

Section 1

5.11 Notice of Levy

1.1 (05/05/98)

Background

(1) This section contains background information.

1.1.1 (05/05/98)

Legal Authority

(1) The Internal Revenue Code (IRC) authorizes levies to collect delinquent tax. See IRC 6331. Any property or right to property can be levied, unless it is exempt. See 1.3. All references to property in this handbook include rights to property.

1.1.2 (05/05/98)

Notice of Levy vs. Seizure

(1) There is no legal distinction between levy and seizure.

C Generally, use a notice of levy to take a taxpayer's property held by someone else, if it can be turned over by writing a check.

Example: Notice of Levy is often used to take a taxpayer's bank account, wages, or receivables.

C If the taxpayer is holding the property, use procedures in the seizure and sale handbook.

Example: Seizure procedures are often used to take a taxpayer's car, house, or business property.

C If a third party is holding property that can not be turned over by writing a check, use seizure procedures. Also, give a notice of levy to the person holding the property. This is the demand to turn over the taxpayer's property.

Example: If a taxpayer's car is seized in a commercial parking lot, use seizure procedures. Give the attendant a notice of levy to demand that the car be turned over.

(2) There is no required sequence for levying. Generally, though, levy funds that are held by a third party first. This is usually less time consuming.

1.1.3 (Revised Text)

Appeals

(1) Taxpayers may be entitled to a "Due Process" hearing, or an equivalent hearing, under IRC 6330. See Chapter 9 (Taxpayer Rights) of IRM 5.1, General Handbook.

(2) Notices of levy can also be appealed under the Collection Appeals Program (CAP), regardless of whether the taxpayer can appeal under IRC 6330. CAP was created to give taxpayers a change for administrative review that is independent from the Collection function. See Chapter 9 (Taxpayer Rights) of IRM 5.1, General Handbook.

1.1.4 (05/05/98)

Problem Resolution Program

(1) Problem Resolution cases and Applications for Taxpayer Assistance Orders may be initiated because of notices of levy. See IRM 5.1, General, for criteria and procedures.

1.2 (05/05/98)

Pre-Levy Actions

(1) This contains guidance on pre-levy actions.

1.2.1 (Revised

(1) Before property can be levied, the taxpayer must be given a:

Section 1

5.11 Notice of Levy

Text)	C	notice and demand,
Required	C	notice of intent to levy, and
Notices	C	notice of a right to a hearing.

(2) The notice and demand must be left at the taxpayer's home or business, or it must be mailed to the taxpayer's last known address. This is normally taken care of by a master file notice mailed shortly after there is an assessment. This is commonly referred to as the first notice. The taxpayer has ten days to pay the amount that is owed. See IRC 6331 (a). If the taxpayer neglects or refuses to pay the amount due, a Federal tax lien arises.

Note: On January 1, 1997, Taxpayer Bill of Rights 2 changed the interest free period for this notice. No interest is charged for 21 days after the notice and demand, if less than \$100,000 is owed. If at least \$100,000 is owed, no interest is charged for ten business days. These changes did NOT affect the ten day notice and demand period before issuing a levy.

(3) In addition, the taxpayer must be given a notice of intention to levy. The taxpayer has thirty days to pay the amount that is owed before property can be levied. See IRC 6331 (d). This notice must be:

- C given in person,
- C left at the taxpayer's home or business, or
- C sent to the taxpayer's last known address by certified or registered mail.

Note: Use registered mail only if the taxpayer is outside the United States. There is no international certified mail.

Exception: If collection is in jeopardy, only the notice and demand is required, and then property can be levied immediately. See Section 3.

(4) For any levy served after January 18, 1999, the taxpayer must also be given a notice of a right to a hearing. See IRC 6330. The taxpayer has thirty days after this notice is given or mailed to ask for a hearing, before property can be levied. This notice is given to the taxpayer in the same manner as the notice of intent to levy, except that if it is mailed, a return receipt MUST be included. See 5.1.9 for instructions about the taxpayer's right to a hearing, including whether the TP can appeal, when the TP can appeal, and the consequences of asking for an appeal.

Exception: The exception for jeopardy in (3) also applies to the notice of a right to a hearing. However, the taxpayer must still be given the opportunity for a hearing within a reasonable time AFTER the levy, if collection is in jeopardy. See Section 3.

Exception: A taxpayer's state income tax refund can be levied, even though the TP may not have already been sent a notice of a right to a hearing. However, the taxpayer must be given the opportunity for a hearing within a reasonable time AFTER the levy.

(5) When counting the ten day or thirty day periods, do not count the day that the notice is mailed or given to the taxpayer. Then, when the time to pay has run out, the next action can be taken on the following day.

