

# TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



## **Fiscal Year 2024 Mandatory Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property**

September 23, 2024

Report Number: 2024-300-054

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

# HIGHLIGHTS: Fiscal Year 2024 Mandatory Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property

Final Audit Report issued on September 23, 2024

Report Number 2024-300-054

## Why TIGTA Did This Audit

This audit was initiated because Internal Revenue Code (I.R.C.) § 7803(d)(1)(A)(iv) requires TIGTA to annually evaluate the IRS's compliance with legal seizure provisions. The overall objective of this review was to determine whether seizures were conducted in accordance with I.R.C. and IRS procedures.

## Impact on Tax Administration

Taking a taxpayer's property for unpaid tax is commonly referred to as a seizure. To ensure that taxpayers' rights are protected, the IRS Restructuring and Reform Act of 1998 amended the seizure provisions in I.R.C. §§ 6330 through 6344. These provisions govern many aspects of the seizure process, from notification of the taxpayer through sale or redemption of the property.

The IRS Restructuring and Reform Act of 1998 amended the seizure provisions of several I.R.C. sections.



 This includes the inability to seize a taxpayer's principal residence without a court order.

## What TIGTA Found

TIGTA reviewed 73 taxpayer cases in which seizures were conducted by the IRS between July 1, 2022, through June 30, 2023, and found that Field Collection employees generally adhered to Internal Revenue Manual procedures that help ensure compliance with I.R.C. §§ 6330 through 6344. However, TIGTA identified three cases in which revenue officers conducted seizures without following proper procedures or obtaining proper approvals, potentially violating taxpayer rights:

[REDACTED]

[REDACTED]

[REDACTED]

In each of the three cases, the seizures were later released due to the procedural errors.

Additionally, for [REDACTED] TIGTA identified a potential I.R.C § 6103 violation in which the revenue officer did not follow proper procedures when [REDACTED]

[REDACTED]

TIGTA also identified [REDACTED] in which the revenue officer did not refer [REDACTED] to the Office of Professional Responsibility for further investigation, even though there was evidence the [REDACTED]

[REDACTED]

## What TIGTA Recommended

TIGTA issued seven recommendations to enhance legal seizure compliance, including: remind revenue officers about the procedures for timely processing and documenting Collection Due Process hearing requests, required pre seizure advisory reviews, and their obligation to comply with I.R.C. § 6103, ensuring that they follow the proper Oral Disclosure Consent procedures.

The IRS agreed with all seven recommendations and plans to issue procedural reminders to employees regarding processing and documenting timely Collection Due Process hearing requests, oral disclosure consent and proper case history documentation, and referring instances of practitioner misconduct.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

**U.S. DEPARTMENT OF THE TREASURY**  
**WASHINGTON, D.C. 20024**

September 23, 2024

**MEMORANDUM FOR:** COMMISSIONER OF INTERNAL REVENUE

A handwritten signature in cursive script, reading "Danny R. Verneuille".

**FROM:** Danny R. Verneuille  
Acting Deputy Inspector General for Audit

**SUBJECT:** Final Audit Report – Fiscal Year 2024 Mandatory Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property (Audit No.: 2024300002)

This report presents the results of our review to determine whether seizures were conducted in accordance with the Internal Revenue Code and Internal Revenue Service (IRS) procedures. This review is part of our Fiscal Year 2024 Annual Audit Plan and addresses the major management and performance challenge of *Tax Compliance and Enforcement*.

Management's complete response to the draft report is included as Appendix III. If you have any questions, please contact me or Frank O'Connor, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations).

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## **Background**

The collection of unpaid tax by the Internal Revenue Service (IRS) generally begins with collection notices, after which the case will usually be assigned either to the IRS's Automated Collection System, Field Collection, or Collection Queue.<sup>1</sup> The IRS considers the taxpayer's ability to pay the tax and discusses alternative payment options such as an installment agreement (IA) or an offer in compromise. If the taxpayer is able to pay some or all of the tax but has not taken steps as mentioned previously to address the liability and has had the opportunity to exercise available appeal rights, the IRS then has the authority to levy the taxpayer's funds or seize property for the payment of tax.<sup>2</sup> Taking a taxpayer's property for unpaid tax is commonly referred to as a seizure. The IRS's property appraisal and liquidation specialists sell seized property by public auction or by public sale under sealed bids.

To ensure that taxpayer rights are protected, the IRS Restructuring and Reform Act of 1998 (RRA 98) amended the seizure provisions in Internal Revenue Code (I.R.C.) §§ 6330, 6331, 6334, 6335, 6340, 6343, and 6344.<sup>3</sup> These provisions and the IRS's internal procedures govern many aspects of the seizure process, from notification of the taxpayer through the sale or redemption of the property. For example, a taxpayer's principal residence cannot be seized without a court order, and the IRS cannot levy or seize a taxpayer's property if the levy causes an economic hardship.<sup>4</sup> Additionally, seizures are not permitted if estimated expenses related to the sale exceed the fair market value of the property at the time of the seizure.<sup>5</sup>

The Treasury Inspector General for Tax Administration (TIGTA) is required under I.R.C. § 7803(d)(1)(A)(iv) to annually evaluate the IRS's compliance with the legal seizure provisions in I.R.C. §§ 6330 through 6344. Figure 1 shows the number of seizures conducted by the IRS from Fiscal Years (FY) 2016 through 2023.

**The IRS Restructuring and Reform Act of 1998 amended the seizure provisions of several I.R.C. sections.**



**This includes the inability to seize a taxpayer's principal residence without a court order.**

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<sup>1</sup> See Appendix IV for a glossary of terms.

