



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

5.11.1

APRIL 3, 2025

## EFFECTIVE DATE

(04-03-2025)

## PURPOSE

- (1) This transmits a revision to IRM 5.11.1, Notice of Levy, Background, Pre-Levy Actions, Restrictions on Levy & Post-Levy Actions.

## MATERIAL CHANGES

- (1) The following table outlines changes made to IRM 5.11.1.

IRM Subsection	IRM Subsection Title	IRM Changes
IRM 5.11.1.3.2(2)	Required Notices	Noted that the advance TPC language was removed with the September 1, 2024 revision of the L1058.
IRM 5.1.1.7(5)	Related Resources	Added the Levies Knowledge Base Home page link.
IRM 5.11.1.3.2(6)	Required Notices	Added that ROs must check their POD mail and receipts of faxes for taxpayer requests of CDP hearings before issuing a levy.
IRM 5.11.1.3.2(8) exceptions	Required Notices	Added the time periods for advance written notification of intent to contact third parties must still be met before a levy.
IRM 5.11.1.3.2(8) fourth exception	Required Notices	Added exception IRC 7602(c)(3) provides for jeopardy levies when the IRS is not required to give the taxpayer advance notice TPC.

<b>IRM Subsection</b>	<b>IRM Subsection Title</b>	<b>IRM Changes</b>
IRM 5.11.1.3.2.1	Additional Assessment	Moved current content into a new subsection to highlight that an additional assessment requires a CDP hearing before a levy can be issued on the additional assessment.
IRM 5.11.1.3.3.1	Recognizing if ACS Issued Notice of Intent to Levy/Notice of a Right to a Hearing	Removed reference to date of January 19, 1999 for ACS letters.
5.11.1.3.3.3(1)(b)	Issuing Notice of Intent to Levy/Notice of a Right to a Hearing in Field Collection	Form 12153 is optional under the Treasury regulations. A signature and appropriate reason for requesting a CDP hearing are requirements under the regulations.
IPU 23U1029 issued 10-19-2023 IRM 5.11.1.3.3.3(3)	Issuing Notice of Intent to Levy/Notice of a Right to a Hearing in Field Collection	Revised to clarify the L1058 should be mailed if no contact is made during initial contact in POD.
IPU 23U1029 issued 10-19-2023 IRM 5.11.1.3.3.3(4)	Issuing Notice of Intent to Levy/Notice of a Right to a Hearing in Field Collection	Revised to clarify when the L1058 can be left at last known address.
IPU 23U1029 issued 10-19-2023 IRM 5.11.1.3.3.3(6)	Issuing Notice of Intent to Levy/Notice of a Right to a Hearing in Field Collection	Revised to remove reference to field call.
IRM 5.11.1.3.3.3(9)	Issuing Notice of Intent to Levy/Notice of a Right to a Hearing in Field Collection	Added reference to CAMS when determining L1058 delivery results.

<b>IRM Subsection</b>	<b>IRM Subsection Title</b>	<b>IRM Changes</b>
IPU 23U1029 issued 10-19-2023 IRM 5.11.1.3.3.4(7)	Issuing Notice of Intent to Levy/Notice of a Right to a Hearing for Joint IMF Bal Due account	Revised to clarify procedures for correcting inadvertent error with delivery of L1058 on joint liability.
IPU 23U1029 issued 10-19-2023 IRM 5.11.1.3.3.4(8)	Issuing Notice of Intent to Levy/Notice of a Right to a Hearing for Joint IMF Bal Due account	Revised to create new paragraph for instructions for TC 972.
IRM 5.11.1.3.3.9(2)	Verification of Notice of Intent to Levy/ Notice of a Right to a Hearing	Added exceptions for when it is allowed not to use CAMS application.
IRM 5.11.1.3.3.9.1	Using Certified Automated Mail Services (CAMS) Application	Added new section on using CAMS to mail L1058 by certified mail.
IRM 5.11.1.3.6	Approval of Alter Ego and Nominee Notices of Levy	Added additional instructions for preparing a alter ego or nominee levy.
IRM 5.11.1.3.7	Advisory Review Actions of Alter Ego and Nominee Notices of Levy	New section on advisor actions in support of approval of alter ego or nominee levy.
IRM 5.11.1.3.8	Post Approval Revenue Officer Actions	New section on revenue officers actions after the alter ego or nominee levy is approved.
IRM 5.11.1.4.15	Unassessable Erroneous Refunds	Added new section to link to procedures for collection on un-assessable erroneous refunds.
IRM 5.11.1.5.4	Issuing Notice of Levy/Notice of a Right to a Hearing in Field Collection	Clarified that L1058-D should be mailed 10 business days after the DETL levy.

