, in several instances, did provide additional information to support the actions taken by employees in the local offices. We accepted this information and changed our conclusions, when appropriate. However, for the eight cases in question, we have not received any additional information to support changing our conclusion.

Second, five of the Collection Field function notices of levy were issued at the request of the taxpayer or the taxpayer's authorized representative. IRS management maintains that the Service can issue a levy without a 30-day notice if the taxpayer waives his/her right to a notice. IRS management has requested guidance from the IRS Chief Counsel on this matter. We agree that additional guidance is needed from IRS Counsel regarding whether the taxpayer (or his/her authorized representative) can waive his/her right to notification under 26 U.S.C. § 6330 (1986). Since the law does not specifically allow this waiver, we showed these cases as exceptions in the draft report. We also included information in the draft report to show that the taxpayer requested that the IRS issue the levies, and that the IRS had requested an opinion from IRS Counsel to determine the legality of these actions.

Copies of this report are also being sent to the IRS managers who are affected by the report recommendations. Please contact me at (202) 622-6510 if you have any questions, or your staff may contact Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

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Executive Summary

The collection of unpaid tax by the Internal Revenue Service (IRS) begins with letters to the taxpayer, generally followed by telephone calls and personal contacts by an IRS employee. When these efforts have all been taken and the taxpayer has not paid, 26 U.S.C. § 6331 (1986) gives the IRS authority to work directly with financial institutions and other parties to obtain funds owed to taxpayers. This procedure is commonly referred to as a “levy.”

Beginning January 19, 1999, 26 U.S.C. § 6330 (1986) requires the IRS to let taxpayers know of the intent to levy and of the taxpayers’ right to a hearing before the IRS can levy on their bank accounts or take other money that is owed to the taxpayers. The IRS has to notify taxpayers of its plans to issue a levy at least 30 calendar days before the levy is issued. The taxpayer may request a hearing any time during the 30 days after the notification. In most instances, IRS procedures increase this time to 45 days to allow for mailing and processing. This extension of the required waiting period further protects the taxpayers’ right to a hearing. The IRS procedures also require employees to notify taxpayers of the intent to levy only when issuing a levy is imminent.

The Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998) (referred to as RRA 98) added 26 U.S.C. § 7803(d)(1)(A)(iv) (1986), which required the Treasury Inspector General for Tax Administration to determine if levies, issued by the IRS, comply with the legal guidelines in 26 U.S.C. § 6330 (1986). We evaluated the IRS’ compliance with the new levy procedures by reviewing 284 taxpayer accounts involving 291 levies requested between mid-January and mid-April 1999.¹ The offices reviewed include five district offices where IRS employees make personal visits to contact taxpayers, and four Automated Collection System (ACS) Call Sites where IRS employees use the telephone to contact taxpayers. ACS Call Sites are part of the Customer Service function.

Results

IRS management developed guidelines and procedures to comply with the new levy requirements. For example, new procedures require IRS employees to review taxpayer

¹ Neither we nor IRS management could determine a way to easily identify levies issued by employees in 12 IRS offices that are not using the automated system to track collection actions taken on taxpayer accounts. Therefore, we did not include a sample of levies issued by these offices in our review. The IRS plans for all offices to use the system by February 2000.

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accounts to determine that levy is the next action to be taken before advising the taxpayer of the IRS' intent to levy. New procedures were also provided to employees stating that the IRS cannot issue a levy unless the taxpayer is notified at least 30 days before the levy is issued. IRS employees must also advise taxpayers that they may request a hearing any time during the 30 days after the notice is issued.

New letters were developed to explain the taxpayers' appeal rights. We were not able to evaluate the appeals process because, at the time of our review, none of the cases had completed the appeals process in the districts we visited. We plan to conduct a separate review in this area.

In addition, prior to enactment of 26 U.S.C. § 6330 (1986), IRS computer systems automatically generated levies for mailing to employers and other parties for delinquent taxpayer accounts that met certain criteria. Because 26 U.S.C. § 6330 (1986) required the IRS to notify taxpayers of the intent to levy prior to issuing a levy, IRS management developed procedures to prevent the mailing of levies that are automatically generated by computer systems.

Overall, the new procedures have not been effectively implemented in the IRS offices we tested. The IRS did not consistently notify taxpayers of their appeal rights and of the intent to levy, as required by 26 U.S.C. § 6330 (1986) and its own guidelines. As a result, taxpayers' rights were potentially violated in some instances, which could result in the IRS having to make restitution to some taxpayers.

In March 1999, we advised Customer Service management of initial problems we identified regarding compliance with legal and internal levy guidelines. Action was immediately taken to correct the problems. The volume of problems we identified may have been significantly higher if we had not advised IRS management early and they had not taken immediate corrective action. Also, in June 1999 we discussed the final results of this report with National Office Collection and Customer Service management officials. IRS management agreed with the facts presented in this report.

The Internal Revenue Service Did Not Always Follow Legal Provisions And Its Own Procedures for Issuing Levies

From our review of 284 taxpayer accounts, we determined that legal levy provisions in 26 U.S.C. § 6330 (1986) were not followed in 92 accounts (32 percent) and IRS levy procedures were not followed in 88 accounts (31 percent).² We expanded our analysis and identified an additional 112 accounts in which legal provisions in 26 U.S.C. § 6330

² The percentages listed below (unless otherwise noted) were calculated using a base of 284 taxpayers.

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(1986) were not followed, and an additional 20 accounts in which IRS levy procedures were not followed.

Legal Provisions Not Followed

- Seventy-four taxpayers (26 percent) were not notified of their appeal rights or of the IRS' intent to levy before the IRS issued levies.
- Twelve taxpayers (4 percent) were notified of their appeal rights and of the IRS' intent to levy after the levies were issued.
- Six taxpayers (2 percent) were notified of their appeal rights and of the IRS' intent to levy, but levies were issued by the IRS prior to the expiration of the 30-day waiting period required by 26 U.S.C. § 6330 (1986).
- While conducting tests at 1 ACS Call Site, we also identified an additional 112 business taxpayer accounts that had levies systemically generated and, per IRS local management, presumably mailed to levy sources without taxpayers being notified of their appeal rights and of the IRS' intent to levy.

Internal Revenue Service Procedures Not Followed

- Six taxpayers (2 percent) were notified of their appeal rights and of the IRS' intent to levy, but levies were issued prior to the expiration of the 45-day waiting period required by IRS procedures.
- Twenty-one taxpayers (7 percent) did not have appropriate information added to their computer accounts to show the taxpayers had been notified of the IRS' plans to levy.
- Sixty-one taxpayers (21 percent) did not have appropriate information added to their computer accounts' history to show the initially requested levy had been destroyed.
- While conducting tests at 1 ACS Call Site, we also determined that 332 Notices of Intent to Levy and Notice of Your Right to a Hearing (LT11s) were automatically generated and mailed to taxpayers without the accounts being reviewed to determine if levy was the next action, as required. Our review of a judgmental sample of 41 of these accounts showed the IRS should not have mailed notices to 20 taxpayers because levy was not the next action that needed to be taken.