Caution: As long as a request for a hearing is postmarked timely, it is timely. Allow at least fifteen additional days after the thirty day period ends, in case the taxpayer mails a request for a hearing on the thirtieth day. However, if the taxpayer confirms that no hearing has been requested, there is no need to wait the additional fifteen days.

Section 1

5.11 Notice of Levy

Example: A notice of a right to a hearing is gen to the taxpayer on March 1. The taxpayer has until the close of business on March 31 to pay or request a due process hearing. On April 1, the Code allows property to be levied, unless something has happened to prevent it, e.g. payment, request for a hearing, installment agreement made, etc. However, counting the additional fifteen days, property will not be levied until April 16, unless the taxpayer confirms after March 31 that no hearing has been requested.

(6) The required notices must be sent for each module included on a levy.

Caution: If the required notices for a module have been sent, and the additional tax is assessed, new notices offering a due process hearing must be sent before that additional assessment may be included in a levy.

Example: The three notices have been sent for the tax owed on a taxpayer's 1996 income tax return, and nothing has happened to stop collection action for that assessment, e.g. a timely request for a due process hearing. A notice of levy can be issued to collect this tax. If a TC 290 posts on that module later, a notice and demand will be sent from the service center. However, a new notice of intent to levy and notice of a right to a hearing must also be sent for this additional assessment before it can be included in a notice of levy.

(7) Also, see 6.11.2 when a levy is served on a non-liable spouse in a community property state.

1.2.2 (Revised Text) Satisfying the Notice Requirements

(1) Generally, a notice and demand is sent before a revenue officer receives TDAs.

(2) The service center sends the taxpayer the notice and demand, unless there is a jeopardy, quick, termination or prompt assessment.

(3) The notice of Intent to Levy and Notice of Your Right to a Hearing is issued only when ACS or a revenue officer is about to levy, because offering an appeal to millions of taxpayers for who no levies will be issued would be inappropriate. This means that after January 18, 1999, there is no need to check whether IDRS issued a notice of intent to levy. Regardless of whether it did, ACS or Collection Field function (CFf) must issue a notice of intent to levy/notice of a right to a hearing, referred to above, before property is levied, unless collection is in jeopardy.

1.2.2.1 (Revised Text) Recognizing if ACS Issued a Notice of Intent to Levy/Notice of a Right to a Hearing

(1) ACS can issue a notice of intent to levy/notice of a right to a hearing. (2) If the ACS transcript shows action code LT11 on or after 1-19-1999 for the same liabilities that a revenue officer will be levying to collect, there is no need to issue this notice in CFf. An LT11 issued before this date was only a notice of intent to levy. It did not include the notice of a right to a hearing.

Exception: The ACS transcript may show LT11, but the notice may have been stopped before it was sent.

IF	AND	THEN
Action Code CLnn (nn is a two digit number) is on the ACS transcript.	This Code is the same date as the LT11.	The LT11 was not sent.

Section 1

5.11 Notice of Levy

Acton Code MCLT is on the transcript.	The LT11 is the most recent LTnn (nn is a two digit number) before the MCLT.	The LT11 was not sent.
---------------------------------------	--	------------------------

(3) Another way to recognize if the notice has been issued already is to see if there is a Transaction Code (TC 971, Action Code (AC) 69 on the module. This is input after the service center mails the ACS notice. Then, the results of mailing the notice are shown by a second TC 971.

- C AC 66 The return receipt was signed, so the notice was delivered.
- C AC 67 Delivery was refused.
- C AC 68 The notice was returned, undelivered.

1.2.2.2 (Revised Text) Issuing Notice of Intent to Levy/Notice of a Right to a Hearing in CFf

(1) If ACS has not already issued a notice of intent to levy/notice of a right to a hearing for each module that will be levied, the revenue officer must do this before any notice of levy is issued, unless collection is in jeopardy. Letter 1058(DO) Rev 1-1999 or the ICS version of this letter is used for this. These letters are both a notice of a right to a hearing and a notice of intent to levy. With these letters, include:

- C Publication 594 (The IRS Collection Process),
- C Publication 1660 (Collection Appeal Rights),
- C Form 12153 (Request for a Collection Due Process Hearing), and
- C A copy of the letter.

Caution: Even if copies of the 1-1999 revision to Letter 1058 are available before 1-19-1999, do not use them. These notices are not to be issued before that date.

Caution: If the 1058 is sent but mistakenly is not sent to the taxpayer's last known, release any levies that have been served, and issue a new 1058. Also, see 2.3.

Reminder: If the taxpayer has an authorized representative, a copy of correspondence to the taxpayer must also be given to the representative. However, use regular mail for the copy.