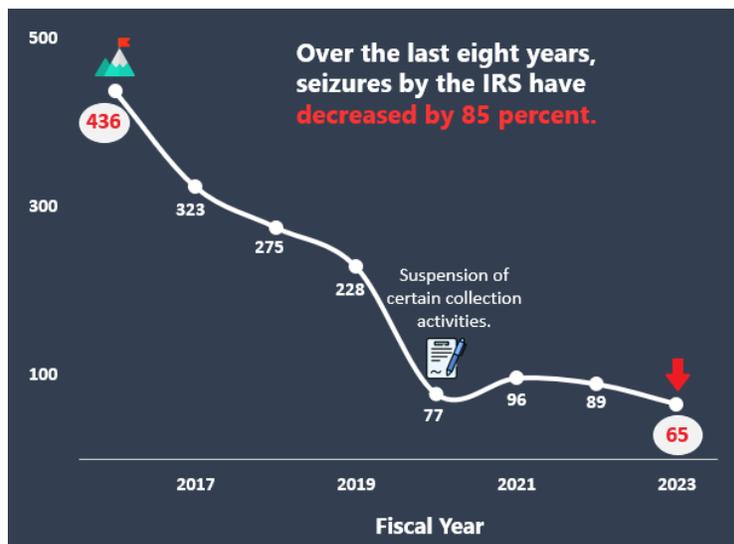
<sup>2</sup> Taxpayers have a statutory right to a Collection Due Process hearing on the first issuance of a Notice of Intent to Levy on a delinquent account, pursuant to I.R.C. § 6330, as well as upon the first issuance of a Notice of Federal Tax Lien, pursuant to I.R.C. § 6320. Taxpayers additionally have certain administrative rights, such as an appeal through the IRS's Collection Appeal Program. See Internal Revenue Manual 5.1.9.3 and 5.1.9.4 (Feb. 7, 2014).

<sup>3</sup> Pub. L. No. 105-206, 112 Stat. 687.

<sup>4</sup> I.R.C. § 6334(e)(1)(A) and I.R.C. § 6343(a)(1)(D).

<sup>5</sup> I.R.C. § 6331(f).

Figure 1: IRS Seizures by Fiscal Year



Source: IRS Data Books FYs 2016 through 2023.

Since FY 2016, the number of seizures has fallen from 436 in FY 2016 to 65 in FY 2023, an 85 percent reduction. The 25 percent increase in seizures from FY 2020 to FY 2021 was likely due to the expiration of the memorandum from the Director, Headquarters Collection, Small Business/Self-Employed (SB/SE) Division, titled *Temporary Relief for Taxpayers – Suspension of Certain Collection Activities During the COVID-19 Pandemic*, which suspended certain collection activities, including seizures, during FY 2020 as indicated in our previous report.<sup>6</sup> However, there was a subsequent 32 percent decrease in seizures from FY 2021 to FY 2023. In our report in FY 2023, IRS management stated that this was likely due, in part, to a decrease in the number of higher graded revenue officers, who generally work the cases resulting in seizures.<sup>7</sup> Higher graded revenue officers working cases decreased 11 percent from 665 at the end of FY 2022 to 593 at the end of FY 2023. Moreover, many higher graded revenue officers were offline serving as instructors for more than 800 newly hired revenue officers between June 2020 and February 2022.<sup>8</sup>

### General Seizure Procedures

I.R.C. § 6331(d) has long required the IRS to generally provide timely notice to taxpayers no less than 30 calendar days before the day of a levy.<sup>9</sup> As part of the RRA 98, Congress enacted I.R.C. § 6330, which requires the IRS to notify taxpayers of their right to a Collection Due Process (CDP) hearing with the IRS Independent Office of Appeals (Appeals) before the first levy on a delinquent tax module.<sup>10</sup> A revenue officer is required to issue Letter 1058, *Notice of Intent to Levy and Notice of Your Right to a Collection Due Process Hearing*, which informs the taxpayer

<sup>6</sup> TIGTA, Report No. 2022-30-038, *Fiscal Year 2021 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (June 2022).

<sup>7</sup> TIGTA, Report No. 2023-30-059, *Fiscal Year 2022 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (Sept. 2023).

<sup>8</sup> The IRS considers "higher graded" as GS-12 and GS-13 employees.

<sup>9</sup> Pursuant to I.R.C. § 6331(a), the 30-day notification requirement does not apply to jeopardy levies, which is when "the collection of such a tax is in jeopardy."

<sup>10</sup> Pub. L. No. 105-206, 112 Stat. 685 (codified in various sections of 26 United States Code).

of their CDP rights to appeal and the expiration of these rights. During the CDP hearing, the taxpayer may raise any relevant issue, including appropriate spousal defenses; challenges to the appropriateness of the levy; and offers of any collection alternatives.<sup>11</sup>

Taxpayers have 30 calendar days to request a CDP hearing in writing. If requested, the Collection Statute Expiration Date and levy action (with some exceptions) on the assessments subject to CDP are suspended. Levy action remains suspended during the appeal process, as well as any judicial review of the Appeals' determination, with some exceptions.<sup>12</sup> If a taxpayer does not pay overdue taxes, make other arrangements to satisfy the tax debt, or request a hearing within 30 calendar days of the date of the notice, the IRS may seize the taxpayer's property.<sup>13</sup>

As a pre-seizure consideration, I.R.C. § 6341 requires the IRS to determine the allowable expenses in all cases of levy and sale. I.R.C. § 6342(a) and the Internal Revenue Manual (IRM) require that the proceeds be applied in the following order against:

1. Expenses of the seizure and sale.
2. Unpaid Federal taxes due on the specific property sold.
3. The liability for which the levy was made, or the sale was conducted (liability shown on Form 668-B, *Levy*).
4. Intervening liens in the order of their priority when there are several outstanding liens.
5. To the taxpayer, unless another person establishes a superior claim to any surplus proceeds.<sup>14</sup>