IRM Subsection	IRM Subsection Title	IRM Changes
IRM 5.11.1.6.3	Issuing Notice of Intent to Levy and Notice of Your Right to a Hearing in Field Collection FEDCON Case	Clarified that L1058-F should be mailed 10 business days after the FEDCON levy.
Exhibit 5.11.1-1	Acronyms	Added acronym.
Throughout	Throughout	Within the Office of Chief Counsel, LB & I and SB/SE Division Counsel consolidated into Litigation & Advisory (L & A) Division Counsel effective October 7, 2024. Update references to Associate Area Counsel (SBSE) to Associate Area Counsel (L & A).
Throughout	Throughout	Editorial changes throughout the IRM to correct citations with italicized titles, broken links, etc. New title for Field Compliance Manager (FCM)/ Territory Manager(TM).

**EFFECT ON OTHER DOCUMENTS**

IRM 5.11.1 dated June 09, 2023 is superseded. IPU 23U1029 issued 10-19-2023 is incorporated.

**AUDIENCE**

SB/SE revenue officers, Civil Enforcement Advice and Support Operations (CEASO) employees and Independent Office of Appeals (Appeals).

Thomas Kramer  
Director, Collection Policy  
Small Business/Self-Employed

5.11.1

Background, Pre-Levy Actions, Restrictions on Levy & Post-Levy Actions

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5.11.1.1  
(07-07-2020)  
**Program Scope and Objectives**

- (1) **Purpose:** This Internal Revenue Manual (IRM) section provides revenue officers and advisors an overview of the levy process including the following:
  - a. Background on levy authority and appeals provided.
  - b. Pre-levy actions and approvals required before a notice of levy can be issued.
  - c. Restrictions on levy based on legal and policy considerations.
  - d. Post-levy actions to identify and prepare Disqualified Employment Tax Levy.
  - e. Post-levy actions to identify and prepare Federal Contractor Levy.
- (2) **Audience:** These procedures apply to IRS employees who are responsible for collection investigations and making levy determinations.
- (3) **Policy Owner:** Director, Collection Policy. Collection Policy is an organization under Small Business/Self-Employed Division (SBSE), Collection.
- (4) **Program Owner:** SBSE Collection Policy, Enforcement.
- (5) **Primary Stakeholders:** SB/SE revenue officers and advisors.
- (6) **Program Goals:** Enforcement is a necessary component of a voluntary assessment system, see IRM 1.2.1.6.1, Policy Statement 5-1. While we will actively assist taxpayers to comply, we will also take appropriate enforcement actions when warranted to resolve the delinquency. Levies are an important enforcement tool. This IRM section provides the fundamental knowledge and procedural guidance for revenue officers in making levy determinations. It includes processes and considerations when issuing levies to attach the taxpayer's interest in a variety of types of property. By following the processes and procedures in this IRM, employees will be able to issue levies that are procedurally and legally correct to promote long-term voluntary compliance.

5.11.1.1.1  
(06-09-2023)  
**Background**

- (1) This Internal Revenue Manual (IRM) section provides revenue officers and advisors with directions for the levy process which is impacted by IRC 6330, IRC 6331, and IRC 6334, as well as by the Taxpayer Bill of Rights and by IRS policy statements. The procedures in this IRM are designed to ensure levy actions we take are in compliance with law and policy.
- (2) The Small Business and Work Opportunity Tax Act of 2007 modified the Collection Due Process (CDP) procedures for certain employment tax liabilities. This Act amended IRC 6330(f) and IRC 6330(h) to permit issuance of a Disqualified Employment Tax Levy (DETL) for collection of certain employment taxes without first giving the taxpayer pre-levy CDP notice. This amendment relates to Forms 941, 943, 944, 945, 940, and CT-1.
- (3) The Small Business Jobs Act of 2010 (SBJA) section 2104, amended IRC section 6330(f) and (h)(2) to allow the Collection Due Process (CDP) notice and hearing to occur post-levy with respect to "Federal contractor levies."
- (4) The Taxpayer First Act amended IRC 7602(c)(1) and is effective for notices of third-party contacts and contacts of third parties made after August 15, 2019.

5.11.1.1.2  
(07-07-2020)  
**Authority**

- (1) The Internal Revenue Code (IRC) authorizes levies to collect delinquent tax. See IRC 6331. Any property or right to property that belongs to the taxpayer or on which there is a Federal tax lien can be levied, unless it is exempt. See IRM 5.11.1.4 for restrictions on levy issuance. All references to property in this subsection include rights to property.
- (2) Authorities relating to this section include:

<b>Authorities</b>	<b>Title</b>
Internal Revenue Code (IRC) 6305	Collection of certain liability
IRC 6330	Notice and opportunity for hearing before levy
IRC 6331	Levy and distraint
IRC 6332	Surrender of property subject to levy
IRC 6333	Production of books
IRC 6334	Property exempt from levy
IRC 6651(d)	Increase in penalty for failure to pay tax in certain cases
IRC 7602(c)	Notice of contact of third parties
Treas. Reg. 301.6331-1	Levy and distraint
Treas. Reg. 301.6332-2	Surrender of property subject to levy in the case of life insurance and endowment contracts
Treas. Reg. 301.6334-1	Property exempt from levy
Treas. Reg. 301.7602-2	Third-party contacts
Rev. Proc. 2010-16	Definition of Last Known Address
IRM 1.2.1.6.1, Policy Statement 5-1	Enforcement is a necessary component of a voluntary assessment system
IRM 1.2.2.6.3, Delegation Order 5-3 (Rev-1)	Levy on Property in the Hands of a Third Party (not to include Levy Form 668-B)
IRM 1.2.1.6.7, Policy Statement 5-33	Certain Governmental training allowances are not levied

5.11.1.1.3  
(11-09-2017)  
**Roles and Responsibilities**

- (1) The Director, Collection Policy is responsible for all policies within the levy program.
- (2) The Program Manager, Enforcement is responsible for development and delivery of policies within the levy program.