On March 12, 1999, we advised Customer Service management of potential levy due process issues we identified during our initial testing at the ACS Call Sites. The issues included LT11s and levies that had been issued without following provisions in 26 U.S.C. § 6330 (1986) and without following instructions in a message sent on February 17, 1999, from the Assistant Commissioner (Customer Service). Customer Service management immediately initiated action to correct these problems. They issued

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instructions which required that all LT11s and levies be reviewed prior to mailing to ensure that all legal and internal procedures were followed.

Summary of Recommendations

Although the IRS has made some progress in correcting the problems identified in the Customer Service functions, additional actions are needed to ensure that all IRS employees comply with the levy provisions in 26 U.S.C. § 6330 (1986) and the IRS' own internal procedures. We recommend that Collection and Customer Service management develop additional safeguards to ensure that employees follow the applicable legal and IRS procedures for issuing levies. Also, Collection and Customer Service management should request an opinion from the IRS Chief Counsel on those levy cases in which money may have been taken improperly, to determine if restitution to the taxpayers is warranted.

Management's Response: IRS management agreed to implement additional safeguards to ensure that employees comply with the levy provisions in 26 U.S.C. § 6330 (1986) and the IRS' own internal procedures. This will be accomplished by programming changes to computers systems and by allowing only the highest grade employees in the Customer Service functions to issue levies. IRS management also agreed to consult with IRS District Counsel to determine if restitution is appropriate for cases where levies were issued without following the law, and proceeds were received from the levy source.

Management's complete response to the draft report is included as Appendix VII.

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Objective and Scope

Our objective was to determine if levies issued by the IRS comply with the legal provisions in 26 U.S.C. § 6330 (1986).

We performed work in five district offices and four ACS Call Sites.

The overall objective of this review was to determine if levies issued by the Internal Revenue Service (IRS) comply with the legal provisions in 26 U.S.C. § 6330 (1986). We also evaluated compliance with the IRS' internal levy guidelines in the Internal Revenue Manual (IRM). We were not able to evaluate the appeals process because, at the time of our review, none of the cases had completed the appeals process in the districts we visited. We plan to conduct a separate review of this area.

We performed audit work in the IRS National Office; the Georgia, Gulf Coast, South Texas, Southern California, and Pennsylvania District Offices; and the Atlanta, Austin, Philadelphia, and Seattle Automated Collection System (ACS) Call Sites from January to June 1999. District offices are those in which IRS employees make personal (face-to-face) contact with taxpayers for collection purposes. These employees work in the Collection Field function (CFF). ACS Call Sites are part of the Customer Service function. Employees in ACS Call Sites use the telephone to contact taxpayers for collection purposes. We performed this audit in accordance with *Government Auditing Standards*.

To accomplish our objective, we:

- Reviewed relevant legal and internal levy procedures.
- Interviewed managers from the Collection, Appeals and ACS functions to identify procedures for complying with the new intent to levy notification provision of 26 U.S.C. § 6330 (1986).
- Analyzed 284 taxpayer accounts (involving 291 levies) for compliance with

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26 U.S.C. § 6330 (1986).¹ This includes all levies issued in 5 district offices, all levies generated by employees in 4 ACS Call Sites, and a random sample of 60 of 2,358 levies systemically generated by computers in 1 ACS Call Site.

- Reviewed a judgmental sample of 41 of 332 Notices of Intent to Levy and Notice of Your Right to a Hearing (LT11) systemically generated in 1 ACS Call Site for compliance with IRS levy procedures.

Details of our audit objective, scope, and methodology are presented in Appendix I. Major contributors to this report are listed in Appendix II.

Background

The 26 U.S.C. § 6330 (1986) requires that at least 30 days prior to issuing a levy, the IRS must notify taxpayers of the intent to levy and of their right to a hearing by an independent IRS employee.

Taking taxpayers' money from a bank or other source to pay delinquent tax is commonly referred to as a "levy."

On July 22, 1998, the President signed into law the Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998) (referred to as RRA 98). RRA 98 added 26 U.S.C. § 7803(d)(1)(A)(iv) (1986), which requires the Treasury Inspector General for Tax Administration to annually evaluate the IRS' compliance with levy provisions in 26 U.S.C. § 6330 (1986).

Beginning January 19, 1999, 26 U.S.C. § 6330 (1986) requires the IRS to advise taxpayers of their right to have their case heard by the Appeals Office, and potentially a court, prior to the IRS taking money from taxpayers' bank accounts, employers or other parties to pay delinquent taxes. This taking of money is commonly referred to as a "levy." The IRS must wait at least 30 calendar days from the date the taxpayer is

¹ Neither we nor IRS management could determine a way to easily identify levies issued by employees in 12 IRS offices that are not using the automated system to track collection actions taken on taxpayer accounts. Therefore, we did not include a sample of levies issued by these offices in our review. The IRS plans for all offices to use the system by February 2000.

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notified before issuing a levy. In most cases, the IRS routinely expands this waiting period to 45 days to allow for mailing and processing time.

There has been a drastic decrease in the number of levies issued by the IRS in the past three years.

LEVIES ISSUED BY IRS

The number of levies issued during the past three years has decreased.

Fiscal Year	ACS Levies	CFf Levies
1997	2,968,489	719,142
1998	2,029,928	473,481
1999 ²	391,540	81,799

Synopsis of the IRS Collection Process

The collection of unpaid tax begins with a series of letters (notices) mailed to the taxpayer advising of the debt and asking for payment of the delinquent tax. The IRS computer systems are programmed to mail these notices when certain criteria are met. If the taxpayer does not respond to these notices, the account is transferred for either telephone or personal contact.

- IRS employees who make telephone contact with taxpayers work in ACS Call Sites in Customer Service offices. The computer system used in these sites is known as the ACS.
- IRS employees who make personal contact with taxpayers are called revenue officers (RO) and work in the CFf in IRS district offices. The computer system used in the district offices to track collection actions taken on taxpayer accounts is called the Integrated Collection System (ICS).

² Data for 1999 includes the first eight months of the fiscal year. Data contained in this table was provided by IRS management.

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LT11s can be automatically generated by ACS computers and can be manually generated by ACS employees.

The ACS generates LT11s and levies by the following methods (see Appendix VI for an example of a LT11).

- **Systemic** - IRS computers automatically analyze taxpayers' accounts and systemically generate LT11s and levies for delinquent taxpayer accounts that meet certain criteria.
- **Manual** - When levy is not the next action, the ACS computer assigns the taxpayer's account to an employee within ACS, according to the type of work needed. The employee then completes the work, such as identifying taxpayer addresses or a levy source. When issuing a levy is the next action to be taken, the employee can manually generate the LT11, and after the required waiting period, can generate the levy.

Generally, the notices and levies requested in ACS are printed and mailed from the service center collection branch, which may be in another city or another location within the same city as the ACS Call Site.