(2) Because taxpayers only have the right to one Collection Due Process Hearing for each liability, avoid listing liabilities on Letter 1058 which have already been included in such a notice. Sending more than one notice for a liability may give taxpayers the impression they can have another Due Process Hearing.

(3) For IMF taxpayers, also include Notice 609 (Privacy Act Notification) with the letter.

Reminder: Input TC 971 Action Code 35 on the eleventh day after the letter is issued on modules that had no IDRS notice of intent to levy. This input is not necessary, if an IDRS 504 notice (status 58) was already issued for the module.

Reminder: None of the service center IDRS notices are notices of a right to a hearing.

Reminder: If the notice is mailed, it must be sent by certified or registered mail WITH A **RETURN RECEIPT.**

(4) When the notice is mailed, input Transaction Code (TC) 971, Action Code (AC) 69

Section 1

5.11 Notice of Levy

on modules that do not already have this on them. Then, when the results of the delivery are known, input Action Code 66, 67, or 68, as shown in 1.2.2.1.

(a) If the notice is given in person instead of being mailed, input TC 971, AC 69 and TC 971, AC 66 on the same date to indicate this.

(b) If the notice is left at the taxpayer's home or business address instead of being mailed, input TC 971, AC 69, and TC 971, AC 67 on the same date to indicate this.

Note: Using the AC 67 has nothing to do with delivery being refused. Inputting it the same date as the AC 69 is merely a way to show how the notice was delivered. Refused delivery is distinguished from this by the AC 67 being at a later date than the AC 69.

(5) If there are TDAs for jointly filed income tax returns, prepare two copies of Letter 1058. If they are not delivered in person or left at the taxpayer's home or business, mail them in separate envelopes to the taxpayers. Address one envelope to the primary taxpayer and one to the secondary, although both taxpayers' names will be on each of the notices. Do this regardless of whether the taxpayers live at the same address or different addresses. Do not use a window envelope. If there are changing name liens, be careful that taxpayers are not sent a notice for taxes they do not owe.

Example: John and Mary Doe owe tax for their 1996 joint income tax return. John Doe also owes tax for his single return for 1995. John must be sent a notice for both years, but only send Mary a notice for 1996.

(6) Input the TC 971 and ACs as explained in (3). However, when separate notices are sent for joint assessments, include the secondary taxpayer's social security number as, "X-Ref XXX-XX-XXXX," in the Remarks on the posting document for inputting the record of that person's notice. This will distinguish the primary and secondary taxpayers' ACs.

Example: John and Mary Doe's notices for their joint 1996 income tax return are both mailed on 1-29-1999. John's return receipt comes back signed, but Mary's is returned undelivered. There will be two TC 971s with AC 69 on 1-29-1999. One will have Mary's X-Ref SSN. The other will have no X-Ref SSN. There will also be a TC 971 AC 66 with no X-Ref SSN for John's notice and a TC 971 AC 68 with Mary's X-Ref SSN for Mary's notice.

Note: When ACS issues an LT11, it will only issue one notice for joint IMF assessments. The Restructuring and Reform Act includes a standard for separate notices, "whenever practicable." Because of the volume and batch processing of these computer printed notices, ACS will not issue separate notices for joint assessments. The single ACS notice is, nevertheless, notice to both taxpayers. Additional, separate notices do not have to be sent when CFf is collecting the same liabilities for which ACS already issued its Notice of Intent to Levy/Notice of a Right to a Hearing.

1.2.2.3 (Revised Text) Timeliness Of Notice

(1) The purpose of the Notice of Intent to Levy described in 1.2.1:(3) is to warn the taxpayer that continued failure to respond can be expected to result in enforcement. However, when a long time passes after the notice is issued and there has not been enforcement, the notice loses its effectiveness as a warning.

(2) If a notice of intent to levy is over 180 days old, it is no longer timely. At this point, the taxpayer will get a new warning of enforcement action before a notice of levy is issued.

(a) This warning must be documented in the case file. It may be:

Section 1

5.11 Notice of Levy

- C given orally (in person or by phone) that there is a deadline (not necessarily thirty days) after which there will be enforcement, or
- C given in writing (see Exhibit 5.11.1-3), if the taxpayer can not be contacted.

Note: Do not use Letter 1058 to address the timeliness of the taxpayer's warning. The taxpayer gets the opportunity only once for a pre-levy hearing described in that letter for each liability. Sending another 1058 may give the impression that the taxpayer can do this again.

Exception: Collection is in jeopardy. There is jeopardy only if one of the conditions exists that would allow a jeopardy assessment. See Policy Statement 4-88. The group manager, and the next level manager, must approve the jeopardy levy. See 3.1:(3) and 3.3:(7) to determine if Counsel's approval is required. The taxpayer can discuss the levy with the group manager, the Taxpayer Advocate, and the Appeals Officer.