- (3) Managers of revenue officers who issue levies are responsible for ensuring these procedures are followed and employee actions are timely and accurate.
- (4) Revenue officers are responsible for following the procedures in this IRM.

### 5.11.1.1.4 (11-09-2017) **Program Management and Review**

- (1) Integrated Collection System (ICS) is used by field revenue officers as a method for generating levy documents that are issued to third-party levy sources.
- (2) The Collection Activity Reports (CAR) report number 5000-24 records the total number of levies issued. Total levies are the sum of Field, SB/SE ACS and W & I ACS (monthly and cumulative). The data sources are the ACS Customer Service Activity Reports (CSAR) - Monthly Support Site Report (ACS Levies) and ICS (Field Levies). See IRM 5.2.4.11, Levy and Seizure Report (Report Symbol NO-5000-24). The IRS has determined that levy data may be made available as national statistics, provided that such data will never be used to evaluate any employee or to suggest or impose production quotas or goals. See IRM 1.5.2, Managing Statistics in a Balanced Measurement System, Uses of Section 1204 Statistics.
- (3) Levy program numbers are published yearly in the IRS Data Book, Enforcement: Collections, Penalties & Criminal Investigation, in Table 16 at *Collections, Penalties & Criminal Investigation*.
- (4) Targeted program reviews are periodically performed by Collection Policy to determine whether IRM guidance requires clarification or revision.
- (5) Management will ensure program effectiveness through managers' case reviews, operational reviews conducted by the territory, Area, and Field Collection Director, and NQRS reviews.

### 5.11.1.1.5 (07-07-2020) **Program Controls**

- (1) National Quality Review System (NQRS), attribute 417, Managerial Approvals for Enforcement provides independent collection review information from which management may draw inferences regarding overall case quality for this attribute. See IRM 5.13.1, Embedded Quality Administrative Guidelines.
- (2) Embedded Quality Review System (EQRS), Collection managers use EQRS, attribute 416, Appropriate Enforcement Tools, and attribute 607, Taxpayer Rights to complete all case reviews for revenue officers.
- (3) Certain Notices of Levy must be approved by managers. See IRM 1.2.2.6.3, Delegation Order 5-3 (Rev-1), Levy on Property in the Hands of a Third Party (not to include Levy Form 668-B).
- (4) Programing safeguards are built into the ICS system to prevent a levy from being generated on a module where the required notices have not been issued.

5.11.1.1.6  
(07-07-2020)

**Terms/Definitions/  
Acronyms**

- (1) Terms associated with the field levy program include:

Term	Definition
Automated Levy	Automated levies are levies issued through the Automated Levy Programs. These levies are transmitted electronically. The proceeds are also received electronically.
Manual Levy	A manual ICS levy is a paper levy that is manually prepared and issued by an RO.
Paper levy	Either a manual or systemic levy on Form 668-A or Form 668-W, that is prepared and issued by an RO.
Systemic Levy	ICS systemic levies are initiated by ROs resulting in levy preparation and issuance by the ICS system.

**Note:** ACS methods of levy issuances are discussed in IRM 5.19.4.3.10(1), Levy Types.

- (2) See Exhibit 5.11.1-1 for list of Acronyms.

5.11.1.1.7  
(04-03-2025)

**Related Resources**

- (1) The ICS User Guide, Chapter 10 - Levy & Chapter 15 - Forms and Correspondence details all the functions necessary to maintain levy sources, issue levies and final demands, and close or release levies. See Collection Systems Knowledge Base - Integrated Collection System (ICS) at *Integrated Collection System (ICS) - Book Landing Page* site.
- (2) The National Levy Source (NLS) Look-Up web page provides up-to-date levy source name and address information. See NLS *NLS Main Menu*.
- (3) The MySB/SE, Enforcement web page provides access to various information and job aids related to the levy program. See the *Integrated Collection System (ICS) - Book Landing Page* site.
- (4) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, refer to the <https://www.irs.gov/taxpayer-bill-of-rights> site. For additional information see IRM 1.2.1.2.36, Policy Statement 1-236.
- (5) Levies Knowledge Base provides the fundamental knowledge and procedural guidance for revenue officers, Automated Collection System (ACS) and ACS Support (ACSS) employees in making levy determinations, see *Levies Knowledge Base - Home*.

