



Treasury Inspector General for Tax Administration

FISCAL YEAR 2007 STATUTORY REVIEW OF COMPLIANCE WITH LIEN DUE PROCESS PROCEDURES

Issued on March 20, 2007

Highlights

Highlights of Report Number: 2007-30-051 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

After filing Notices of Federal Tax Lien, the Internal Revenue Service (IRS) must notify the affected taxpayers in writing within 5 business days of the lien filings. The IRS has not always complied with this statutory requirement. Therefore, the taxpayers' rights to appeal the lien filings may be jeopardized.

WHY TIGTA DID THE AUDIT

This audit was initiated because TIGTA is required by law to determine annually whether lien notices sent by the IRS comply with the legal guidelines in Internal Revenue Code Section 6320. This is our ninth annual audit to determine the IRS' compliance with the law and with its own related internal guidelines when sending lien notices.

The IRS attempts to collect Federal taxes due from taxpayers by sending letters, making telephone calls, and meeting face to face with taxpayers. When initial contacts by the IRS do not result in the successful collection of an unpaid tax, the IRS has the authority to attach a claim to the taxpayer's assets for the amount of unpaid tax. This claim is referred to as a Federal Tax Lien. The IRS files in appropriate local government offices a Notice of Federal Tax Lien, which notifies interested parties that a lien exists.

WHAT TIGTA FOUND

The IRS did not comply with the law in all cases. The review of a statistically valid sample of 150 Federal Tax Lien cases identified 142 cases (95 percent) for which the IRS did mail lien notices timely and correctly as required by Internal Revenue Code Section 6320 and internal procedures. Four lien notices (about 3 percent) were not sent timely, although the IRS correctly mailed the notices. For another 4 lien notices (about 3 percent), it could not be determined whether the IRS complied

with the law because the IRS could not provide proof of mailing.

Also, the IRS is not always meeting its statutory requirement to send the lien notice to the taxpayer's last known address when an initial lien notice is returned because it could not be delivered and a different address is available for the taxpayer. For 60 (15 percent) of the 400 cases reviewed, the IRS did not research its computer systems for the taxpayer's last known address. These cases could involve legal violations.

Finally, the IRS did not always follow its own internal guidelines for notifying taxpayers' representatives of the filing of lien notices. For 15 (60 percent) of the 25 cases in which the taxpayer had a representative at the time of the IRS lien actions, the IRS did not notify the taxpayer's representative of the lien filing.

WHAT TIGTA RECOMMENDED

TIGTA recommended the Director, Collection, Small Business/Self-Employed Division, consult with the IRS Office of Chief Counsel to identify any actions necessary to correct the potential legal violations identified in this audit. The Director, Collection, Small Business/Self-Employed Division, should also reestablish procedures for (1) controlling and processing returned mail as undelivered, refused, or unclaimed and (2) returning undelivered lien notices to the initiators of the Notices of Federal Tax Lien. In addition, management should change the procedures for routing undelivered mail among three offices.

In their response to the report, IRS management agreed with the recommendations. Management has consulted with the IRS Office of Chief Counsel and will issue new lien notices to the eight taxpayers we had identified and will review procedures for mailing notices and maintaining certified mailing lists. Management has revised procedures requiring employees to conduct research for last known addresses so immediate appropriate actions can be taken on undelivered mail. Management will amend the programming request for the Inbound Return Receipt Notice Delivery System to include lien notice processing. Management also will establish procedures to ensure returned lien notices are sent to the unit where research is performed to identify the last known address of the taxpayer and will initiate discussions to determine whether returning notices to originators provides benefits to taxpayers and the IRS.

READ THE FULL REPORT

To view the report, including the scope, methodology, and full IRS response, go to:

<http://www.treas.gov/tigta/auditreports/2007reports/200730051fr.pdf>

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