



## Recommendation 75-6

### **Internal Revenue Service Procedures: Collection of Delinquent Taxes**

---

(Adopted December 11-12, 1975)

(a) *Notices Mailed to Delinquent Taxpayers.* The Internal Revenue Service should revise its methods of notifying taxpayers of the application of forcible collection powers to collect delinquent accounts.

(1) The Service should experiment with sending its Final Notice Before Seizure by certified mail, return receipt requested, before forcible collection action is initiated.

(2) The Final Notice Before Seizure should be revised to indicate that forcible action may be taken at any time after the expiration of ten days from date of the Notice and to emphasize that such action may thereafter be taken without further notice to the taxpayer.

(3) If no levy or seizure action is initiated after an unusually long interval, such as 120 days, after the date of a Final Notice Before Seizure, the District Office should undertake additional actual notification to the taxpayer that levy or seizure will follow promptly, but not sooner than ten days thereafter. Such additional notification should be attempted by telephone or personal contact, and if no contact is established, by certified mail, return receipt requested.

(b) *Income Tax Liens.* In connection with the recording or filing of income tax liens, the Internal Revenue Service should establish and promulgate in the Internal Revenue Manual:

(1) Factors to be considered in determining whether such liens are to be recorded or filed;

(2) Procedures to ensure, to the extent feasible, that the taxpayer is notified of the recording or filing of such lien against his property; and

(3) Procedures to ensure, without the necessity of application by the taxpayer, that upon payment or satisfaction of a delinquent account, a release of such lien is properly recorded or filed in all places where notice of such lien was recorded or filed.

(c) *Levies on Liquid Assets.* (1) The Internal Revenue Service should establish and promulgate in the Internal Revenue Manual affirmative and specific guidelines for resort to



## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

levies on liquid assets (in addition to specifying, as it now does, when these powers should not be used) in order to achieve fair and evenhanded application thereof. In formulating such guidelines, the Service should by illustration seek to specify the circumstances in which the debtor is provided a "reasonable" opportunity to pay the tax and which constitute "judicious" use of the levy powers.

(2) In order to reduce the possibility of undue or unanticipated hardship to delinquent taxpayers against whom salary or wage levies are imposed, legislation should be enacted to exempt from levy a minimum amount of the taxpayer's salary or wages, such amount to be based in part upon the number of dependents of the taxpayer. Such legislation should also provide that a levy on salary or wages of a taxpayer be continuous from the date the levy is first made until the tax liability with respect to which it is made is satisfied or becomes unenforceable because of the lapse of time.

(d) *Seizures and Sales of Non-Liquid Assets.* (1) The Internal Revenue Service should establish the following procedures to ensure that the taxpayer is injured as little as possible by the seizure and sale of non-liquid assets, consistent with collection of the delinquent taxes:

- (i) Withdrawal from Revenue Officers and delegation only to Group Managers of the authority to determine that seizure will be imposed;
- (ii) Determination by the Group Manager, prior to imposition of the seizure, that the proceeds of sale of the seized assets will exceed the anticipated expenses of sale;
- (iii) Return to the taxpayer of any item of property as to which a determination can reasonably be made that the minimum sale price is unlikely to exceed the Service's expenses of seizure and sale.

(2) To provide qualitative information concerning seizures and sales of non-liquid assets, the Internal Revenue Service should from time to time collect, tabulate, and analyze data on:

- (i) The number of seizures, as it now does;
- (ii) The number of sales;
- (iii) The gross proceeds from sales;
- (iv) The funds applied in reduction of tax liabilities;



## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

(v) Personnel and other overhead costs incurred by the Service in the seizure and sale proceedings;

(vi) The number of releases back to the taxpayer of seized property; and

(vii) The reasons for such releases.

(e) *Undue Hardship*. The Internal Revenue Service should continue to exempt from levy or seizure those taxpayers to whom undue hardship would result from such activity. However, the Service should establish and promulgate more specific criteria and procedures to make the application of the undue hardship principle more uniform. These should include:

(1) A listing of criteria for exempting funds sufficient for the purchase of common necessities of life for the taxpayer and his dependents, including food, housing, transportation, and clothing;

(2) Clear advice as to what information and documentation is needed for the Service to make the determination of hardship; and

(3) Sufficient time and opportunity for the taxpayer to obtain the information and documentation necessary to complete and support the financial statement on which the determination will be based.