- (6) Below are recommended resources, which can be used to address questions on levy guidance

IRM	Title	Guidance On
IRM 5.11.1 through IRM 5.11.7	Notice of Levy	<ul style="list-style-type: none"> <li>• Notice of Levy, Background, Pre-Levy Actions, Restrictions on Levy &amp; Post-Levy Actions</li> <li>• Serving Levies, Releasing Levies and Returning Property</li> <li>• Jeopardy Levy without a Jeopardy Assessment</li> <li>• Bank Levies</li> <li>• Levy on Wages, Salary, and Other Income</li> <li>• Notice of Levy in Special Cases</li> <li>• Automated Levy Programs</li> </ul>
IRM 5.17.3	Legal Reference Guide for Revenue Officers, Levy and Sale	This section discusses how the IRS administratively enforces the tax lien using its power to levy on and sell property of the taxpayer or property encumbered with a Federal tax lien.

## 5.11.1.2 (07-07-2020) **Notice of Levy vs. Seizure**

- (1) There is no legal distinction between levy and seizure.
- Generally, use a Notice of Levy (Form 668-A, Form 668-W, Form 668-R) to take a taxpayer's property held by someone else if it can be turned over by writing a check.
  - If the taxpayer is holding the property, use the procedures in IRM 5.10, Seizure and Sale.
  - If a third-party is holding property that cannot be turned over by writing a check, use seizure procedures. Also, give a Form 668-A, Notice of

Levy, to the third-party holding the property. This is the demand to turn over the taxpayer's property. See IRM 5.10.3.8, Seizing the Property (Form 668-B - Delivery).

**Example:** Notice of Levy is often used to take funds from a taxpayer's bank account, wages, other income, or accounts receivables.

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

**Example:** If a taxpayer's car is seized in a commercial parking lot, seizure procedures include giving the attendant a Form 668-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.

**Note:** Generally, consider other levy sources before levying on retirements accounts. See IRM 5.11.6.3, Funds in Pension or Retirement Plans.

#### 5.11.1.2.1 (06-09-2023) Appeals

- (1) Generally, taxpayers are given an opportunity to request a Collection Due Process (CDP) hearing under IRC 6330, or an equivalent hearing. See IRM 5.1.9.3.1(5) regarding the exception for child support obligations. See IRM 5.1.9.3.1(4) , Collection Due Process.
- (2) The Notice 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 chance for administrative review that is independent from Field Collection on Notices of Levy that have been or will be taken. See IRM 5.1.9.4, Collection Appeals Program.

**Note:** If a taxpayer seeking to file a CAP appeal is also entitled to a CDP hearing see IRM 5.1.9.4(5), Collection Appeals Program (CAP).

- (3) If a case has been referred to Department of Justice (DOJ) or is otherwise under DOJ jurisdiction, remind the taxpayer that any Collection Due Process (CDP) hearing with Independent Office of Appeals (Appeals) may be suspended until the litigation is resolved. Also remind the taxpayer that actions under control of the Department of Justice are excluded from CAP. See IRM 8.22.6.9, Cases Controlled by Department of Justice (DOJ).

#### 5.11.1.3 (08-01-2014) Pre-Levy Actions

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

#### 5.11.1.3.1 (11-24-2021) Pre-Levy Considerations

- (1) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, refer to the <https://www.irs.gov/taxpayer-bill-of-rights> site. Under these rights taxpayers have the right to expect that any IRS inquiry, examination, or enforcement action will comply with the law and be no more intrusive than necessary, and will

respect all due process rights, including search and seizure protections and will provide, where applicable, a collection due process hearing. Also, taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels.

- (2) Accordingly, levy determinations are made on a case-by-case basis and revenue officers must exercise good judgment in making the determination to levy. When determining if a levy is appropriate consider the following:
- Anything that the revenue officer knows about the taxpayer's financial condition including economic hardship. If the revenue officer has sufficient information and verified that the levy would cause an economic hardship, the levy should not be issued. While information in the IRS's records may be sufficient to corroborate the presence of economic hardship, in some cases the taxpayer may need to provide additional information in order to make that determination.
  - The taxpayer's responsiveness to attempts at contact and collection
  - The taxpayer's compliance history
  - The taxpayer's effort to pay the tax
  - Whether current taxes are being paid

**Note:** When the IRS determines that the levy will create an economic hardship, do not issue the levy as a means to secure other compliance, e.g., missing tax returns.

- (3) If contacted by TAS due to a taxpayer's request for assistance, TAS will advise the RO of the reason a hold on collection activity is requested. The RO should highlight actions taken to date, outstanding information requests, advised of appeal rights and/or any other facts that may impact the circumstances of the case. Allow TAS time to work with the taxpayer to resolve the tax problem, action to collect the tax, such issuing a levy, while not prohibited, will generally be suspended. If the RO believes such action is necessary, e.g., the taxpayer is dissipating assets, pyramiding additional liabilities, or other exigent circumstances exist; TAS should be contacted and advised of Collection's plans in advance.