When revenue officers determine that seizure is the next appropriate action, they will prepare the seizure approval package. The approval package must contain the following information:

- Form 13719, *Pre-Seizure Checklist and Approval Request*.
- Form 668-B.
- Copies of the Notices of Federal Tax Lien (NFTL).
- Preliminary Form 2434-B, *Notice of Encumbrances Against or Interests in Property Offered for Sale*, (not applicable if only cash is to be seized).
- For real property seizures, Form 2433, *Notice of Seizure*, and deed(s).<sup>15</sup>

All collection seizures require group manager approval; however, certain seizures require area director approval.<sup>16</sup> The group manager reviews the case file for accuracy and forwards the approved file to Advisory.<sup>17</sup> Advisory reviews Form 13719 for legal sufficiency and accuracy then

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<sup>11</sup> I.R.C. § 6330(c)(2).

<sup>12</sup> I.R.C. § 6330(e).

<sup>13</sup> IRM 5.1.9.3.1 (Aug. 30, 2018).

<sup>14</sup> IRM 5.10.6.2 (Nov. 15, 2019).

<sup>15</sup> IRM 5.10.2.5 (Aug. 24, 2022).

<sup>16</sup> IRM 5.10.2.4 (July 12, 2019) lists the assets that require area director approval, which include principal residences, all tangible personal/real property used in the trade/business of an individual taxpayer, perishable goods, and contents of the principal residence.

<sup>17</sup> IRM 5.10.2.2(9) (Aug. 24, 2022).

forwards the seizure file back to the group manager, unless a higher level of approval is required.<sup>18</sup> After the seizure takes place, the revenue officer must send all seizure documents back to Advisory within five workdays for a post-seizure review.<sup>19</sup>

The RRA 98 requires TIGTA to review and certify annually whether or not the IRS is complying with the requirements of I.R.C. §§ 6330 through 6344. We have evaluated the IRS's compliance with the seizure provisions since FY 1999.

## Results of Review

### Most Seizures Involved Real Property

The IRS conducted 73 seizures on 59 taxpayers from July 1, 2022, through June 30, 2023. Figure 2 shows the type and number of seizures conducted.

**Figure 2: Seizure Type and Count**



*Source: TIGTA analysis of IRS seizure logs.*

During this period, most of the seizures (81 percent) involved Other Real Property, which is real property other than a taxpayer's principal or personal residence. There were no principal residence seizures; however, seven personal residences were seized.<sup>20</sup> A principal residence is a primary dwelling of the taxpayer, the taxpayer's spouse, former spouse, and/or the taxpayer's minor children. A personal residence is a primary residence of someone other than a taxpayer, the taxpayer's spouse, former spouse, and/or the taxpayer's minor children.<sup>21</sup>

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<sup>18</sup> IRM 5.10.2.2(10) (Aug. 24, 2022).

<sup>19</sup> IRM 5.10.3.24(3) (May 23, 2016).

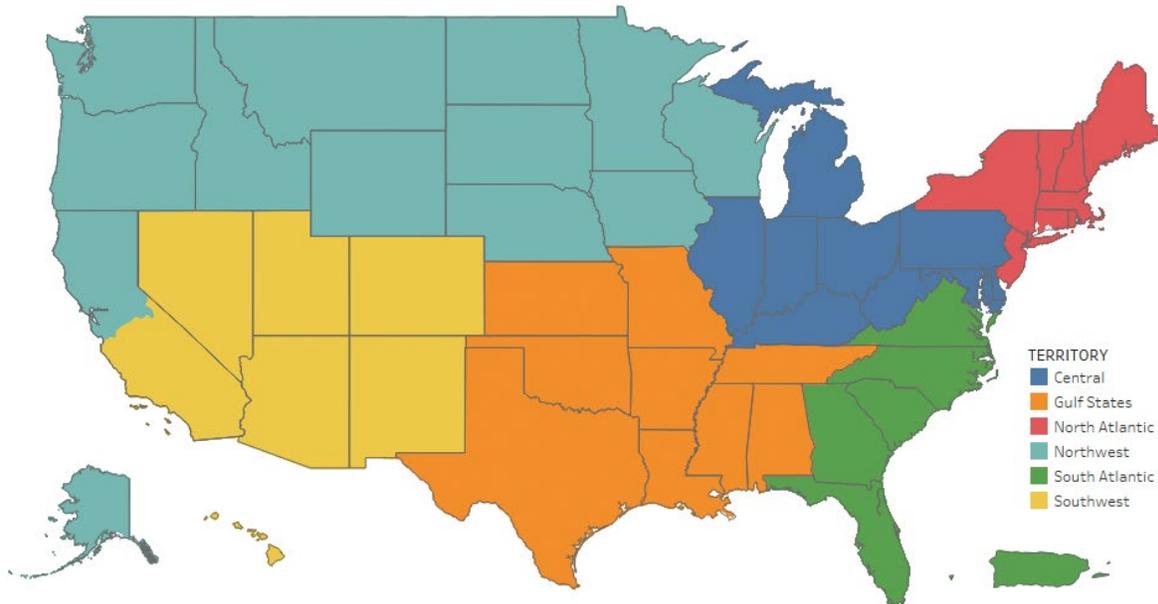
<sup>20</sup> I.R.C. § 6334(a)(13) provides that the principal residence of a taxpayer is generally exempt from levy, except as provided in subsection (e). I.R.C. § 6334(e) provides that a principal residence shall not be exempt from levy if a judge or magistrate of a U.S. District Court "approves (in writing) the levy of such residence."

