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

COMMISSIONER

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September 29, 2000

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Charles O. Rossotti
Commissioner of Internal Revenue

SUBJECT: Draft Audit Report -- The Internal Revenue Service Has Significantly Improved Its Compliance With Levy Requirements

I appreciate the opportunity to respond to your draft audit report entitled "The Internal Revenue Service Has Significantly Improved Its Compliance With Levy Requirements." To promote compliance and protect the public interest, the IRS needs an effective levy program to address taxpayers who willingly fail to pay. At the same time, protection of taxpayer rights is a cornerstone of all of our compliance programs. The success of our voluntary system depends on the public's confidence in our ability to administer the laws fairly and equitably, particularly in the sensitive area of enforced collection.

I also appreciate your recognition of our improvements in meeting the requirements of the Restructuring and Reform Act of 1998, and agree we need to do more. While I agree with your outcome measures for taxpayer burden, reliability of information, and taxpayer rights, we did not identify any instances where taxpayers were harmed by the inappropriate actions detailed in your report. In addition, for future reviews of the levy process, we ask you to consider two changes:

1. Conduct audits of the current levy process. This report covered the levy process used for a period (May 1999 – August 1999) before we made significant systemic changes (January 2000) that address the major findings. At the time of the audit, the process for making levy determinations had changed substantially; findings on an obsolete process has limited use.

2. Stagger your audits of the levy process so the IRS has time to implement recommendations. By the time we received your draft report, your staff had already initiated another levy audit. Your report identifies systemic problems and contains useful recommendations. The value of another audit before we have time to implement those recommendations is limited.

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

IDENTITY OF RECOMMENDATION 1
The Assistant Commissioner (Customer Service) should review the six taxpayers' accounts where levies were issued without proper notification and determine if any resulting proceeds were received from the levies. The Assistant Commissioner (Customer Service) should also determine, with advice from legal counsel, what steps the IRS should take regarding any money received as a result of issuing levies without properly notifying the taxpayers of their rights to an Appeals hearing.

ASSESSMENT OF CAUSE
In a few isolated situations, individual employees and managers either misinterpreted case files or neglected to follow Internal Revenue Manual (IRM) procedures. This was compounded by other errors; notably the absence or the inability of mandated service center levy reviews to identify these improper levies prior to mailing them.

CORRECTIVE ACTION
The six taxpayers' accounts show no levy proceeds. Sites quickly recognized the error on two cases, and released those levies within two days. On the other cases, the levy showed no proceeds.

We found no discernible pattern to the errors suggesting any procedural flaws. The service center responsible for mailing five of the six levies instituted 100 percent levy reviews in August 1999 as required in the IRM.

Procedural and system changes installed beginning in January 2000 now prevent these errors from recurring. For example, five of the six cases showed no evidence of the Collection Due Process (CDP) notice on the Integrated Data Retrieval System (IDRS). ACS now analyzes CDP information, and blocks levy issuance within the 30-day statutory period from the projected CDP notice mailing date. On the sixth case, an employee entered incorrect information about issuance of a CDP notice, leading others to believe that statutory requirements were met. The system now automatically records the issuance of a CDP notice, eliminating most opportunity for human error.

IMPLEMENTATION DATE
Completed: September 20, 2000

RESPONSIBLE OFFICIAL
Assistant Commissioner (Customer Service)

CORRECTIVE ACTION MONITORING PLAN
Not Applicable

IDENTITY OF RECOMMENDATION 2
The Assistant Commissioner (Collection) and the Assistant Commissioner (Customer Service) should identify and update incorrect information on the 32 taxpayers' accounts to show that Notices of Intent to Levy were mailed.

ASSESSMENT OF CAUSE
The cases reflect intermittent failure to follow IRM procedures that required manual input of CDP information to IDRS. In each case, we do not doubt the Internal Revenue Service issued the required CDP notice.

CORRECTIVE ACTION
A Transaction Code (TC) 971 with Activity Code (AC) 69, recording issuance of the CDP notice, has been added to appropriate unresolved tax modules.

Programming changes implemented in January 2000 provide for system upload to IDRS of CDP information, eliminating the manual input procedures that service center employees occasionally did not follow. These programming changes and the related system change that blocks levy issuance unless a TC971, AC69 is on each tax module and the 30-day statutory period has expired, protect taxpayer rights.

Collection reinforced these procedures with training in FY 2000.

IMPLEMENTATION DATE
Completed: September 21, 2000

RESPONSIBLE OFFICIALS
Assistant Commissioner (Collection)
Assistant Commissioner (Customer Service)

CORRECTIVE ACTION MONITORING PLAN
Not Applicable

IDENTITY OF RECOMMENDATION 3
The Assistant Commissioner (Customer Service) should determine whether it would be beneficial to update account information for the 1,208 systemically generated levies that were cancelled prior to issuance.