### 5.11.1.3.2 (04-03-2025) Required Notices

- (1) In most cases, before property can be levied, the taxpayer must be given a:
- Notice and Demand
  - Notice of Intent to Levy
  - Notice of a Right to a Collection Due Process (CDP) Hearing, and
  - Notice of Third-Party Contact
- (2) When a Notice of Levy is issued to a third-party, it is a Third-Party Contact (TPC). IRC 7602(c)(1) requires that the IRS provide advance written notification of intent to contact third parties for each module that will be referenced in the TPC. Carefully review each module to determine if the taxpayer received advance TPC notification and that the date of TPC notification is less than one year old. If it has been more than one year since the taxpayer last received

advance written notification of TPC, on one or more modules, a new notification is required. Calculate the one year period from the 46th day after the date of the notice, provided the 46th day is the first day of the contact period specified in the letter. Employees may not contact a third-party (levy) until the 46th day following the date of the TPC notice. See IRM 25.27.1, Third-Party Contact Program, for further discussions of TPC requirements

**Note:** The December 1, 2019, revision of the L1058 was revised to add advance TPC language. The advance TPC language was removed with the September 1, 2024 revision of the L1058. Prior versions of the L1058 or LT11 did not generate a TC 971 AC 611, after June 30, 2020 the TC 971 AC 069 indicates the date advance TPC notification was mailed. After June 25, 2021 when Letter 1058 is used to meet the requirements of advance TPC, ICS will systemically upload the TC 971 AC 611 with each TC 971 AC 069. Further, advance notice of third- party contacts may not be required in jeopardy situations, pursuant to section 7602(c)(3)(B). See IRM 25.27.1, Third-Party Contact Program, for further discussions of third-party contact requirements.

**Reminder:** If it has been more than one year since the taxpayer last received advance written notification of TPC, employees may either request oral authorization and follow the procedures outlined in IRM 25.27.1.3.6 , or issue a new TPC notification and wait until the 46th day to issue the levy.

**Note:** It is the legal position of the IRS that the Notice and Demand and the third-party contact notification issued in the name and EIN of a limited liability company (LLC) are legally sufficient when the owner of the LLC is the liable taxpayer.

- (3) The Notice and Demand required by IRC 6303(a) must be left at the taxpayer's home or business, or 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. The taxpayer has 10 days to pay the amount that is owed. If the taxpayer neglects or refuses to pay the amount due, the Federal tax lien arises.

**Note:** If the amount specified in the Notice and Demand is paid within 21 calendar days after the date of the Notice and Demand (10 business days if the amount reflected is \$100,000 or more), interest is not imposed for the period after the Notice and Demand on the amount so paid. IRC 6601(e)(3).

- (4) In addition, the taxpayer must be given a Notice of Intent to Levy at least 30 days prior to the date of the levy. The taxpayer has 30 days to pay the amount that is owed before property can be levied. See IRC 6331 (d). This notice must be:

- a. Given in person,
- b. 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. See IRM 5.1.9.3.1(3), Notice of Collection Due Process (CDP) Hearing Rights.



**Exception:** If collection is in jeopardy, property can be levied immediately if the taxpayer has been provided Notice and Demand for immediate payment. See IRM 5.11.3, Jeopardy Levy Without a Jeopardy Assessment.

- (5) Generally, the IRS will give taxpayers 10 days to pay the tax liability following issuance of the IRC 6303 Notice of Assessment and Demand for payment, before issuing the IRC 6331 Notice of Intent to Levy and IRC 6330 Notice of a Right to a CDP Hearing. Both the IRC 6331 Notice of Intent to Levy and the IRC 6330 Notice of a Right to a CDP Hearing must be given at least 30 days before the day of the first levy for that tax liability. Treas. Reg. 301.6331-2(a)(1) permits the IRS, in satisfying the 30 day requirement of IRC 6331(d), to issue the IRC 6331 Notice of Intent to Levy at the same time as the IRC 6303 Notice of Assessment and Demand for payment. Also, the IRS may issue the IRC 6330 Notice of a Right to a CDP Hearing at that same time. The IRC 6330 and/or 6331 notices should not generally be issued simultaneously with the section 6303 notice or during the section 6303 timeframe. **However**, the IRS may determine that waiting 10 days after issuing the IRC 6303 Notice and Demand before issuing the IRC 6331 Notice of Intent to Levy and/or the IRC 6330 Notice of a Right to a CDP Hearing is not in the government's interest if one or more of the circumstances listed below has occurred. The IRC 6330 and /or 6331 notices may be issued simultaneously with the section 6303 notice or during the section 6303 timeframe if the taxpayer:

- is pyramiding employment taxes (in business, not current with FTDs, and two or more trust fund modules assigned to a revenue officer);
- has made to the IRS, for two or more periods, frivolous arguments which are listed in Notice 2010-33, 2010-17 Internal Revenue Bulletin 609, or subsequent updates. See Notice 2010-33 at <http://www.irs.gov/pub/irs-irbs/irb10-17.pdf> site;
- has failed to file required returns for two successive periods or three non-consecutive periods, for which the IRS has prepared substitutes for return (and issued a deficiency notice where applicable), at least one of which is included in current or proposed notices. See IRM 5.1.18.2.2.2, Use of Asset Locator Research Results, when a new address is received from asset locator research.