In the CFf, ROs determine when issuing a levy should be the next action to take on a taxpayer's account. The RO prepares a letter (L1058) and mails it to the taxpayer (see Appendix V for an example of a L1058). The RO is responsible for waiting 45 days from the date of the letter before mailing the levy to the taxpayer's bank(s) and/or employer(s). There is no managerial review of this process before the notice or levy is mailed.

The following information explaining the taxpayers' rights is mailed with both the L1058 and the LT11:

- The IRS Collection Process (Publication 594).
- Collection Appeal Rights (Publication 1660).
- Request for a Collection Due Process Hearing (Form 12153).

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Codes should be input to the IRS' computer systems to show actions taken on taxpayers' accounts.

In addition, certain codes are input to the IRS' primary computer system for recording taxpayer account activity to indicate the levy notice was mailed and whether the taxpayer received the notice. This primary computer system is referred to as the Integrated Data Retrieval System (IDRS).

Codes are input to the ACS to show when levies are generated and when a request for a levy is cancelled. Comments are also input to the taxpayer's account on IDRS, ACS and ICS to show actions taken on the case. In addition, certified mail listings can be used to determine whether LT11s were actually mailed to taxpayers.

Results

The IRS developed guidelines and procedures to comply with the new levy requirements in 26 U.S.C. § 6330 (1986).

After passage of 26 U.S.C. § 6330 (1986), IRS management developed guidelines and procedures to comply with the new levy requirements. For example:

- Information was provided to IRS employees to ensure that taxpayers were advised of their right to a hearing and of the IRS' intent to levy at least 45 days before levies were issued. This information explained changes in the law, as well as how employees are affected, and was disseminated through electronic mail, bulletin boards, voice mail, memoranda, and publications.
- New letters were developed to explain the taxpayers' rights and procedures were put in place to provide hearings to taxpayers who request them.
- Customer Service management developed procedures to intercept (and not mail) LT11s automatically generated by computer systems when levy action was not imminent. Similar procedures were used to prevent a levy from being mailed before the taxpayer is notified that a levy would be issued.

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IRS efforts to comply with the provisions in 26 U.S.C. § 6330 (1986) were not effective.

However, the efforts to fully implement the changes in 26 U.S.C. § 6330 (1986) related to taxpayer levies were not effective. As a result, in some instances taxpayers' rights may have been violated, which could result in the IRS having to make restitution to some taxpayers.

IRS management's planned efforts to suppress computer functions, which automatically generate and mail notices and levies from ACS, and additional employee training will help the IRS comply with levy provisions in 26 U.S.C. § 6330 (1986). The remainder of this report addresses the specific results of our work.

The Internal Revenue Service Did Not Always Follow Legal Provisions and Its Own Procedures for Issuing Levies

Taxpayers were not notified of their appeal rights and of the IRS' intent to levy, notices were mailed when levy was not imminent, and publications that explain the taxpayers' collection and appeal rights were not provided to taxpayers when the levy notice was not sent.

New levy procedures have not been effectively implemented in the IRS offices that we tested. The IRS did not consistently notify taxpayers of their appeal rights and of the intent to levy as required by 26 U.S.C. § 6330 (1986), and notices were mailed to taxpayers when levy action was not imminent. In both the Cff and the ACS Call Sites, whenever taxpayers were not notified of the intent to levy, they also were not sent important publications and forms explaining their rights related to the collection and appeals processes and how to request a hearing.

Because processes and procedures are different in the ACS Call Sites and the Cff, we are presenting the results of each function separately.

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Legal provisions were not followed in two of the four ACS Call Sites.

Automated Collection System Call Sites³

We analyzed 112 taxpayer accounts with manually requested levies and a sample of 60 taxpayer accounts with systemically generated levies. These levies were requested between mid-January and mid-April 1999 from four ACS Call Sites. We identified the following legal provisions and IRS procedures that were not followed:

Legal Provisions Not Followed

- Thirty-five taxpayers' accounts (31 percent) had levies manually requested by employees and mailed without notifying taxpayers of their appeal rights and of the IRS' intent to levy. These issues were identified in two of the four ACS Call Sites we reviewed.
- One taxpayer (1 percent) was advised of the appeal rights and the IRS' intent to levy after the levy was manually requested and issued.
- Four taxpayers' accounts (7 percent) had levies systemically generated by the IRS' computer program and mailed without notifying the taxpayers of their appeal rights and of the IRS' intent to levy. These four accounts involved business taxpayers. We conducted further analysis and identified an additional 112 business taxpayer accounts with systemic levies. We did not analyze these levies to determine if they were mailed to taxpayers. However, ACS Call Site management agreed that these 112 levies were presumably mailed. This test was conducted in one ACS Call Site.

³ The percentages listed below (unless otherwise noted) were calculated using a base of 112 ACS taxpayers for the manually requested levies and a base of 60 ACS taxpayers for the systemically generated levies.

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IRS procedures were not followed in two of the four ACS Call Sites.

Internal Revenue Service Procedures Not Followed

- Sixty-one of the 172 ACS taxpayers (35 percent) did not have their accounts updated to indicate that requested levies were not sent. These included taxpayers with systemically generated and manually requested levies. The levies were not sent because the taxpayers had not been properly notified of their appeal rights and of the IRS' intent to levy.
- While conducting work in 1 ACS Call Site, we also determined that 332 LT11s were automatically generated on two dates in early February 1999 and mailed to taxpayers without the accounts being reviewed to determine if levy was the next planned action, as required. We reviewed a judgmental sample of 41 accounts and determined that 20⁴ LT11s would not have been mailed had the accounts been reviewed.
 - ◆ Nine taxpayers (22 percent) were issued LT11s, although the IRS did not have a levy source available for the taxpayers.
 - ◆ Seven taxpayers (17 percent) were making payments on their accounts when the LT11s were issued. One taxpayer had been making monthly payments since June 1995 and had missed only one payment in 1996. The most recent payment had posted to his account in the month prior to when the LT11 was issued.
 - ◆ Three taxpayers (7 percent) had been in contact with Customer Service employees and were attempting to resolve the unpaid tax prior to the issuance of the LT11.
 - ◆ Two taxpayers (5 percent) could have had their outstanding balances resolved by ACS Call Site employees rather than through the issuance of

⁴ The taxpayer accounts discussed in the bullets below do not add up to 20 because 1 taxpayer fell into 2 categories.

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the LT11. For example, one taxpayer overpaid his current liability by enough to pay his outstanding balance. The transaction posted six days before the LT11 was sent.

The ACS Call Site terminated the issuance of the LT11s on February 25, 1999, when IRS management became aware that LT11s should no longer be systemically generated and mailed.

Employees did not always follow established procedures for complying with 26 U.S.C § 6330 (1986).