ASSESSMENT OF CAUSE
To help implement Sections 3401 and 3421 of RRA98, in December 1998, ACS stopped mailing levies generated systemically on new receipts each week. We could not delete the related computer programming until June 1999, so interim procedures instructed each call site to avoid generating the weekly systemic levies, and alerted service centers not to process and mail any that might be issued inadvertently.

During this time, one call site issued 1,208 levies, which told us they were not consistently following instructions to prevent the printing of systemic levies. Though we have sufficient evidence that the service center properly destroyed these levies, the system had updated the case history to show levy issuance and established a 45-day follow-up. The service center neglected to follow procedures to update each case history showing levy cancellation and resetting the follow-up to the current date. Instead, to save resources they told the call site of the issue, anticipating that employees following up on levies 45 days later would readily identify that these levies were not mailed and reissue them after all statutory requirements were met. Though this action did not adversely affect taxpayer rights, it delayed case processing and risked collection if employees forgot that these specific levies were destroyed.

CORRECTIVE ACTION
In June 1999, scheduled computer program changes eliminated systemic levy issuance in weekly analysis of new cases. Thus, the specific problem identified in your report cannot recur.

Customer Service reviewed a sample of 52 cases from the list of 1,208 identified in the report, 27 (52 percent) of which were on ACS. Of these 27 cases, we found subsequent taxpayer contact and possible resolution pending on 10; we found no taxpayer response on the other 17. Most of the 25 cases no longer on ACS were either paid, are in installment agreement status, or reported currently not collectible. In no instance did we find any call site employee had simply deleted the levy source that had been the systemic levy. Based on the results of our sample, and the fact that 15 months have already passed since the incidents occurred, we see no significant benefit in researching and updating the remaining case files.

IMPLEMENTATION DATE
Completed: September 20, 2000

RESPONSIBLE OFFICIAL
Assistant Commissioner (Customer Service)

CORRECTIVE ACTION MONITORING PLAN
Not Applicable

IDENTITY OF RECOMMENDATION 4
The Assistant Commissioner (Customer Service) should ensure that certified mail listings are stored locally per retention guidelines in the IRM.

ASSESSMENT OF CAUSE
Employees did not properly file certified mail listings so we could not verify mailing.

CORRECTIVE ACTION
National Office will review appropriate manuals to ensure that guidelines are clear on the storage and retention of certified mail registers used to document the issuance of ACS Letter LT 11. We will revise the IRM, if needed.

In addition, we will issue a memorandum to emphasize guidelines to ensure field offices can locate listings when needed.

IMPLEMENTATION DATE
Proposed: November 1, 2000

RESPONSIBLE OFFICIAL
Assistant Commissioner (Customer Service)

FUTURE BUSINESS OWNER
Director, Compliance (Small Business/Self-Employed Division)

CORRECTIVE ACTION MONITORING PLAN
Not Applicable

IDENTITY OF RECOMMENDATION 5
The Assistant Commissioner (Forms and Submission Processing) should request the USPS to ensure the postal date stamp on certified mail listings accurately reflects the date on which Notices of Intent to Levy are mailed.

ASSESSMENT OF CAUSE
Standard USPS procedure requires a date stamp on each page of the certified mail listing for each piece of IRS outgoing certified mail. The IRS presents large volumes of outgoing certified mail to the local postal installation at a given time. Often because of the limitations of staff and time, all or parts of certified mailing lists have not been date stamped or have been date stamped with the incorrect date. In the latter case, the calendar date of the date stamp either does not match the date the certified mail was presented to the Postal Service or does not exist. Prior to this recommendation, we have had on-going discussions with the Postal Service to ensure that each page of the certified mailing lists are date stamped with the correct date. The importance of the date stamp in ensuring that the interests of the taxpayer and of the government are protected has also been stressed in this on-going dialogue. Through advice and direction provided by national-level staff members from both IRS and USPS, local officials of both agencies were encouraged to resolve site-specific issues on accomplishing the task.

CORRECTIVE ACTION
We will draft a letter to the USPS requesting the Postal Service, upon verifying the certified mail presented by the IRS matches the accompanying certified mailing list, to date stamp each page in the certified mailing list before returning the mailing list to the IRS site location. We will ask the Postal Service to ensure sufficient staff is employed to meet the volume of incoming certified mail and a quality control program be developed and implemented.

IMPLEMENTATION DATE
Proposed: January 1, 2001

RESPONSIBLE OFFICIAL
Acting Assistant Commissioner (Forms and Submission Processing)

FUTURE BUSINESS OWNER
Director, Communications, Assistance, Research and Education

CORRECTIVE ACTION MONITORING PLAN
The local IRS Staff will be responsible for monitoring the certified mail listings.

If you have any questions, please call Glenn Henderson, Director, Compliance, at (202) 927-5028.