**Note:** The taxpayer has 30 days in which to request a CDP hearing. Allow 15 days after the 30 day period for receipt of a timely mailed request for CDP hearing.

- (6) When a levy is to be served, the taxpayer must also be given a Notice of a Right to a Hearing per IRC 6330. **For exceptions, see (7) below.** The taxpayer has 30 days after this notice is given or mailed to ask for a hearing, before property can be levied. Revenue officers must check their POD mail and receipts of faxes, secure messages or DUT uploads for any pending CDP levy hearing requests from the taxpayer or POA, prior to issuing levies. 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 request for certified or registered mail return receipt **MUST** be included. See IRM 5.1.9.3, Collection Due Process, for instructions about the taxpayer's right to a hearing, including whether the taxpayer can appeal, when the taxpayer can appeal, and the consequences of asking for an appeal.

**Note:** The taxpayer can waive the right to a hearing. IRM 5.11.1.3.3.10, Waiver of Notice of Intent to Levy/Notice of a Right to a Hearing.

**Note:** There is no right to a hearing when child support obligations are being collected. IRM 5.11.1.3.3.11, Issuing Notice of Intent to Levy for Child Support Obligation Bal Dues.

(7) There are four **exceptions** to the pre-levy notice requirements of IRC 6330.

- a. When the collection of tax is in jeopardy under section 6331(a). See IRM 5.1.9.3.13, Jeopardy Levy, State Income Tax Levy Program (SITLP), and Federal Payment Levy Program (FPLP) and IRM 5.11.3, Jeopardy Levy without Jeopardy Assessment.
- b. When a levy is served on a State to collect a Federal tax liability from a State tax refund, referred to as the State Income Tax Levy Program (SITLP). A taxpayer's State tax refund can be levied, even though the taxpayer may not have already been sent a Notice of a Right to a Hearing. See IRM 5.1.9.3.13, Jeopardy Levy, State Income Tax Levy Program (SITLP), and Federal Payment Levy Program (FPLP) and IRM 5.19.9.3.4, SITLP Notices.
- c. When a Disqualified Employment Tax Levy (DETL) is served. See IRM 5.1.9.3.14, Disqualified Employment Tax Levy.
- d. When a Federal Contractor Levy (FEDCON) is served. A Federal contractor levy is any levy if the person whose property is subject to the levy (or any predecessor thereof) is a Federal contractor. See IRM 5.11.1.6, Post-Levy Actions - Federal Contractor Levy.

**Note:** In jeopardy, DETL, SITLP, and FEDCON situations above, the taxpayer will be given the opportunity for a CDP hearing within a reasonable period of time **after** the levy; i.e., generally within 10 days.

(8) When counting the 10 day or 30 day periods, do not count the day that the notice is given or mailed 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 correctly addressed with proper postage prepaid and postmarked timely, it is timely. See IRM 5.1.9.3.2, Request for CDP Hearing Rights. Allow 15 additional days after the 30 day period ends before levying in case the taxpayer mails a request for a hearing on the 30th day.

**Example:** A Notice of a Right to a CDP Hearing is given to the taxpayer on March 1. The counting would be March 2 as day one, March 3 as day two, etc. The taxpayer has until the close of business on March 31 (30 days) to pay or request a CDP hearing. On April 1, the IRC allows property to be levied, unless something has happened to prevent it, e.g., payment, request for a hearing, installment agreement made or pending, etc. However, counting the additional 15 days, property will not be levied until April 16.

**Exception:** After 30 days, if the taxpayer confirms that no hearing has been requested, there is no need to wait the additional 15 days. The time



period for advanced written notification of intent to contact third parties must be met for a module before a levy can be issued.

**Exception:** If the notice was unclaimed, returned undeliverable, or delivery was refused, there is no need to wait the additional 15 days, as long as the notice has only been sent to one address that is the taxpayer's last known address. If multiple notices have been sent, as described in IRM 5.11.1.3.2.2, wait the additional 15 days, unless all of them are returned undeliverable, unclaimed, or refused. The time period for advanced written notification of intent to contact third parties must be met for a module before a levy can be issued.

**Exception:** If collection is in jeopardy, a Notice of Levy can be served without waiting the additional 15 days. The Notice of Levy must be approved by the Field Compliance Manager (FCM)/Territory Manager(TM) or by the CEASO Territory Manager. Consult with Counsel before the levy is served. The appeal process in IRM 5.11.3.7, Appealing the Jeopardy Levy, does not apply because the 30 day waiting period has passed. A CDP hearing will be held if the taxpayer mailed or delivered the request for a CDP hearing before the 30 days ran out. The IRS is not required to give the taxpayer advance notice of TPC if such notice would jeopardize collection. If a CDP hearing request is not made, the taxpayer can still discuss the levy with the group manager or with the Taxpayer Advocate Service, as well as discussing it with Appeals under the Collection Appeals Program after speaking with the group manager.