Customer Service management established various procedures to comply with the new levy provisions in 26 U.S.C § 6330 (1986). However, these procedures were not always followed. For example:

- Procedures were established to destroy all systemic levies and notices generated during a certain time period by IRS computers. However, due to a misunderstanding, systemic levies for business taxpayers were mailed instead of being destroyed.
- Procedures were established for employees to update taxpayers' accounts to show that levies initially requested were not mailed. However, employees did not always follow these procedures.
- Procedures were established to review all systemically generated LT11s to determine if levy was the next planned action. However, these procedures were not always followed.

ACS management does not have an easy way to identify inadvertent mailing of levies.

Another factor that may have contributed to the problems cited above is the fact that the ACS Call Sites do not have standard inventory listings to identify levies that are actually printed or mailed. As a result, ACS management does not have a way to easily identify inadvertent generation and mailing of levies, or what actions may or may not have been taken on taxpayers' accounts.

Computer programming, when accomplished later this year, should suppress the systemic notices and levies from printing.

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Legal and internal levy procedures were not followed in all five IRS district offices.

Collection Field Function⁵

We analyzed a sample of 112 taxpayer accounts in 5 district offices with levies requested between January 19 and February 28, 1999. Although IRS computer records indicated that these levies were generated without following the new legal procedures in 26 U.S.C. § 6330 (1986), we determined that 60 taxpayer accounts had either valid reasons for issuing the levies, or the levies were printed but never mailed. However, 13 of the 60 were issued without following IRS procedures. Two of the accounts contained multiple procedural issues.

The remaining 52 of the 112 taxpayer accounts had levies issued without following the legal procedures in 26 U.S.C. § 6330 (1986). Twelve of the 52 accounts had levies issued without following IRS procedures. The legal and internal procedures that were not followed were identified in five offices and two offices, respectively. (**NOTE:** These 112 accounts are not the same accounts as those shown in the ACS section of the report.)

Legal Provisions Not Followed

- Thirty-five taxpayers' accounts (31 percent) had levies issued to levy sources by the IRS without the taxpayer being notified of their appeal rights and of the IRS' intent to levy.
- Eleven taxpayers (10 percent) were notified of their appeal rights and of the IRS' intent to levy after the levies were issued.
- Six taxpayers (5 percent) were notified of their appeal rights and of the IRS' intent to levy, but levies were issued to levy sources by the IRS prior to the expiration of the 30-day waiting period required

⁵ The percentages listed below (unless otherwise noted) were calculated using a base of 112 ICS taxpayers.

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by 26 U.S.C. § 6330 (1986). In two of these cases, the taxpayers requested that the IRS issue the levy prior to the expiration of the waiting period. The IRS has requested an opinion from its Office of Chief Counsel to determine the legality of the actions in these two cases.

Internal Revenue Service Procedures Not Followed

- Six taxpayers (5 percent) were notified of their appeal rights and of the IRS' intent to levy, but levies were issued prior to the expiration of the 45-day waiting period required by IRS procedures.
- Twenty-one taxpayers' (19 percent) IDRS accounts were not updated to show that the taxpayers were sent notification of their appeal rights and of the IRS' intent to levy.

The IRS did not comply with the levy provisions in 26 U.S.C. § 6330 (1986) and may have to make restitution to taxpayers whose rights may have been violated.

IRS procedures require employees to notify taxpayers of their appeal rights and of the IRS' intent to levy and wait 45 days before issuing the levy. Procedures also require that codes be input to the IDRS computer system when a L1058 is issued to a taxpayer. However, these procedures were not always followed.

Taxpayers' rights were potentially violated because the IRS did not fully comply with the levy provisions in 26 U.S.C. § 6330 (1986). As a result, the IRS may have to make restitution to taxpayers for proceeds received from improper levies. Also, when taxpayers' accounts are not properly updated to reflect actions taken, employees working those taxpayers' accounts in the future will not have knowledge of all actions taken on the accounts.

Recommendations

Although the IRS has made some progress in correcting the above issues, additional actions are needed to ensure that all IRS employees comply with the levy provisions in 26 U.S.C. § 6330 (1986) and the IRS' own internal procedures. We recommend that IRS management in

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the Collection and Customer Service functions do the following:

1. Develop methods to ensure taxpayers are notified of their right to a hearing and of the IRS' intent to levy before a levy is issued. For example, after we identified levies that had been issued without first notifying the taxpayer, Customer Service management implemented a review of all levies before they are mailed to ensure the taxpayer was previously notified, as required.

Management's Response: CFf personnel changed ICS computers. Now, when a Revenue Officer is issuing a notice of levy, ICS checks whether a L1058 has been issued for the liabilities included on the levy. If the letter has not been issued, or if 30 days have not passed since it was issued, ICS will not allow the revenue officer to issue the levy.

Customer Service officials made changes to ACS which prevent systemic generation of levies and LT11s, and they will make computer changes to prevent ACS computers from generating levies unless a due process notice was sent at least 30 days prior to the levy request.

2. Develop safeguards, such as a quality review system, to prevent notices from being mailed to taxpayers unless issuing a levy is the next planned action on a case.

Management's Response: CFf management plans to have ICS computers check on whether there is a levy source when ROs ask for L1058s to be generated. If there is no levy source, a L1058 will not be printed. The computer will also ask "Is levy or seizure your next planned action?" If the RO answers no, the letter will not print.

In June 1999, Customer Service management implemented changes that prevent ACS computers from issuing systemic LT11s. Also, in August 1999, Customer Service management separated pre-levy and

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levy actions into two processing units to provide better management control over these activities.

3. Identify all levies that were issued without properly notifying the taxpayer and any resulting proceeds received from the levies. Determine, with advice from legal counsel, what steps the IRS should take regarding any money received as a result of issuing improper levies.

Management's Response: Collection and Customer Service management plan to consult with IRS Counsel to determine if restitution is appropriate where legal requirements for levies were not satisfied and proceeds were received from taxpayers.

Conclusion

The IRS needs to improve its compliance with legal provisions and internal guidelines for informing taxpayers of their appeal rights before issuing levies. By not following levy procedures in 26 U.S.C. § 6330 (1986) and its own guidelines, the IRS:

- Potentially violated taxpayers' rights by not informing them of planned levy actions prior to issuing levies.
- Mailed LT11s when issuing a levy was not the next action.
- Did not keep computer systems updated with current information.

As a result, the IRS:

- May have to make restitution to taxpayers for proceeds received from improper levies.
- May have caused taxpayers to have undue concern when they received improper notices.
- May not have the most current information about taxpayer accounts on their computer systems.

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- Created additional work by issuing levies improperly.

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Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this audit was to determine if levies issued by the Internal Revenue Service (IRS) comply with the legal guidelines in 26 U.S.C. § 6330 (1986), which were added by the Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998) (referred to as RRA 98). We performed the following work:

- I. Determined whether new notice and levy procedures mandated by 26 U.S.C. § 6330 (1986) were in place for informing taxpayers of their appeal rights and ensuring that eligible taxpayers requesting a hearing were granted one, by discussing the requirements with IRS management in National Office Collection, Appeals, and Customer Service functions; Collection management in five districts; Appeals management in six districts; and Automated Collection System (ACS) management in four ACS Call Sites.