(f) *Installment Payments of Delinquent Taxes*. The Internal Revenue Service should establish and promulgate in the Internal Revenue Manual procedures to enable taxpayers to pay their delinquent accounts in installments in appropriate circumstances. The Service should endeavor to ensure that the monthly sum of installment payments required of the taxpayer towards liquidation of his delinquent account does not exceed the amount of the taxpayer's monthly take-home income less his monthly expenses for common necessities of life. The Service should keep line personnel advised of the minimum acceptable installment in order that the costs to the Service from processing any such payments do not exceed the sum of any such payment. No payment agreement should be rejected solely because of the length of time it would require to satisfy the debt; however, waiver or extension of the statute of limitations for collection should be obtained if the time needed for payment will extend beyond the limitations period, and the agreement should be subject to at least annual review and adjustment to reflect changes, if any, in the taxpayer's ability to liquidate the unpaid delinquency. Finally, the Service should discontinue any reference to agreements for payment of delinquent taxes in periodic installments as "part payment" agreements because such



## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

terminology fosters the mistaken impression that a portion of the tax debt has been forgiven. The idiom of "part payment agreement" should be supplanted with such terms as "installment agreement," "periodic payments," or others which do not connote that less than the total delinquency is to be paid.

(g) *Jeopardy and Termination Assessments.* (1) In order to prevent abuse of the authority to make jeopardy and termination assessments, the Internal Revenue Service should establish and promulgate procedures that will enable the taxpayer to contest the necessity and amount of such assessments at the earliest possible time. The taxpayer should be furnished as soon as practicable after the assessment is made a full written explanation of the facts upon which (i) the District Director found that collection of a tax deficiency is or has been jeopardized; and (ii) the computation of tax was based (including the method of such computation). An informal conference should be granted at the taxpayer's request to resolve any dispute over the finding of jeopardy and computation. The investigating agents who developed the facts upon which the finding of jeopardy and the computation of tax was based, and their supervisors, should ordinarily be in attendance at such a conference.

(2) In order to restrict the imposition of jeopardy and termination assessments to situations in which the eventual collection of tax is jeopardized, the Internal Revenue Service should remove the implication, now present in the Internal Revenue Manual, that jeopardy or termination assessments are justified merely by the existence of a "prima facie case" and make clear in the Manual that no such assessment may be imposed unless a determination has been made by the District Director, based on substantial evidence, that a tax is due and the eventual collection of the tax is jeopardized.

(3) The Internal Revenue Service should establish and promulgate in the Internal Revenue Manual procedures which will ensure immediate release to the taxpayer of any or all property distrained in jeopardy and termination proceedings in return for an adequate surety in the amount of the net proceeds expected to be realized on a forced sale of any or all such property the release of which is sought.

(h) *Employer Tax Payments.* To permit more prompt contact with defaulting business taxpayers, the Internal Revenue Service should speed its crediting of employer payments of withheld employee income and Social Security taxes by requiring commercial banks to forward records of such payments directly to an Internal Revenue Service Center, rather than to a Federal Reserve Bank.



## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

(i) *Education of New Employers.* The Internal Revenue Service should endeavor to give officers of new businesses written advice of their possible personal liability for payment of withheld employee taxes. This advice could be communicated individually to all such officers, whose names and addresses the Service could require to be submitted as part of the application for an employer identification number. Alternatively, the Service could send multiple copies of the advice letter to the new business entity, with the request that the copies be distributed to all officers. In either case the letter should invite the officer to discuss any questions with a Taxpayer Service Representative. When officers do respond and it is determined that there is a responsibility to pay and file returns of certain taxes, a follow-up contact should be made to ascertain that the responsibilities are understood and followed. Moreover, the Service should work with other Federal agencies to assure that the officers of new employer organizations being established with Federal financial assistance will become familiar with their responsibilities before they commence operations. Similar efforts, with the cooperation of parent organizations, should be made to contact and instruct franchisees and licensees of chain stores, food outlets, oil companies, and the like.

### **Citations:**

41 FR 3982 (January 27, 1976)

\_\_\_ FR \_\_\_\_\_ (2012)

4 ACUS 32