- (9) The required notices must be sent for each module included on a levy.
- (10) See IRM 5.11.6.13.2, Notice to the Non-Liable Spouse, when a levy is to be served on a non-liable spouse in a community property state.
- (11) For exception to the third-party contact notice requirements, including jeopardy, see IRM 25.27.1, Third-Party Contact Program.

5.11.1.3.2.1  
(04-03-2025)

**Additional Assessment**

- (1) A taxpayer can receive more than one pre-levy CDP hearing under IRC 6330 with respect to a tax period under certain circumstances. If the required notices for a module have been issued, and then additional tax, accuracy related filing or a payment delinquency penalty is assessed, a new notice offering a CDP hearing for the additional assessment must be issued before that additional assessment may be included in a levy. A new CDP notice does not need to be issued for accruals of a penalty or interest as long as a prior CDP notice for the penalty has been issued. There is no requirement to divide out the original and the new assessment amount on the Letter 1058 . The balance on the L1058 is for the full amount owed, even though CDP rights apply only to the subsequent assessment.

**Example:** A module has a TC 150 dated June 01, 2023. The CDP levy notice listing the TC 150 and appropriate penalties is issued on December 31, 2023. A TC 300 assessment is made on March 31, 2024. A new Notice of Intent to Levy and Notice of Your Right to a CDP Hearing must also be issued for this additional assessment before it can be included in a Notice of Levy.

**Example:** A module has a TC 150 assessment date June 01, 2023. A CDP levy notice listing only the TC 150 amounts is issued on December 31, 2023. The CDP levy notice does not include any assessed or accrued failure to pay penalty. Before any levy action to collect the failure to pay penalty can occur, a CDP levy notice for the failure to pay penalty must be issued (unless a post-levy CDP notice is applicable). If any accrual of the penalty, even one month, is included on the CDP notice, then the taxpayer is not entitled to another CDP notice when the IRS wishes to collect by levy, on later assessed additional accruals of the penalty.

- (2) Document the ICS history regarding the basis for the new CDP notice and note this information on the document sent to Appeals. When necessary, explain to the taxpayer that the appeal is only for the subsequent assessed amount, and document the ICS history to note that such explanation was provided to the taxpayer. Appeals will confirm the assessment being appealed in the initial discussion with the taxpayer.

#### 5.11.1.3.2.2 (08-01-2014)

#### Last Known Address

- (1) Generally, the last known address is the master file address that posted from the most recently filed and properly processed return. A list of returns that are used to update this address are in Rev. Proc. 2010-16. This revenue procedure also describes how taxpayers can give a new address to the IRS.
- (2) A last known address may be obtained or changed by information received from the United States Postal Service National Change of Address database (NCOA database). As provided in Treas. Reg 301.6212-2(b)(2), an address obtained from the NCOA database becomes the taxpayer's last known address unless the taxpayer provides clear and concise notification of a change of address (as set out in Rev. Proc. 2010-16) or the IRS properly processes a taxpayer's Federal income tax return with a different address.
- (3) If a third-party provides a new address for the taxpayer, this is not the taxpayer's last known address, unless the taxpayer verifies it and requests it be used as such by the IRS.
- (4) When a Notice of Intent to Levy and Notice of Your Right to a Hearing (L1058) is mailed to the taxpayer, it must be sent to the last known address. If other addresses have been received from third parties without a change to the official last known address, send a copy of the L1058 and the enclosures to the taxpayer at these other addresses on the same date that the L1058 is sent to the last known address. Use regular mail for the copies sent to other addresses.

**Note:** There is no need to check for additional taxpayer addresses before sending the L1058, unless there is reason to believe that the last known address is not valid, e.g., mail has already been returned undeliverable, information gathered during a field call raises doubt that the address is valid, etc. Checking third-party sources that are reasonably available at the office where the case is assigned is a normal part of skip tracing to try to locate the taxpayer. Try to find a valid address before sending the L1058 to a last known address that is not current.

- (5) If the taxpayer has already been sent an L1058 and another address is found later, do not send an additional L1058 for the same Bal Dues to this new address, as long as the original notice was correctly sent to the address that

was the last known address when it was mailed. If another written notice to the taxpayer at this new address is needed, use Letter 3174, New Warning of Enforcement, or Letter 3174-A, New Warning of Enforcement for Joint Filers.

**Example:** The L1058 was mailed and was returned unclaimed, but it was correctly sent to the taxpayer's last known address. While working the account later, a new address for the taxpayer was found. Attempts to contact the taxpayer at the new address to demand payment are unsuccessful. Letter 3174 or Letter 3174-A may be sent or left at the new address to try to get the taxpayer to pay the amount owed or to contact the revenue officer.