<sup>21</sup> IRM Exhibit 5.10.2-1 (Aug. 24, 2022).

**Fiscal Year 2024 Mandatory Review of Compliance With  
Legal Guidelines When Conducting Seizures of Taxpayers' Property**

Figure 3 shows the number of seizures conducted by each of the SB/SE Division's six Collection Area Offices for TIGTA's current review period (July 1, 2022, through June 30, 2023) and the last three previous periods.

**Figure 3: Seizures by IRS Collection Area Offices From July 1, 2022, Through June 30, 2023, and Prior Periods<sup>22</sup>**



Collection Area Office	July 1, 2019 - June 30, 2020	July 1, 2020 - June 30, 2021	July 1, 2021 - June 30, 2022	July 1, 2022 - June 30, 2023	Percentage July 1, 2022 - June 30, 2023 <sup>23</sup>
Central	17	11	21	*1*	3%
Gulf States	26	17	35	29	40%
North Atlantic	7	9	4	10	14%
Northwest	51	12	25	*1*	10%
South Atlantic	34	27	18	13	18%
Southwest	10	21	14	12	16%
Nation	145	97	117	73	100%

Source: TIGTA analysis of IRS seizure logs and prior TIGTA reports on compliance with seizure procedures.

These numbers change from year to year. For example, when comparing this year's audit period (July 1, 2022, through June 30, 2023) to last year's (July 1, 2021, through June 30, 2022), other than the North Atlantic Region, seizures have generally been declining across the Nation. The North Atlantic Region had six more seizures this year, while the Gulf States Region, with the largest number of seizures, declined during this period with six less seizures than last year. Overall, there was a 38 percent decrease in seizures during this period, when compared to the prior period reviewed.

<sup>22</sup> The audit period runs from July 1 through June 30 of each year and comprises parts of two fiscal years.

<sup>23</sup> Percentage does not add to 100 percent due to rounding.

## Seizure Procedures Were Generally Followed, but Some Taxpayers' Rights May Have Been Violated

Field Collection employees did not comply with certain procedures and guidelines in three taxpayer cases, resulting in potential taxpayer rights violations. We reviewed the 73 seizures (59 unique taxpayers) the IRS conducted between July 1, 2022, through June 30, 2023. These 73 seizures consisted of 59 other real properties, seven personal residences, four vehicles, [REDACTED]. The total balance due by taxpayers at the time of the seizures ranged from approximately \$21,297 to \$21.9 million, with an average balance due of about \$1.2 million.

### **Procedural errors led to some seizures being released**

In three cases, revenue officers conducted seizures without following proper procedures or obtaining proper approvals, which led to the release of the seizures back to the taxpayers. Specifically:

- [REDACTED] <sup>24</sup>  
[REDACTED] <sup>25</sup>
- [REDACTED] <sup>26</sup>  
[REDACTED] <sup>27</sup>
- [REDACTED]

<sup>24</sup> IRM 5.1.9.3.3(1) (Oct. 19, 2023). If the hearing request is timely and can be processed, document receipt on the ICS CDP application as soon as possible, but no later than 10 calendar days from receipt.

<sup>25</sup> IRM 5.1.9.1.5 (Aug. 30, 2018).

<sup>26</sup> TIGTA, Report No. 2023-30-059, *Fiscal Year 2021 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (Sept. 2023).

<sup>27</sup> Section 1203 of the RRA 98 provides generally that IRS employees must be terminated from Federal employment if they violate certain rules in connection with the performance of their official duties. Section 1203(b)(1) requires removal of an IRS employee who willfully fails to obtain signatures on documents authorizing the seizure of certain types of property. The statute also allows the IRS Commissioner to mitigate the sanction of termination.

The IRM requires proper management approval and Advisory review to ensure that seizures are properly executed, taxpayer rights are protected, and taxpayers are not burdened. It is the IRS's duty to adhere to the laws and the procedures set forth in the IRM to protect taxpayers' rights and prevent erroneous taxes or levies. When revenue officers do not obtain the proper approvals or Advisory reviews, there is a risk that any errors of legal sufficiency and procedural accuracy will not be identified.

**Recommendation 1:** The Director, Collection Policy, SB/SE Division, should remind revenue officers of IRM procedures related to processing and documenting timely CDP hearing requests.

**Management's Response:** The IRS agreed with this recommendation and plans to issue a reminder to Field Collection employees to follow existing IRM procedures related to processing and documenting timely CDP hearing requests.

The Director, Field Collection, SB/SE Division, should:

**Recommendation 2:** Remind revenue officers that an Advisory review of all pre-seizure actions is required before any seizure is initiated.

**Management's Response:** The IRS agreed with this recommendation and, in July 2024, issued a reminder to revenue officers that Advisory must review cases for technical accuracy prior to seizure.

**Recommendation 3:** Remind revenue officers and managers on how to appropriately address installment agreements that are made solely to delay collection action.

**Management's Response:** The IRS agreed with this recommendation and plans to issue a reminder to Field managers and revenue officers of the procedures related to IA requests that may be made to delay collection action.

**Recommendation 4:** Review each of the three case files to determine whether disciplinary action is warranted for failure to follow proper procedures, resulting in potential violations of taxpayer rights. Additionally, consider these errors when evaluating each employee's performance in accordance with RRA 98 § 1204(b).