- II. Determined whether levies issued by the Collection Field function were preceded by the Notice of Intent to Levy and Notice of Your Right to a Hearing (L1058) by performing the following steps:
 - A. Obtained an Integrated Collection System (ICS) listing of all levies issued between January 19 and February 28, 1999, from the Assistant Commissioner (Collection). We could not identify an independent method to validate the listings received from the Assistant Commissioner (Collection). Therefore, we accepted the information as provided by IRS management and did not validate whether these were all the levies issued. We did not include a sample of levies issued in the 12 IRS district offices that are not using the ICS to track collection actions because neither we nor IRS management could determine a way to easily identify levies issued in those districts.

 - B. Analyzed all 112 taxpayers' accounts obtained from the ICS listing in step II.A. above for the Georgia, Gulf Coast, Pennsylvania, Southern California, and South Texas Districts using the ICS history and Integrated Data Retrieval System (IDRS) information.
 1. Determined whether the new L1058 was issued to taxpayers at least 30 calendar days prior to issuing the levy by reviewing the ICS history and other account information of the taxpayers.

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2. Determined whether the new L1058 was issued to taxpayers at least 45 calendar days prior to issuing the levy by reviewing the ICS history and other account information of the taxpayers.
 3. Determined whether appropriate codes were input to the taxpayers' accounts if the L1058 was issued.
 4. Determined whether subsequent codes were input to the taxpayers' accounts to show whether the L1058s were delivered to the taxpayers, refused by the taxpayers, or returned undelivered.
 5. Determined whether appropriate publications and forms explaining taxpayer rights were mailed to the taxpayers.
- III. Determined whether levies issued by the ACS Call Sites were preceded by the appropriate Notice of Intent to Levy and Notice of Your Right to a Hearing (LT11) by performing the following steps:
- A. Obtained computer extracts of all taxpayer accounts with an indication that a levy was requested between mid-January and mid-April 1999 from the Atlanta, Seattle, Philadelphia, and Austin ACS Call Sites. We could not identify an independent method to validate the information received from the call sites. Therefore, we accepted the information provided by IRS management and did not validate whether these were all the levies issued.
 - B. Analyzed all 112 taxpayers' accounts with a manual levy request identified by the extract in step III.A. above using the ACS history and taxpayer account information from the IDRS computer system. (**NOTE:** These 112 accounts are not the same accounts as those shown in step II.B. above.)
 1. Determined whether the new LT11 was issued to the taxpayers at least 30 calendar days prior to requesting the levy by reviewing the ACS history and other account information of the taxpayers.
 2. Determined whether the new LT11 was issued to the taxpayers at least 45 calendar days prior to requesting the levy by reviewing the ACS history and other account information of the taxpayers.
 3. Determined whether appropriate computer codes were input to taxpayers' accounts if the LT11 was issued.
 4. Determined whether subsequent codes were input to show whether the LT11s were delivered to the taxpayers, refused by the taxpayers, or returned undelivered.

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5. Determined whether appropriate publications and forms explaining taxpayer rights were mailed to the taxpayers.
- C. Analyzed a sample of 60 of 2,358 taxpayers' accounts with systemically generated levies in 1 ACS Call Site. The sample of accounts was selected from random number tables using discovery sampling techniques. We used the ACS history and taxpayer account information from the IDRS computer system to complete the analysis.
1. Determined whether the new LT11 was issued to the taxpayers at least 30 calendar days prior to requesting the levy by reviewing the ACS history and other account information of the taxpayers.
 2. Determined whether the new LT11 was issued to the taxpayers at least 45 days prior to requesting the levy by reviewing the ACS history and other account information of the taxpayers.
 3. Determined whether appropriate computer codes were input to taxpayers' accounts if the LT11 was issued.
 4. Determined whether subsequent codes were input to show whether the LT11s were delivered to the taxpayers, refused by the taxpayers, or returned undelivered.
 5. Determined whether appropriate publications and forms explaining taxpayer rights were mailed to taxpayers.
- D. Analyzed a judgmental sample of 41 of the 332 computer generated LT11s from 1 ACS Call Site using the ACS history and other account information to determine if levy was the next action to be taken.
- IV. Analyzed levy due process appeals cases received from January 19 to March 31, 1999, to determine if the cases were processed in accordance with 26 U.S.C. § 6330 (1986). (**NOTE:** This step was not completed. Please see impairment statement on page 1 of the report.)

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Appendix II

Major Contributors to This Report

Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)
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Edmond G. Watt, Audit Manager
Gary L. Young, Audit Manager
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D. Hal Schultz, Senior Auditor
Dale E. Schulz, Senior Auditor
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Ronnie Summers, Auditor
Esther M. Wilson, Auditor
David B. Yorkowitz, Auditor

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Appendix III

Report Distribution List

Deputy Commissioner for Operations C:DO
Chief Operations Officer OP
Assistant Commissioner (Collection) OP:CO
Assistant Commissioner (Customer Service) OP:C
Assistant Commissioner (Program Evaluation and Risk Analysis) M:OP
National Director for Legislative Affairs CL:LA
Office of Management Controls M:CFO:A:M
Audit Liaisons:
 Chief Operations Officer
 Assistant Commissioner (Collection)
 Assistant Commissioner (Customer Service)

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Appendix IV

Outcome Measures

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

Finding and recommendation:

The Internal Revenue Service (IRS) did not always follow legal provisions and its own procedures for issuing levies. As a result, the IRS may have to make restitution to taxpayers for proceeds received from improper levies. We recommend that Collection and Customer Service management develop additional safeguards to ensure that employees follow the applicable legal and IRS procedures for issuing levies. Also, Collection and Customer Service management should request an opinion from the IRS Chief Counsel on those levy cases in which money may have been taken improperly to determine if restitution to the taxpayers is warranted.

Legal Provisions Not Followed – The IRS did not consistently notify taxpayers of their appeal rights and of its intent to levy 30 calendar days prior to issuing a levy, as required by 26 U.S.C. § 6330 (1986). From a review of 284 taxpayer accounts, we determined that provisions in 26 U.S.C. § 6330 (1986) were not followed in 92 of the accounts (32 percent). The legal provisions that were not followed included 74 taxpayers (26 percent) who were not notified of their appeal rights or of the IRS’ intent to levy; 12 taxpayers (4 percent) who were notified of their appeal rights and of the IRS’ intent to levy after the levies were issued; and 6 taxpayers (2 percent) who were notified of their appeal rights and of the IRS’ intent to levy, but levies were issued by the IRS prior to the expiration of the 30-day waiting period. (Pages ii and iii)

We also identified an additional 112 business taxpayer accounts that had levies automatically generated by IRS computers and presumably mailed to levy sources without the taxpayers being notified of their appeal rights and of the IRS’ intent to levy. (We did not analyze these levies to determine if they were mailed to taxpayers; however, IRS management agreed that the levies were presumably mailed on these accounts.) These levies were mailed due to a misunderstanding of procedures which required that the levies be destroyed. (Pages 7 and 9)