Exception: Computer matching programs in which files of liabilities are matched against files of assets/income which result in immediate payment, so there is no time for an intervening notice, e.g. levy on state tax refunds.

Exception: Enforcement has taken place within the last 180 days. Enforcement only includes seizures and notices of levy, so the taxpayer should realize there has been enforcement. For example, if a notice of levy is sent to an employer, and it is returned because the taxpayer no longer works there, this notice of levy does not start the count for a new 180 day period. The taxpayer would have no way to realize there had been an attempt to enforce. On the other hand, if a levy were be sent to a bank and a copy was sent to the taxpayer, even if there were no proceeds, the taxpayer would have been notified of the levy.

Exception: The taxpayer is a trust fund repeater. See IRM 1.11:(1) & (2) of IRM 5.7, Trust Fund Compliance Handbook.

- (b) This "timeliness" warning is in addition to the notices described in 1.2.1 (notice and demand/notice of intent to levy), which are required by law and must have been sent at some point. An oral warning to pay is not adequate to allow a notice of levy to be served if there has never been a thirty day notice of intent to levy.

Reminder: After January 18, 1999, all notices of levy (except jeopardy levies) will required a notice of intent to levy/notice of a right to a hearing. Once that date passes, notice timeliness will not be an issue for any levies until at least 180 days later.

(3) The notices described in 1.2.1 must have been sent for every module that is included in a notice of levy. However, the taxpayer has had timely notice as long as there has been recent warning of enforcement for at least one module included in a notice of levy within the last 180 days. In other words, the requirement for the notices in 1.2.1 must be met for each module included in a notice of levy, but the timeliness of warning is for the entity rather than each module.

Example: The notices described in 1.2.1 have been sent for all modules included in the notice of levy. They are over 180 days old, so the TP is given a new oral warning of enforcement. After the deadline passes, a new module is received for which a notice of intent to levy had been sent more than thirty days ago, so the legal requirement for this module has been met. A new oral warning is not necessary, even if the notice of intent to levy for this new module had been sent more than 180 days earlier, because the TP has been warned of enforcement within the last 180 days.

Section 1

5.11 Notice of Levy

- (4) If the taxpayer can not be located, the notices described in 1.2.1 (notice and demand/notice of intent to levy) still must have been sent to the last known address. However, additional notices for these liabilities do not have to be sent to the last known address just to meet the timeliness requirement.
- 1.2.3 (Revised Text)
Delegation Orders
- (1) Regulations under IRC 6331 have delegated levy authority to district directors. To be most efficient, redelegate this to the lowest reasonable level.
- (2) See Exhibit 5.11.1 -1 for suggested delegations.
- (a) Items in I of the Exhibit are suggested local delegation levels. If local conditions justify delegating otherwise, management has the discretion to address those needs by varying from the suggested delegation.
- Example:** A small post of duty (POD) has few employees at the suggested levy for releasing levies. Local management, then, delegates authority to a Customer Service employee at the POD, so taxpayers who have been levied can get the levies released immediately when they bring payment to the POD.
- (b) Items in II of the Exhibit, however, identify the lowest level that certain actions can be delegated. Local management will not delegate lower than this.
- 1.2.4 (09/04/98)
Managerial Approval
- (1) Certain Notices of levy must be approved by managers. See Exhibit 5.11.1-1. Managers must approve the levies described in 11 of the Exhibit, as well as any levies issued by employees who have not been delegated authority to levy.
- (2) When the notice of levy is turned in for approval include the following information:
- C a summary of any information the taxpayer has provided that may affect the decision to levy, e.g. claims that the assessment is wrong;
 - C if the taxpayer has submitted such information, an explanation that the employee has reviewed the information, and why the notice of levy should still be served;
 - C verification that the amount is owed, e.g. IDRS has confirmed the amount is still unpaid;
 - C an explanation that the notice of levy is appropriate, considering the amount owed and any circumstances that are known about the taxpayer and the liability.
- (3) Some things that might influence how appropriate the levy is may include, among other things:
- C the taxpayer's responsiveness to attempts at contact and collection,
 - C anything that is known about the taxpayer's financial condition,
 - C the taxpayer's history of delinquency,
 - C the taxpayer's efforts to pay the tax,
 - C whether current taxes are being paid,
- (4) This information must be written, but the format can be at local management discretion.
- Example:** A notice of levy that a group manager approves, may need no more than a history entry, and the case file can be turned in with the notice of levy. In an ICS district, on the other hand, the history entry can be on ICS, and the notice of levy can include a note telling the group manager the date of the entry, so it can be retrieved on ICS.