**Management's Response:** The IRS agreed with this recommendation and plans to review the three case files identified to determine whether disciplinary action is warranted for failure to follow proper procedures. When evaluating IRS Collection

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<sup>28</sup> I.R.C. § 7122(e) – "The Secretary shall establish procedures — for an independent administrative review of any rejection of a proposed offer-in-compromise or installment agreement made by a taxpayer under this section or section 6159 before such rejection is communicated to the taxpayer; and which allow a taxpayer to appeal any rejection of such offer or agreement to the Internal Revenue Service Independent Office of Appeals."

employees who intentionally disregard IRS policies concerning levy action on a tax period in which NFTL appeals were filed timely and determinations were still pending, the IRS will apply the RRA 98 § 1204(b) retention standard as shown in IRM 6.430.2.4.7 and IRM 6.430.2-1, and consider appropriate discipline in consultation with Labor Relations and SB/SE Collection leadership. Additionally, the IRS will review and update IRM guidance to clarify that there is consideration of appropriate discipline in accordance with IRM 6.751.1.

### **A Revenue Officer** [REDACTED]

In [REDACTED] of the 73 seizure cases, [REDACTED]<sup>29</sup>

I.R.C. § 6103 safeguards the confidentiality of tax returns and return information, permitting disclosure only when authorized by a specific exception within the statute or when it becomes public record during a tax administration proceeding. Furthermore, I.R.C. § 6103 prohibits the sharing of tax return information with third parties, unless the taxpayer has explicitly authorized the IRS to do so. The regulations also authorize the IRS to accept non-written requests or consents authorizing the disclosure of return information to third parties assisting taxpayers in resolving Federal tax-related matters.<sup>30</sup> Such a request is an Oral Disclosure Consent. The IRM provides guidance to revenue officers and group managers in Field Collection on disclosure topics, which may arise while communicating with taxpayers and/or their authorized representatives as part of their official duties.<sup>31</sup>

When a revenue officer receives Oral Disclosure Consent from a taxpayer to authorize a third party to receive case and tax return information, the revenue officer must document the following in the Integrated Collection System history: 1) first and last name of the designee, 2) telephone number of the designee, 3) tax periods authorized for the designee, and 4) issue(s) authorized for the designee.<sup>32</sup> In this case, the revenue officer spoke to the third party on several occasions and did not document all the required information in the Integrated Collection System history. IRS management agreed and stated the revenue officer made an error in not acquiring the proper support for disclosure.

**Recommendation 5:** The Director, Collection Policy, SB/SE Division, should remind revenue officers of their obligation to comply with I.R.C. § 6103, ensuring that they follow the proper Oral

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<sup>29</sup> [REDACTED]

<sup>30</sup> 26 CFR 301.6103(c)-1(c).

<sup>31</sup> IRM 5.1.22 (Mar. 1, 2023).

<sup>32</sup> IRM 5.1.22.8(8) (Mar. 1, 2023).

Disclosure Consent procedures to prevent unauthorized disclosure of taxpayer return information and avoid any potential violation of a taxpayer's rights under I.R.C. § 6103.

**Management's Response:** The IRS agreed with this recommendation and plans to remind revenue officers of the procedures for oral disclosure consent and to properly document the case history.

## A Revenue Officer [REDACTED]

In [REDACTED] of the 73 seizure case files, there was evidence that [REDACTED] was allegedly advising [REDACTED] 33 [REDACTED]

The IRS Office of Professional Responsibility (OPR) enforces Treasury Department Circular 230, *Regulations Governing Practice before the Internal Revenue Service*, which outlines how attorneys, certified public accountants, enrolled agents, and tax return preparers fulfill their professional responsibilities.<sup>34</sup> Circular 230 gives the OPR the authority to suspend or revoke, through disbarment, a practitioner's eligibility, and authority to practice before the IRS. When an IRS employee suspects practitioner misconduct, the IRM requires them to refer this information to the OPR.<sup>35</sup> The OPR may investigate and determine a punishment to the tax professional. Additionally, OPR training given to new revenue officers states that OPR referrals should be made for incompetence and disreputable conduct which includes willfully assisting, counseling, or encouraging a client to evade taxes or payment.<sup>36</sup>

[REDACTED] However, executives in Field Collection stated that there was not enough evidence to refer [REDACTED] it is highly questionable.

The role of a revenue officer extends beyond mere documentation of evidence and recovering unpaid taxes; it includes a responsibility to uphold the integrity of tax administration by promptly referring cases of suspected misconduct for thorough investigation. [REDACTED]

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<sup>33</sup> A taxpayer's representative is an eligible individual authorized to represent a taxpayer before the IRS. Form 2848, *Power of Attorney and Declaration of Representative*, is a taxpayer's written authorization for a designated individual or individuals to perform certain specified acts on the taxpayer's behalf. The individual authorized must be a person eligible to practice before the IRS, such as attorneys, certified public accountants, or enrolled agents.

<sup>34</sup> Department of the Treasury, Treasury Department Circular No. 230 (Rev. 6-2014), *Regulations Governing Practice before the Internal Revenue Service* (June 2014).

<sup>35</sup> IRM 1.25.1.4(1) (June 1, 2010).

<sup>36</sup> IRM 1.25.1.4(5) (June 1, 2010).

[REDACTED] Given the potential implications for taxpayer compliance and public trust in the tax system, it is important that all avenues for addressing suspected practitioner misconduct are pursued.

**Recommendation 6:** The Director, Field Collection, SB/SE Division, should refer [REDACTED] to the OPR based on the available facts, [REDACTED]

**Management's Response:** The IRS agreed with this recommendation [REDACTED] in TIGTA's report to the OPR in July 2024.

**Recommendation 7:** The Director, Collection Policy, SB/SE Division, should remind revenue officers that when they suspect practitioner misconduct, they are required to initiate a referral to the OPR.

**Management's Response:** The IRS agreed with this recommendation and plans to remind revenue officers to follow established guidelines and procedures for referring instances of potential practitioner misconduct to the OPR.