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Internal Revenue Service Procedures Not Followed – The IRS did not consistently follow its own procedures for issuing levies. These procedures are found in the IRS' Internal Revenue Manual. From a review of 284 taxpayer accounts, we determined that 6 taxpayers (2 percent) were notified of their appeal rights and of the IRS' intent to levy, but levies were issued by the IRS after 30 calendar days but prior to the expiration of the 45-day waiting period required by IRS procedures; 21 taxpayers (7 percent) did not have appropriate information added to their computer accounts to show the taxpayers had been notified of the IRS' plans to levy; and 61 taxpayers (21 percent) did not have appropriate information added to their computer account history to show the initially requested levy had been destroyed. (Page iii)

In addition, in 1 office, 332 Notices of Intent to Levy and Notice of Your Right to a Hearing (LT11) were automatically generated by IRS computers and mailed to taxpayers without the accounts being reviewed to determine if levy was imminent. Our review of a judgmental sample of 41 of these notices showed that 20 notices should not have been mailed because issuing the levy was not the next action needed on these cases. (Page 8)

Type of Outcome Measure: **Taxpayer Rights and Entitlements**

This is a potential outcome measure.

Value of the Benefit:

We determined that the IRS issued levies to levy sources for 204 taxpayers which potentially violated the taxpayers' rights and the levy provisions in 26 U.S.C. § 6330 (1986). Since only a court of law or a legal expert can determine if the taxpayer's rights were actually violated, this is a potential outcome. Also, because of the IRS methods used to apply levy proceeds to taxpayers' accounts, we could not accurately determine the potential proceeds received from improper levies issued in the sample of cases we reviewed.

Methodology Used to Measure the Reported Benefit:

We determined whether levies issued by the Collection Field function (CFf) and by Automated Collection System (ACS) Call Sites were preceded by the appropriate due process notice advising taxpayers of their right to appeal, and of the IRS' intent to levy, by performing the following steps.

Collection Field Function – We obtained an Integrated Collection System (ICS) listing of all levies issued between January 19 and February 28, 1999, from the Assistant Commissioner (Collection). We did not include a sample of levies issued in the 12 IRS district offices that are not using the ICS to track collection actions because neither we nor IRS management could determine a way to easily identify levies issued in those districts.

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We analyzed all 112 taxpayers' accounts from the ICS listing for the Georgia, Gulf Coast, Pennsylvania, Southern California, and South Texas Districts using the ICS history and Integrated Data Retrieval System (IDRS) information. We determined whether the new Notice of Intent to Levy and Notice of Your Right to a Hearing (L1058) was issued to taxpayers at least 30 calendar days prior to issuing the levy, by reviewing the ICS history and other account information for the taxpayers.

Automated Collection System – We obtained computer extracts of all taxpayer accounts with an indication that a levy was requested between mid-January and mid-April 1999 from the Atlanta, Seattle, Philadelphia, and Austin ACS Call Sites. We analyzed all 112 taxpayers' accounts with a manual levy request, using the ACS history and taxpayer account information from the IDRS computer system. (**NOTE:** These 112 accounts are not the same accounts as those shown for the CFf.) We determined whether the new LT11 was issued to the taxpayers at least 30 calendar days prior to requesting the levy.

We also expanded our work in two areas.

- We analyzed a sample of 60 of 2,358 taxpayers' accounts with systemically generated levies in 1 ACS Call Site. The sample of accounts was selected from random number tables using discovery sampling techniques. We determined whether the new LT11 was issued to the taxpayers at least 30 calendar days prior to requesting the levy using the ACS history and taxpayer account information from the IDRS computer system.
- We analyzed a judgmental sample of 41 of 332 LT11s automatically generated and mailed to taxpayers on 2 dates in early February 1999 from 1 ACS Call Site. We determined whether levy was imminent and whether the LT11s should have been mailed to taxpayers.

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Appendix V

Example of Letter 1058 (DO) (Rev. 1-1999)

Internal Revenue Service

Department of the Treasury

Letter Number: 1058 (DO)

Letter Date:

**Social Security Number or
Employer Identification Number:**

Person to Contact:

CERTIFIED MAIL – RETURN RECEIPT

Contact Telephone Number:

**FINAL NOTICE
NOTICE OF INTENT TO LEVY AND NOTICE OF YOUR RIGHT TO A HEARING
*PLEASE RESPOND IMMEDIATELY***

Your federal tax is still not paid. We previously asked you to pay this, but we still haven't received your payment. This letter is your notice of our intent to levy under Internal Revenue Code (IRC) Section 6331 and your right to receive Appeals consideration under IRC Section 6330.

We may file a Notice of Federal Tax Lien at any time to protect the government's interest. A lien is a public notice to your creditors that the government has a right to your current assets, including any assets you acquire after we file the lien.

If you don't pay the amount you owe, make alternative arrangements to pay, or request Appeals consideration within 30 days from the date of this letter, we may take your property, or rights to property, such as real estate, automobiles, business assets, bank accounts, wages, commissions, and other income. We've enclosed Publication 594 with more information, Publication 1660 explaining your right to appeal, and Form 12153 to request a Collection Due Process Hearing with Appeals.

To prevent collection action, please send your full payment today. Make your check or money order payable to U.S. Treasury. Write your social security number or employer identification number on your payment. Send your payment to us in the enclosed envelope with a copy of this letter. The amount you owe is:

Form Number	Tax Period	Unpaid Amount From Prior Notices	Additional Penalty & Interest	Amount You Owe

(over)

Letter 1058 (DO) (Rev. 1-1999)
Cat. No. 40488S

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If you have recently paid this tax or you can't pay it, call us immediately at the telephone number shown at the top of this letter and let us know.

The unpaid amount from prior notices may include tax, penalties and interest you still owe. It also includes any credits and payments we've received since we sent our last notice to you.

Sincerely Yours,

District Director

Enclosures:

Copy of this letter

Pub 594

Pub 1660

Form 12153

Letter 1058 (DO) (Rev. 1-1999)

Cat. No. 40488S

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Appendix VI

Example of Letter 1058 (Rev. 01-1999) (LT11)

Date:
Taxpayer Identifying Number:

Contact Telephone Number:
TOLL FREE: 1-800-XXX-XXXX

Best Time to Call: 7:30 am to 3 pm
Expect Answer Delays: 4 pm to 6 pm

Department of the Treasury
Internal Revenue Service
P.O. Box XX-XX
Anytown, U.S.A. 00000

**Final Notice – Notice of Intent to Levy and Notice of Your Right to a Hearing
Please Respond Immediately**

You have not paid your federal tax. We previously asked you to pay but we still haven't received full payment. This letter is your notice of our intent to levy under Internal Revenue Code Section (IRC) 6331 and your notice of a right to receive Appeals consideration under IRC 6330. **PLEASE CALL US IMMEDIATELY** at the numbers shown above if you recently made a payment or can't pay the amount you owe.