Section 1

5.11 Notice of Levy

(5) A notice of levy that requires the Director or Assistant Director's (DD/ ADD) approval must include a memo explaining the information in (2). If all levels approve the notice of levy, but the DD/ADD rejects it, the rejection must be in writing and explain the reason(s). Keep a copy of memos asking for approval and the rejections with the case.

(6) If a courtesy levy is involved, indicate that the required manager has approved the notice of levy.

1.3 (05/05/98) Restrictions on Levy

(1) This contains restrictions on levy.

1.3.1 (05/05/98) Property Exempt from Levy

(1) IRC 6334 describes property that is exempt from levy. Some are property that would be taken by seizure procedures, if not for the exemption. See seizure instructions about these. Others are income that would be taken by a notice of levy, if they were not exempt. The exempt income sources are:

- C Unemployment benefits,
- C Certain annuity and pension payments, including payments under the Railroad Retirement Act, Railroad Unemployment Insurance Act, Special Pensions for Medal of Honor Winners, and Retired Serviceman's Family Protection Plan and Survivor Benefit Plan,
- C Workers Compensation,
- C Judgment for support of minor children, if the judgment is before the date of the levy,
- C Minimum exemption for wages, salary, and other income,
- C Certain military service connected disability payments,
- C Certain public assistance payments,
- C Assistance under the Job Training Partnership Act.

Note: The Taxpayer Relief Act of 1997 allows for levy on 15% of certain previously exempt government payments. However, the intent of this provision was to make a computer match possible between tax liabilities and records of payments from the government's disbursing agencies, so a flat percentage of the payments could be attached. Continue refraining from issuing notices of levy on the payments listed above.

(2) See IRC 6334 and the Legal Reference Guide for Revenue Officers for additional information about property exempt from levy.

(3) Members of the military and Public Health Service employees may deposit money in a Special Treasury Fund. Money can be deposited while the employees are outside the U.S. and its possessions. This money can not be levied. See Subsection 1035 of Title 10 of the U.S. Code.

(4) No other property is exempt from levy. No state or local law can exempt property from levy to collect federal tax.

Example: Even if property is exempt under a state homestead exemption law, it is not exempt from federal levy.

1.3.2 (05/05/98)

(1) When child support TDAs are being collected, three of the things in 1.3.1:(l) are not exempt from levy.

Section 1

5.11 Notice of Levy

Property Exempt from Levies Used to Collect Child Support TDAs

- C Unemployment benefits
- C Certain annuity and pension payments
- C Amount of income needed to pay a judgment for the support of minor children. However, income withheld for a judgment for child support is not levied, if the judgment is dated before the levy.

(2) Use Letter 1696(P) to explain the exemptions that do not apply for child support levies. See Exhibit 5.11.1-2

1.3.3 (05/05/98) Property in the Hands of the Courts

(1) Generally, do not levy assets in the hands of the courts. While the taxpayer is in bankruptcy or state insolvency proceeding, some assets may not be covered.

Caution: Do not levy without getting advice from Special Procedures, when there is a current bankruptcy condition, or the taxpayer states taxes were discharged in a prior bankruptcy. Bankruptcy laws allow debtors to sue the Service for damages and attorney fees when the automatic stay or discharge injunction is violated.

(2) Property may have been seized before the taxpayer began the court proceedings. This may affect whether the property can be sold.

(3) IRC 6332 says that an attachment or execution in a judicial process may have priority over a levy.

(4) When property is being used as evidence in a criminal court, it can be levied.

- a. Serve the levy on the official responsible for holding and releasing the property, e.g. police property clerk.
- b. Tell this person not to surrender the property, until the court releases it.

1.3.3.1 (09/04/98) Cash Deposited as Security for Bail

(1) Levy cash deposited as security for bail only if collection is in jeopardy. Collection is only in jeopardy if one of the conditions allowing a jeopardy assessment exists. See Policy Statement P-4-88.

- The group manager and the next level manager must approve the levy.
- If the notices described in 1.2.1 have been sent, and the time periods for them have passed, the appeal process in 3.6 does not apply. The taxpayer can still discuss the levy with the group manager, the Problem Resolution Officer, or the Appeals Officer.
- If the notice requirements have not been satisfied, however, see Section 3 for required procedures and approval level.

(2) If a levy is served, tell the Court Clerk to respond when the taxpayer no longer requires a bond.

(3) If collection is not in jeopardy, do not levy. Instead, ask the Court Clerk to notify IRS when the bond is no longer required. Then, decide whether to levy the bond before it is returned to the taxpayer.

1.3.3.2 (05/05/98)

(1) Sometimes, property used in a crime or acquired through crime is forfeited.