## Revenue Officers Chose Seizure Over Potential Alternative Collection Strategies

While revenue officers generally close seizure cases accurately, in seven cases, alternative collection strategies may have secured more collections and helped bring the taxpayers into compliance. These collection strategies include the nominee theory, transferee NFTL, and alter-ego theory. The strategies are defined below along with examples of three of the seven cases identified in this review.

- [REDACTED] The nominee theory is generally a third-party individual who holds legal title to property of a taxpayer while the taxpayer enjoys full use and benefit of that property. In other words, the Federal tax lien extends to property "actually" owned by the taxpayer even though a third party holds "legal" title to the property as nominee. The third party in a nominee situation is either another individual or a trust.
- [REDACTED] The transferee NFTL refers specifically to when a statutory lien attaches to property and the property has been transferred by the taxpayer through a gift, bequest, devise, or inheritance before the IRS could file an NFTL. There is no requirement that the taxpayer retain use of or a beneficial interest in the property. With the approval of Area Counsel, the revenue officer may file a special condition NFTL naming the transferee and the property transferred.

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Alter ego

means a "second self." It is a doctrine that allows the law to disregard an entity's separate legal identity to extend liability and prevent abuse. Using the alter ego theory, if an individual is the alter ego of a corporate taxpayer or other legally distinct entity, then that individual's assets may be used to satisfy the debts of the corporate taxpayer. This is sometimes called "piercing the corporate veil."

Revenue officers followed proper procedures for the seizures in the seven cases, but not pursuing these alternative strategies may have potentially delayed collection activities or allowed the taxpayer to evade collection. Revenue officers face complex tasks when working collection cases assigned to them. Their responsibilities include gathering information, enforcing collection actions, and safeguarding the U.S.' interest in tax debts owed. By proactively exploring these legal theories and collection strategies, revenue officers could increase the effectiveness of tax collection efforts and ensure that taxpayers meet their obligations to the IRS.

## Appendix I

### Detailed Objective, Scope, and Methodology

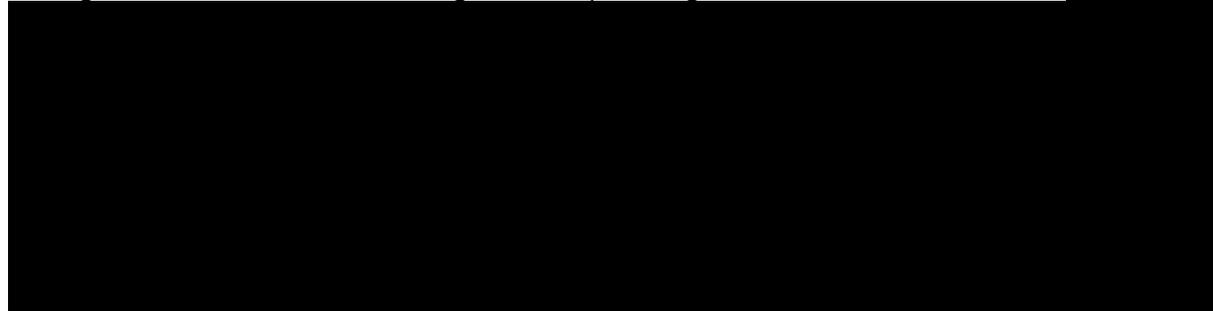
The overall objective of this audit was to determine whether seizures were conducted in accordance with I.R.C. and IRS procedures. To accomplish our objective, we:

- Reviewed current IRS procedures and guidelines used by SB/SE Division employees during the audit period for achieving compliance with I.R.C. §§ 6330 through 6344.
- Evaluated the IRS's compliance with the seizure procedures of I.R.C. §§ 6330 through 6344 and its internal procedures by reviewing all 73 seizures conducted from July 1, 2022, through June 30, 2023.
- Evaluated the IRS's compliance with the CDP and equivalent hearing procedures prior to the seizure by reviewing all 73 seizures conducted from July 1, 2022, through June 30, 2023, for a previous Appeals CDP hearing request or an equivalent hearing (I.R.C. § 6330).

### **Performance of This Review**

This review was performed with information obtained from the offices of the SB/SE Division Headquarters, in Lanham, Maryland during the period September 2023 through July 2024. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

During our review of the seizure log for the upcoming FY 2025 review, we noticed



Major contributors to the report were Matthew A. Weir, Acting Deputy Inspector General for Audit; Phyllis Heald London, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations); Frank O'Connor, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations); Michele Jahn, Acting Director; Jon-Michael Socaris, Audit Manager; Matthew Safranek, Lead Auditor; and Jocquin Gude, Auditor.

### **Internal Controls Methodology**

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems

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for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: SB/SE Division Collection function's policies, procedures, and practices for conducting seizures of taxpayers' property under the provisions of I.R.C. §§ 6330 through 6344. We evaluated these controls by reviewing appropriate internal procedures and guidelines and completed a review of seizure case files.

## Appendix II

### Outcome Measure

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

#### **Type and Value of Outcome Measure:**

- Taxpayer Rights – Potential; four taxpayers for whom the IRS did not comply with a particular IRM section or obtain proper approvals (see Recommendations 1, 2, 3, and 5).

#### **Methodology Used to Measure the Reported Benefit:**

We reviewed all 73 seizures that the IRS conducted from July 1, 2022, through June 30, 2023. We identified four cases involving four taxpayers in which the IRS did not comply with a particular IRM section or obtain the proper approvals, and as a result, taxpayers' rights were violated.

Management's Response to the Draft Report



COMMISSIONER  
SMALL BUSINESS/SELF-EMPLOYED DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, DC 20224

September 5, 2024

MEMORANDUM FOR DANNY R. VERNEUILLE

ACTING DEPUTY INSPECTOR GENERAL FOR AUDIT

Amalia C.