We may file a Notice of Federal Tax Lien at any time to protect the government's interest. A lien is public notice to your creditors that the government has a right to your interests in your current assets and assets you acquire after we file a lien.

If you don't pay this amount, make alternative arrangements to pay, or request Appeals consideration within 30 days from the date of this letter, we may take your property or rights to property such as real estate, automobiles, business assets, bank accounts, wages, commissions, and other income to collect the amount you owe. See the enclosed Publication 594, Understanding the Collection Process, for additional information about this and see Publication 1660 which explains your right to a hearing. The enclosed Form 12153 is used to request a hearing.

To prevent enforced collection actions, please send us full payment today for the amount you owe shown on the back of this letter. Make your check or money order payable to the United States Treasury. Write your social security number or employer identification number and the tax year on your payment. Send your payment in the enclosed envelope with a copy of this letter.

Enclosures:

Copy of letter
Form 12153
Publication 594
Publication 1660
Envelope

Chief, Automated Collection Branch

Letter 1058 (Rev. 01-1999)(LT11)

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Account Summary				
Type of Tax	Period Ending	Assessed Balance	Statutory Additions	Total
			Total Amount Due	\$

Type of Tax	Period Ending	Name of Return

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Appendix VII

Management's Response to the Draft Report



COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

September 15, 1999

OFFICE OF TREASURY
INSPECTOR GENERAL
RECEIVED

1999 SEP 16 A 10:10

FOR TAX ADMINISTRATION

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Charles O. Rossotti
Commissioner of Internal Revenue

SUBJECT: Draft Audit Report-The Internal Revenue Service Has Not Fully Implemented Procedures to Notify Taxpayers Before Taking Their Funds for Payment of Tax - Urmem 8/20/99

We appreciate the opportunity to respond to your draft report entitled "The Internal Revenue Service (IRS) Has Not Fully Implemented Procedures to Notify Taxpayers Before Taking Their Funds for Payment of Tax." The report is a review of the use of Notices of Levy issued January 19 through February 28, 1999, as required by the IRS Restructuring and Reform Act of 1998 (RRA 98). We see this annual review as an opportunity to improve the IRS levy program and to ensure we are protecting our customers' rights.

The due process provisions of Internal Revenue Code (IRC) section 6330 went into effect on January 19, 1999. Procedures were mailed to regional offices in late December. They were redistributed to the districts and, in turn, to hundreds of posts-of-duty. Changes went into effect with little time for employees to become familiar with them, particularly considering the many other RRA 98 changes. Despite these hindrances, we were pleased that the report indicated in a vast majority of instances correct procedures were followed. The most common cause of the errors was lack of familiarity with the changes that had gone into effect such a short time before these notices of levy were issued, rather than any intent to deny taxpayers their rights.

Because of the due process provisions discussed above, we instructed our employees that no levies should be issued from January 19 through February 28, 1999, except for jeopardy situations. During this period, your report identified 58 levies that were issued in error, by Collection Field function (Cff). In comparison, prior to the implementation of RRA 98, levy issuance averaged nearly 5,000 per month. We believe the 58 levies issued in error were the result of the lack of familiarity with procedures because the instructions did not get to every employee in all our districts nationwide in a timely manner.

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We will review all cases, where mistakes were identified, to determine what steps, if any, we should take regarding any money received as a result of issuing improper levies. After this review, we would like to discuss, with your staff, our findings to resolve any interpretive differences that may exist regarding legal or procedural issues.

We agree with the majority of observations and findings. We also concur with all your recommendations and appreciate the time taken to assist us in improving our systems. Actions will be taken to try to eliminate the possibility of recurrence of legal or procedural violations in the future.

Our review of cases indicates two areas on which we need to comment. First, eight levies printed by the Integrated Collection System (ICS) were reviewed as "served," when, in fact, they were not. Of the eight, in three instances the revenue officer documented that the levies were not served. In the other five instances, levies were not served, but the revenue officer (RO) failed to document the history. In the latter situations, this is a problem of insufficient documentation, which will be addressed. However, the fact remains that the levies were not served, and, therefore, no taxpayer rights were violated.

Second, five of the CFF notices of levy were issued at the request of the taxpayer or taxpayers' authorized representative. This happens principally when taxpayers have difficulty collecting receivables and ask for a levy to be served in the hopes that the money owed to them will be paid to IRS. The IRS has a long history of assisting taxpayers by complying with their requests to issue levies on their difficult to collect account receivables. If the IRS did not comply with these requests, a detrimental effect to the taxpayer's business could be the end result. We believe that we are not precluded from the practice used in the five cases when the taxpayers waive their right to the 30 day notice. We are seeking an opinion from our Counsel to determine if a taxpayer (or their authorized representative) can waive his right to notification. We would like to discuss this issue with your staff after our review, once we have Counsel's opinion, and reach agreement on whether this practice is a violation.

Finally, we understand that RRA 98 requires Treasury Inspector General for Tax Administration (TIGTA) to annually evaluate the IRS compliance with the required procedures in the IRC for notices of levy used to collect delinquent taxes. Our intent is to work with you in the future in order to ensure taxpayers' rights are protected and proper procedures are followed. In order to ensure that we have progressed towards achieving fairness to all taxpayers, we suggest future audits include samplings of cases where notices of levy were not served. This will allow us to better determine whether enforcement is conducted when appropriate.

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Our comments on the specific recommendations in this report are as follows:

IDENTITY OF RECOMMENDATION #1

IRS management should develop methods to ensure taxpayers are notified of their right to a hearing and of IRS intent to levy before a levy is issued.

ASSESSMENT OF CAUSE(S)

The period when these notices of levy were served was in the first few weeks after IRC 6330 went into effect. There was little time to become familiar with the changes before they went into effect in the midst of many other changes in RRA 98. Formal training in these new procedures was not done, in all cases, by the time the changes were already in effect. Also, there were instances where early misinterpretations of the provisions had to be corrected.

CORRECTIVE ACTION(S)

1a. ICS has been changed to prevent this for CFF levies. Now, when a revenue officer is issuing a notice of levy, ICS checks whether a Letter 1058 has been issued for the liabilities included on the levy. If the letter has not been issued, or if 30 days have not passed since it was issued, ICS will not allow the RO to issue the levy. The levy can be issued if collection is in jeopardy. In essence, ICS starts the approval process through the management chain by telling the RO the manager must generate the levy.

If a Letter 1058 has been issued more than 30 days but less than 45 days before the RO asks ICS to issue a levy, ICS gives the RO a message that 45 days have not passed since the letter was issued. It then asks the RO whether to go ahead with the levy or not. It does not categorically block the levy, because there are exceptions to waiting the 15 day tolerance period. Instead, ICS calls attention to the fact that the tolerance period has not ended.

Note that when ICS does this check it only considers the version of Letter 1058 that includes the RRA 98 provisions for the right to a hearing. Prior versions of this letter are not considered.