Forfeited

Example: Criminal Investigation may seize money used in violating the Internal

Section 1

5.11 Notice of Levy

Property

Revenue Code. This may be subject to judicial forfeiture.

(2) If property can be forfeited, it will not be levied. However, Criminal Investigation may alert Collection to levy property if the court declares it is not forfeited.

1.3.4 (05/05/98) Property Outside the United States

(1) Serve notices of levy only within the United States, including the District of Columbia and U.S. possessions and territories. All of these are referred to below simply as the U.S.

(2) If the taxpayer is outside the U.S., but there are assets here, they can be levied.

(3) Never serve a notice of levy outside the U.S. Also, never serve a levy at another country's embassies, consulates, or missions, even if they are within U.S. Borders. See 6.9 of this handbook for levies served at the United Nations.

(4) A foreign bank may have branches in the U.S. A notice of levy can be served at U.S. branches and reach funds held there. It might also reach funds in branches outside the U.S. See 26 CFR 301.6332. Contact Special Procedures and District Counsel for advice.

(5) Several countries, including Canada, now have reciprocal tax treaties with the United States. See 42.1.7.9 in IRM 5.1 General regarding the Mutual Collection Assistance Program.

1.3.5 (09/04/98) Appearance Date of Summons

(1) Do not levy on a day the taxpayer must appear for a summons that was issued to collect tax. For example, the taxpayer may be summoned for a Collection Information Statement. See IRC 6331 (g).

(2) Even if a summons is issued for another reason, though, do not levy on the appearance date. For example, there may be TDAs and TDIs on the same taxpayer. The summons could be issued for the unfiled return.

(3) You are not required to contact other divisions to ask if they have summoned the taxpayer.

Exception: If collection is in jeopardy, a levy can be issued on the summons appearance date. Collection is only in jeopardy if one of the conditions allowing a jeopardy assessment exists. See Policy Statement P-4-88.

- The group manager and the next level manager must approve the jeopardy levy.
- If the notices described in 1.2.1 have been sent, and the time periods for them have passed, the appeal process in 3.6 does not apply. The taxpayer can still discuss the levy with the group manager, the Problem Resolution Officer, or the Appeals Officer.
- If the notice requirements have not been satisfied, however, see Section 3 for required procedures and approval level.

1.3.6 (05/05/98) Banks under FDIC

(1) The Service made an agreement with the Resolution Trust Corporation (RTC) about amounts owed by banks under RTC control. A notice of levy will not be used to collect these amounts.

Section 1

5.11 Notice of Levy

(Formerly RTC) Control

(2) RTC has been abolished, and the Federal Deposit Insurance Corporation (FDIC) took over RTC's functions. The RTC agreement continues to apply to banks under FDIC's control.

1.3.7 (Revised Text) Repeated Levies on the Same Source

(1) If repeated levies on the same source are necessary to collect a liability, document managerial approval.

(a) Manager's approval is required only if the same source has been levied before to collect the same liability. The age of the prior levy does not affect whether approval is needed, although it may affect how frequently the source can be levied without causing a hardship on the taxpayer.

(b) Review the case file/ICS history to determine if the source has been levied before to collect the same liability. If an ACS transcript has been received with the case, review the transcript, too, to see if the source was already levied to collect the tax.

(c) For cases that have been worked, closed, and then reactivated, there will not be an available file to review. For example, if the case is a reactivated CNC, there generally is no way to know whether a source was levied before to collect the same liability. There is no need to attempt to locate the earlier file in the Federal Records Center, since they are not retired in a manner that makes any given file retrievable. However, if the case was previously worked in ICS, the sources previously levied through ICS might be retrievable from the archive, depending on how long ago it was reported CNC. If it is available through the archive, check that.

(d) If there are any new modules that were not included in the earlier levy to the same source, manager's approval is not required, because the levy is being used to collect a new liability.

(e) A continuous wage levy or a levy that otherwise reaches a series of future payments, e.g. retirement payments, is not a repeated levy requiring manager's approval.

(2) See Policy Statement P-5-28.

1.3.8 (05/05/98) Government Training Allowances

(1) People attending government training programs develop skills, so they can get jobs. Except for payments under the Job Training and Partnership Act, these payments are not exempt from levy. However, levying them would defeat the purpose of the programs, so these payments will not be levied.

(2) See Policy Statement P-5-33.

1.3.9 (Revised Text) Pending & Active Installment

(1) If the taxpayer makes an offer to pay a liability through installments, no levies can be served while the proposal is pending.

Exception: A levy can be served if the taxpayer waives the restriction, in writing.

Section 1

5.11 Notice of Levy

Agreements

Exception: A levy can be served if collection is in jeopardy. Collection is only in jeopardy if one of the conditions allowing a jeopardy assessment exists. See Policy Statement P-4-88.