Digitally signed by Amalia  
C. Colbert

FROM:

Lia Colbert Colbert  
Commissioner, Small Business/Self-Employed Division

Date: 2024.09.05  
16:56:03 -04'00'

SUBJECT:

Draft Audit Report – Fiscal Year 2024 Mandatory Review of  
Compliance With Legal Guidelines When Conducting Seizures of  
Taxpayers' Property (Audit #2024300002)

Thank you for the opportunity to review and comment on the subject draft audit report, which evaluates whether the IRS complied with Internal Revenue Code (IRC) § 6330 through 6344 when conducting seizures. We are committed to helping taxpayers meet their tax responsibilities while respecting and protecting their rights.

We appreciate your recognition that we complied with legal and administrative requirements in over 95 percent of seizures conducted during the period of July 1, 2022 through June 30, 2023. We are committed to conducting our collection programs in a manner that is consistent with IRC and Internal Revenue Manual (IRM) guidelines.

In your report, several recommendations are made to remind IRS revenue officers of existing policy and guidance when conducting seizures. We recognize the importance of protecting taxpayers' rights and agree that reminders will promote ongoing compliance with legal and administrative requirements.

Seven cases are detailed in which TIGTA states collection actions other than seizure would have increased the effectiveness of tax collection. Pursuant to IRM 5.10.1, revenue officers are required to consider alternative methods of collection prior to seizure. In these cases, the seizure determination was based on facts of the particular case and the risk to the government of pursuing the alternatives.

We are committed to fairly and effectively collecting taxes owed through all means allowed by IRC § 6330 through 6344. We will continue to find ways to improve our seizure processes to ensure that the rights of taxpayers are protected, and we value your insights and recommendations.

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Attached are our comments and proposed actions to your recommendations. If you have any questions, please contact me, or Frederick W. Schindler, Director, Collection, Small Business/Self-Employed Division.

Attachment

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Attachment

**RECOMMENDATION 1:**

The Director, Collection Policy, SB/SE Division, should remind revenue officers of IRM procedures related to processing and documenting timely CDP hearing requests.

**CORRECTIVE ACTION:**

We agree to issue a reminder to Field Collection employees reminding them to follow existing IRM procedures related to processing and documenting timely Collection Due Process hearing requests.

**IMPLEMENTATION DATE:**

February 15, 2025

**RESPONSIBLE OFFICIAL:**

Director, Collection Policy, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN:**

We will monitor this corrective action as part of our internal management system of controls.

The Director, Field Collection, SB/SE Division, should:

**RECOMMENDATION 2:**

Remind revenue officers that an Advisory review of all pre-seizure actions is required before any seizure is initiated.

**CORRECTIVE ACTION:**

In July 2024 we issued a reminder to revenue officers that Advisory must review cases for technical accuracy prior to seizure.

**IMPLEMENTATION DATE:**

Implemented

**RESPONSIBLE OFFICIAL:**

Director, Field Collection, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN:**

N/A

**RECOMMENDATION 3:**

Remind revenue officers and managers on how to appropriately address installment agreements that are made solely to delay collection action.

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**CORRECTIVE ACTION:**

We agree to issue a reminder to Field managers and revenue officers reminding them of procedures related to installment agreement requests that may be made to delay collection action.

**IMPLEMENTATION DATE:**

February 15, 2025

**RESPONSIBLE OFFICIAL:**

Director, Collection Policy, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN:**

We will monitor this corrective action as part of our internal management system of controls.

**RECOMMENDATION 4:**

Review each of the three case files to determine whether disciplinary action is warranted for failure to follow proper procedures, resulting in potential violations of taxpayer rights. Additionally, consider these errors when evaluating each employee's performance in accordance with RRA 98 § 1204(b).

**CORRECTIVE ACTION:**

We agree to review the three case files identified to determine whether disciplinary action is warranted for failure to follow proper procedures. When evaluating IRS Collection employees who intentionally disregard IRS policies concerning levy action on a tax period in which Notice of Federal Tax Lien appeals were filed timely and determinations were still pending, we apply the RRA 98 § 1204(b) retention standard as shown in IRM 6.430.2.4.7 and IRM 6.430.2-1, and we consider appropriate discipline in consultation with Labor Relations and SB/SE Collection leadership. IRS will review and update IRM guidance to clarify that there is consideration of appropriate discipline in accordance with IRM 6.751.1.

**IMPLEMENTATION DATE:**

June 15, 2025

**RESPONSIBLE OFFICIAL:**

Director, Field Collection, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN:**

We will monitor this corrective action as part of our internal management system of controls.

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**RECOMMENDATION 5:**

The Director, Collection Policy, SB/SE Division, should remind revenue officers of their obligation to comply with I.R.C. § 6103, ensuring that they follow the proper Oral Disclosure Consent procedures to prevent unauthorized disclosure of taxpayer return information and avoid any potential violation of a taxpayer's rights under I.R.C. § 6103.

**CORRECTIVE ACTION:**

We agree to remind revenue officers of the procedures for oral disclosure consent and to properly document the case history.

**IMPLEMENTATION DATE:**

June 15, 2025

**RESPONSIBLE OFFICIAL:**

Director, Collection Policy, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN:**

We will monitor this corrective action as part of our internal management system of controls.

**RECOMMENDATION 6:**

The Director, Field Collection, SB/SE Division, should refer [REDACTED] to the OPR based on the available facts, [REDACTED]  
[REDACTED]

**CORRECTIVE ACTION:**

In July 2024 [REDACTED]  
[REDACTED]

**IMPLEMENTATION DATE:**

Implemented

**RESPONSIBLE OFFICIAL:**

Director, Field Collection, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN:**

N/A

**RECOMMENDATION 7:**

The Director, Collection Policy, SB/SE Division, should remind revenue officers that when they suspect practitioner misconduct, they are required to initiate a referral to the OPR.