1b. Based on internal and TIGTA feedback, on March 25, 1999 Customer Service began 100 percent review of Automated Collection System (ACS) levy output to ensure compliance with statutes and other procedures.

On June 17, 1999, pending a revision to Delegation Order (D.O.) 191 regarding Customer Service levy authority, we required that levies must be requested by GS-9 or higher managers. The revised D.O. 191 will permit re-delegation of levy authority to GS-8 but, when combined with other procedural changes, it reduces the number of

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employees authorized to levy, ensures that only the highest grade technicians may levy, and enables better management control over the levy process. After implementing the D.O., a complete review of levy output will continue until we are assured of consistent quality.

In June 1999, ACS changes eliminated all programming that generated systemic levies or ACS letter LT11 in its weekly analysis of new cases. Local misunderstandings about weekly output accounted for a large portion of the errors identified in the report.

1c. A system change in January 2000 ensures that each tax module on which an ACS levy is generated has had the due process notice sent at least 30 days prior to the levy request. Otherwise, the system will not issue the levy, instead displaying an error message.

IMPLEMENTATION DATES:

1a. COMPLETED

1b. COMPLETED

1c. PROPOSED -February 1, 2000

CORRECTIVE ACTION(S) MONITORING PLAN

1c. The Assistant Commissioner (Customer Service) will follow up with Information Systems to ensure timely implementation of the January 31, 2000, system changes.

RESPONSIBLE OFFICIAL(S)

1a. Assistant Commissioner (Collection)

1b. Assistant Commissioner (Customer Service)

1c. Assistant Commissioner (Customer Service)

IDENTITY OF RECOMMENDATION #2

IRS management should develop safeguards, such as a quality review system, to prevent notices from being mailed to taxpayers unless issuing a levy is the next planned action.

ASSESSMENT OF CAUSE(S)

The standard of issuing Letter 1058 only if a notice of levy is specifically the next planned action, did not exist during the period when the notices of levy included in this review were issued. When notice of levy procedures under RRA were distributed, the procedures required that Letter 1058 would be issued only when ACS or a RO is about to levy.

The intent of this instruction was to avoid issuing the notice to the inventory of

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taxpayers just to cover the new notice requirement. Such an en masse notice issuance had been proposed and rejected for a variety of reasons. Instead, the procedure was meant to limit the notice to cases which had been worked to the point where a notice of levy was imminent. In some incidents, however, field offices interpreted the procedure as allowing the letters to be issued in bulk, so we had to be more specific and remove any doubt about when the letter should be issued. In our April 8 teleconference with the regions and certain district offices, we said that the letter should only be issued when levy is the next planned action. A memo describing the content of the teleconference confirmed this point later. This description will be added to the IRM 5.11, the Notice of Levy Handbook.

CORRECTIVE ACTIONS

2a. We are planning a change to ICS to address the standard for Cff levies, as it now exists. Our plan is to have ICS check on whether there is a levy source when a RO asks for a Letter 1058 to be generated. If there is, ICS will ask the RO, "Is levy or seizure your next planned action? Y/N." If the answer is Yes, ICS will print the letter. If the answer is No, the letter will not be printed.

If there is no levy source, ICS will ask the RO, "No levy source exists. Is seizure the next planned action? Y/N." If Yes is the answer, the Letter 1058 will be printed. If No is the answer, ICS will not print the Letter.

2b. A revision to IRM 21.9.4, dated February 2, 1999, but probably not in Customer Service employees' hands until late in the month, addressed all statutory requirements and other impacted procedures, replacing interim guidelines.

In June 1999, ACS system changes eliminated all programming that generated ACS letter LT11 in its weekly analysis of new cases.

A revision to IRM 21.9.5, dated August 6, 1999, separated pre-levy and levy actions into two processing units. Separating these activities will improve accuracy and offers management better control over enforcement activities. As a followup, the levy unit will identify errors in pre-levy actions, including Letter LT11 issuance, and will provide feedback to management to identify training needs.

Another revision to IRM 21.9.4, anticipated in October 1999, expands on the IRM 21.9.5 changes, and highlights with notes and examples of those issues where feedback has shown a potential for error.

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ACS analysts will visit at least three sites before December 31, 1999, reviewing IRM compliance and procedural understanding of RRA 98 provisions, including due process provisions of Section 3401 and soliciting comments to help clarify procedures.

IMPLEMENTATION DATES:

2a. PROPOSED - April 1, 2000

2b. PROPOSED - January 1, 2000

RESPONSIBLE OFFICIAL(S)

2a. Assistant Commissioner (Collection)

2b. Assistant Commissioner (Customer Service)

CORRECTIVE ACTION(S) MONITORING PLAN

2a. The Assistant Commissioner (Collection) will follow up with the ICS staff to confirm that this change is made in the March 2000 changes.

2b. The Assistant Commissioner (Customer Service) will verify timely IRM distribution and ensure that issues raised during on-site visits are addressed by his staff.

IDENTITY OF RECOMMENDATION #3

IRS management should identify all levies that were issued without properly notifying the taxpayer and any resulting proceeds from the levies. IRS management should also determine, from a legal standpoint, what steps, if any, the IRS should take regarding any money received as a result of issuing improper levies.

ASSESSMENT OF CAUSE(S)

In certain cases, notices of levy were served without following the Due Process legal and administrative requirements.

CORRECTIVE ACTIONS

3a. Restitution will be explored with counsel for each of the nine CFF cases for which there were proceeds without complying with the required pre-levy notice and waiting period. Two of the nine were cases where the taxpayer asked the RO to levy. Two more of the nine were cases where the legal requirements were satisfied, although the administrative tolerance of waiting an additional 15 days was not. This leaves five potential cases in which levy proceeds were received without following the law, unless the taxpayer asked us to levy. A case-by-case review will be made of the individual case files for these nine cases.

3b. We have solicited from the reviewers the list of taxpayers on whom Customer Service issued levies without first issuing the LT11 and waiting a minimum of 30 days. We will provide this information to the call sites to determine whether we received funds

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directly from these levies. The sites will be directed to work with District Counsel to determine whether restitution is appropriate, and report the results. Again, the restitution determinations will require a review of the individual case files.

IMPLEMENTATION DATES:

3a. PROPOSED - January 1, 2000

3b. PROPOSED - January 1, 2000

RESPONSIBLE OFFICIAL(S)

3a. Assistant Commissioner (Collection)

3b. Assistant Commissioner (Customer Service)

CORRECTIVE ACTION(S) MONITORING PLAN

3a. The Assistant Commissioner (Collection) will issue instructions to the affected offices telling them to review the cases with District Counsel, determine whether restitution is appropriate, and report the results.

3b. The Assistant Commissioner (Customer Service) will follow up with the districts to ensure that the necessary research and coordination with District Counsel is done, and the outcome is reported.

If you have any questions or need additional information, please call me, or a member of your staff may contact Kyle Ballew at 622-4943.