- The group manager and the next level manager must approve the jeopardy levy.
- If the notices described in 1.2.1 have been sent, and the time periods for them have passed, the appeal process in 3.6 does not apply. However, the taxpayer can still discuss the levy with the group manager, the Taxpayer Advocate, or the Appeals Officer.
- If the notice requirements in 1.2.1 have not been satisfied, see Section 3 for required procedures and approval level.

(2) In addition to the period that an offer of an installment agreement is pending, no can be served.

- for thirty days after an offer of an installment agreement is rejected
- while a rejection of a proposed agreement is being appealed
- while an agreement is in effect
- for thirty days after an agreement is terminated
- while termination of an agreement is being appealed

Exception: The same as in (1), above.

(3) By contrast, if a levy was issued **BEFORE** an installment agreement is made, it must be released, unless the agreement provides otherwise. See IRC 6343(a)(1)(C). However, if a levy was served and then the taxpayer offers to pay in installments, the levy does not have to be released while negotiations for the installment agreement are pending.

(4) If an offer of an installment agreement is made merely to delay collection, levies can be served to collect the tax. The provisions, such as approval level (group manager and next level manager), appeal, etc., under the second exception in (1) apply, in this case.

Example: A taxpayer makes an offer to make installment payments. The agreement is rejected. The taxpayer, then, offers to increase the amount by \$1.

(5) The Collection Statute Expiration Date is suspended for the period when no levies can be served.

1.3.10 (Revised Text) Refund Litigation

- (1) For tax periods that begin before January 1, 1999, if the taxpayer files a suit for a refund of divisible taxes, Special Procedures (with advice from District Counsel) determines whether collection is suspended during the suit
- a. Divisible taxes include employment taxes and trust fund recovery penalties.
 - b. Unlike other taxes, the taxpayer can pay only a portion of the amount owed before filing a suit for refund, so this refund litigation happens while there is still an amount owed.
- (2) Generally, however, for tax periods beginning after December 31, 1998, levy can be served to collect divisible taxes that are included in a suit for refund.

Exception: If collection is in jeopardy, levies can be issued to collect the tax.

- If the notice requirements of 1.2.1 have not been satisfied, see Section 3 for required procedures and approval level of the jeopardy levy.
- If the notice requirements of 1.2.1 have been satisfied, the jeopardy levy must be approved by the Chief, Collection function and District Counsel (or Associate

Section 1

5.11 Notice of Levy

District Counsel), but the appeal process in 3.6 does not apply. The taxpayer can still discuss the levy with the group manager, the Taxpayer Advocate, or the Appeals Officer.

Exception: If the taxpayer waives the restriction on levy in writing, levies can be issued to collect the tax.

(3) A levy that was issued before the suit was filed does not have to be released. However, contact District Counsel for advice about whether to release the notice of levy. If necessary, tell the person who received the levy to delay sending any proceeds until counsel's advice is received.

Section 1

5.11 Notice of Levy

Exhibit 5.11.1-1 (Revised Text)

Delegations of Authority

(References IRM 5.11, sections 1.2.2.3, 1.2.3, 1.2.4, 1.3.3.1, 1.3.5, 1.3.7, 1.3.9, 1.3.10, 3.3, 6.2, 6.3.1, 6.3.5, 6.6.1, 6.6.4, 6.6.6, & 6.9; IRM 5.1.9)

I. Suggested local delegations to Branch/Section/Unit Chief ACS/CSf/FSU; Revenue Officers and Bankruptcy Specialists GS 9 & above; GS 9-12; Dyed Diesel Compliance Officers GS 9 & above; Collection and Examination Managers of these Employees

- A. Notice of Levy, Form 668-A and 668-W
 - Benefit Income
 - Retirement Income
 - Social Security Income
 - All Other Types, unless listed in 11, below
- B. Final Demand, Form 668-C/ACS LP-59
- C. Release of Levy, Form 668-D/ACS LP-68
- D. Notice to Exhibit Books and Records, Form 2270

II. Local delegations for the following will not be lower than the levels indicated. Portions of local or regional Delegation Orders that allow approval lower than the levels shown below are no longer valid as of the date of this transmittal. See Chapter 9 (Taxpayer Rights) of IRM 5.1, General Handbook, for the lowest delegation of levy during appeal.