**CORRECTIVE ACTION:**

We agree to remind revenue officers to follow established guidelines and procedures for referring instances of potential practitioner misconduct to OPR.

**IMPLEMENTATION DATE:**

June 15, 2025

**RESPONSIBLE OFFICIAL:**

Director, Collection Policy, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN:**

We will monitor this corrective action as part of our internal management system of controls.

**Type and Value of Outcome Measure:**

- Taxpayer Rights – Potential; four taxpayers for whom the IRS did not comply with a particular IRM section or obtain proper approvals (see Recommendations 1, 2, 3, and 5).

**IRS Response**

We agree.

## **Appendix IV**

### **Glossary of Terms**

<b>Term</b>	<b>Definition</b>
Advisory	Advisory gives technical guidance to revenue officers and other Collection function personnel about liens, levies, litigation, and more. It reviews proposed suits, seizures, summons enforcement, special condition Notices of Federal Tax Lien, and other technical items for the Collection function.
Area Office	A geographic organizational level used by IRS business units and offices to help their specific types of taxpayers understand and comply with tax laws and issues.
Automated Collection System	A system used to collect delinquent taxes and returns through taxpayer contact, which is accomplished through incoming and outgoing telephone calls and correspondence to taxpayers and third parties.
Civil Enforcement Advice and Support Operations	Group of technical experts within the SB/SE Division who handle the most complex aspects of Field Collection activities.
Collection Due Process Hearing	A CDP hearing is an opportunity to discuss alternatives to enforced collection and permits the taxpayer to dispute the amount owed if the taxpayer has not had a prior opportunity to do so.
Collection Queue	An automated holding file for unassigned inventory of delinquent cases for which revenue officers are unable to be immediately assigned for contact due to limited resources.
Collection Statute Expiration Date	The date the statute expires for collection of tax, penalty, or interest. It is generally 10 years from the date the IRS assessed the tax, penalty, or interest.
Equivalent Hearing	A taxpayer who fails to make a timely request for a CDP hearing is not entitled to a CDP hearing, but may request an administrative Appeals hearing, which is referred to as an Equivalent Hearing (EH). A taxpayer must submit a written request for an EH within the one-year period beginning the day after the date of the CDP levy notice.
Field Collection	An IRS function within the SB/SE Division that helps taxpayers understand and comply with all applicable tax laws and applies the tax laws with integrity and fairness. It is also responsible for protecting the revenue and the interests of the Government through direct collection and enforcement activity with taxpayers or their representatives.
Fiscal Year	Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.
Independent Office of Appeals	The role of Appeals is to make an independent review of a tax dispute and to consider the positions taken by both the taxpayer and the IRS. Appeals strives to resolve tax disputes in a fair way and remain impartial to both parties.

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<b>Term</b>	<b>Definition</b>
Installment Agreement	Arrangements by which the IRS allows taxpayers to pay liabilities over time.
Internal Revenue Manual	Primary source of instructions to employees relating to the administration and operation of the IRS. The Manual contains the directions employees need to carry out their operational responsibilities.
Levy	A method used by the IRS to collect outstanding taxes from sources, such as bank accounts and wages or a legal seizure of property to satisfy a tax debt.
Notice of Determination	This letter advises the taxpayer of the Appeals determination on their case and grants them the right to petition the Tax Court for judicial review of the determination if they disagree with the Appeals determination.
Notice of Federal Tax Lien	A notice filed with the appropriate local government office, protecting the Federal Government's interest in the taxpayer's assets by providing public notice of the amount of unpaid tax.
Offer in Compromise	An agreement between a taxpayer and the Government that settles a tax liability for payment of less than the full amount owed.
Oral Disclosure Consent	26 CFR 301.6103(c)-1(c) authorizes the IRS to accept non-written requests or consents authorizing the disclosure of return information to third parties assisting taxpayers in resolving Federal tax related matters.
Property Appraisal and Liquidation Specialist	An IRS employee who specializes in the appraisal, marketing, and sale of both real and personal property.
Revenue Officer	An employee in the Collection function who provides customer service by explaining taxpayer rights and responsibilities, collecting delinquent accounts, securing delinquent returns, counseling taxpayers on their tax filing and payment obligations, conducting tax investigations, filing Notices of Federal Tax Lien, releasing Federal tax liens, and performing seizures and sales of delinquent taxpayer assets.
Seizure	The taking of a taxpayer's property to satisfy their outstanding tax liability.
Small Business/Self-Employed Division	The IRS organization that services self-employed taxpayers and small businesses by educating and informing them of their tax obligations, developing educational products and services, and helping them understand and comply with applicable tax laws.
Tax Module	Part of a taxpayer's account that reflects tax data for one tax class and one tax period.

**Abbreviations**

CDP	Collection Due Process
FY	Fiscal Year
IA	Installment Agreement
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
NFTL	Notice of Federal Tax Lien
OPR	Office of Professional Responsibility
RRA 98	Restructuring and Reform Act of 1998
SB/SE	Small Business/Self-Employed
TIGTA	Treasury Inspector General for Tax Administration



**To report fraud, waste, or abuse,  
contact our hotline on the web at [www.tigta.gov](http://www.tigta.gov) or via e-mail at  
[oi.govreports@tigta.treas.gov](mailto:oi.govreports@tigta.treas.gov).**

**To make suggestions to improve IRS policies, processes, or systems  
affecting taxpayers, contact us at [www.tigta.gov/form/suggestions](http://www.tigta.gov/form/suggestions).**

Information you provide is confidential, and you may remain anonymous.