- A. Customer Service, CSf and FSU; Grade 6 in 592 & 962 Series
 - 1. Notices of Levy as described in I. A., except those in II. B., below.
- B. Branch/Section/Unit Chiefs Customer Service, CSf and FSU
 - 1. Notices of Levy
 - Benefit Income
 - Retirement Income
 - Social Security Income
 - Repeated Levies on the Same Source
- C. Group Manager
 - 1. Cash Loan Value of Life Insurance Policies (See 6.3.1)
 - 2. Repeated Levies on the Same Source (See 1.3.7)
 - 3. Levy on Both Spouses' Incomes (See 5.4.3)
- D. Chief, Collection Field function/Chief, Special Procedures function
 - 1. Relocation Act Payments (See 6.6.4)
 - 2. Foster Care Payments
 - 3. Jeopardy Levy without a Jeopardy Assessment, if the Notice Requirements in 1.2.1 have been met
 - a. Notice of Intent to Levy is over 180 Days Old (See 1.2.2.3)
 - b. Cash Deposited as Security for Bail (See 1.3.3.1)
 - c. Appearance Date of Summons (See 1.3.5)
 - d. Pending & Active Installment Agreements (See 1.3.9)
 - 4. Levy when an Offer of an Installment Agreement is made merely to Delay Collection (See 1.3.9)
- E. Chief, Special Procedures Function/Chief, Collection function
 - 1. Medicare Payments (See 6.6.1)
 - 2. Collection of Taxes included in Refund Litigation for Tax Periods Beginning Before 1-1-99 (See 1.3.10)
- F. BOTH the Chief, Collection function AND Regional Counsel (may be redelegated no lower than Associate District Counsel) must approve.
 - 1. Jeopardy Levy without a Jeopardy Assessment, if the Notice Requirements in 1.2.1 have not been

Section 1

5.11 Notice of Levy

satisfied (See 3.3)

Exhibit 5.11.1-1 (Cont. 1) (Revised Test)

Delegations of Authority

- G. **BOTH** Chief, Collection function **AND** District Counsel (or Associate District Counsel) must approve.
 - 1. Jeopardy Levy without a Jeopardy Assessment, if the Notice Requirements in 1.2.1 have been satisfied, the Taxes are in Refund Litigation, and the Taxes are for Periods Beginning After 12-31-98 (See 1.3.10)
- H. District Director/Assistant Director
 - 1. Funds Held in Pension and Retirement Plans, as well as IRAs (See 6.2)
 - 2. Death Benefits (See 6.3.5)
 - 3. United Nations Employees' Salaries (See 6.9)
 - 4. Restitution Payments for Japanese WWII Internment (See 6.6.6)

Section 1

5.11 Notice of Levy

Exhibit 5.11.1-2 (05/05/98)
Letter 1696(P) (Rev. 1-90)

(Reference 1.3.2)

Taxpayer's Name:
Address:
Social Security Number:
Person to Contact:
Telephone Number:

(Name and Address of Levy Source)

(Salutation):

The enclosed notice of levy is for the collection of a delinquent child support obligation as authorized by section 6305 of the Internal Revenue Code. The following exemptions from levy under Code sections 6334(a)(4), (6), and (8) listed on the back of Part (insert 4, if Form 668W(C)(DO) is enclosed. Insert 1, if Form 668A(C)(DO) is enclosed). of the levy do not apply:

- 1) Unemployment benefits,
- 2) Certain annuity and pension payments, and
- 3) Judgments for support of minor children unless the funds are actually withheld because of a garnishment under the judgment.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely,

(Place for signature)

Title

Enclosures:
Notice of levy
Envelope

Letter 1696(P) (Rev. 1-90)

Section 1

5.11 Notice of Levy

Exhibit 5.11.1-3

Letter 3174 (P) (Rev 1-1999)

(Reference 1.2.2.4)

Letter Number: 3174(P)
Letter Date:
Social Security Number or Employer
Identification Number:
Person to Contact:
Telephone Number:

Taxpayer Name
Address

Dear (name)

Although we previously sent you a notice of our intention to collect your unpaid tax through enforced collection, our records show that you still have not paid the amount you owe. Enforced collection may include placing a levy on your bank accounts, wages, receivables, commissions, etc. It could also involved seizing and selling your property, such as real estate, vehicles, or business assets.

To prevent collection action, please pay the amount you owe, now. Make your check or money order payable to United States Treasury, and write your social security number or employer identification number on it. 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
----------------	---------------	-------------------------------------	----------------------------------	----------------

If you recently paid this or if you can't pay it, call as soon as you get this letter. Our telephone number is at the top of this letter. If you disagree with our taking enforcement action, you may be able to work out another solution. If you disagree with our taking enforcement action, you may be able to work out another solution. Speak to the person whose name appears at the top of this letter, or ask for that person's manager. If you do not agree with the results, you may fill out Form 9423, Collection Appeals Request, to ask for Appeals consideration.

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

Sincerely,

Title

Enclosures:
Copy of Letter
Envelope