- (6) If a mailed L1058 is mistakenly not sent to the last known address, request input of a TC 972 AC 069 to reverse that notice. See IRM 5.11.1.3.3.8, Invalid Collection Due Process Notice and Rescinding a Valid Collection Due Process Notice. Issue an L1058 to the taxpayer at the correct last known address. Release any levies that had been served for liabilities included in the improperly mailed L1058. Also see IRM 5.11.2.4, Returning Levied Property to the Taxpayer - Erroneous Levy.

### 5.11.1.3.3 (07-07-2020) Satisfying the Notice Requirements

- (1) Generally, a Notice and Demand is sent before a revenue officer receives a Bal Due account. However, if there are existing Bal Dues assigned on ICS, notice modules will be accelerated to Bal Due status resulting in the Notice and Demand being sent by the campus at the time of ICS assignment.
- (2) The campus 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 (L1058) is usually issued on initial contact with a BMF or combination BMF/IMF taxpayer when a deadline is set for the taxpayer to take specific action, e.g., provide proof of payment, proof of Federal Tax Deposits, financial statement information, substantiation for a request for abatement or adjustment, etc. Use of Form 9297, Summary of Taxpayer Contact, is required to establish what is due and the deadline for receipt.

**Note:** It is not necessary to have a levy source at the time the L1058 is issued.

**Note:** When generating an L1058 on ICS, the date for the penalty and interest computation will systemically default to 10 days from the date of the L1058. If the 504 notice (status 58) has been issued on every module to be included on the letter, then, if you so choose, 10 days can be overridden and 30 days used. See IRC 6651(d) and IRC 6331(d).

**Reminder:** L1058 and L1058-A are available in Spanish.

- (4) Use discretion when issuing the L1058 on initial contact with an IMF only balance due taxpayer. Consider the circumstances of the case and the compliance history of the taxpayer in determining whether to issue the L1058.

**Note:** ICS programming will automatically exclude the individual shared responsibility payment modules (MFT 35 or MFT 65) from the L1058. See IRM

5.11.1.4.14, Affordable Care Act's (ACA) Individual Shared Responsibility Payment (SRP).

5.11.1.3.3.1  
(04-03-2025)

**Recognizing if ACS  
Issued Notice of Intent  
to Levy/Notice of a Right  
to a Hearing**

- (1) ACS also issues a Notice of Intent to Levy/Notice of a Right to a Hearing.
- (2) If the ACS action history shows action code LT11, LT73 or LT75 for the same liabilities that a revenue officer will be levying to collect, do not issue an L1058.
- Exception:** The ACS case 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.
Action 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) 069 on the module. This is input after the CPS mails the ACS notice. Then, the results of mailing the notice, if known, are shown by a second TC 971.
- AC 066 - the return receipt was signed (not necessarily by the taxpayer), so the notice was delivered. See second **Note** in IRM 5.11.1.3.3.3
  - AC 067 - delivery was refused or the notice was unclaimed
  - AC 068 - the notice was returned, undelivered
- Caution:** ACS may issue a pre-levy or post-levy CDP notice (TC 971 AC 069) before the case is assigned to a revenue officer. Revenue officers should not reverse the TC 971 AC 069 generated by ACS.

- (4) Taxpayers may file a request for a CDP hearing based on LT11 by mailing a Form 12153 to one of the four ACS Support sites, see IRM 5.19.8.4.2. Revenue officers can identify the requested CDP hearing by reviewing IDRS for TC 971 AC 275 and TC 971 AC 630 which indicates a timely CDP levy hearing request, see IRM 5.19.8.4.1(8), Notice of Collection Due Process (CDP) Appeal Rights. ACS Support will input the appropriate TC 520 closing code after perfection of a timely CDP hearing request, see IRM 5.19.8.4.10, Suspension of the Collection Statute Expiration Date (CSED).
- (5) Alternatively ACS Support should notify the assigned revenue officer that a CDP hearing has been received, See IRM 5.19.8.4.7, Processing CDP and Equivalent Hearing Requests.

5.11.1.3.3.2  
(11-24-2021)

**Recognizing if  
Automated Levy  
Programs Issued Notice  
of Intent to Levy/Notice  
of a Right to a Hearing**

- (1) The Automated Levy Programs (ALPs) also issue a Notice of Intent to Levy/ Notice of a Right to a Hearing.
- (2) The ALPs are divided into four categories, the Federal Payment Levy Program (FPLP), State Income Tax Levy Program (SITLP), Municipal Tax Levy Program (MTLP) and Alaska Permanent Fund Dividend Levy Program (AKPFD).
- (3) The ALPs check the cases selected to determine if a CDP notice was issued. When required, Master File will systemically generate a CDP final notice based on the requirement of each program and post a TC 971 AC 069 on the module. An unreversed TC 971 AC 069 is sufficient to meet an assessment's IRC 6330 pre/post levy/seizure notice requirement.

**Caution:** The ALP may issue a pre-levy or post-levy CDP notice (TC 971 AC 069) while the case is assigned to an revenue officer (ST 26). Revenue officers should not reverse the TC 971 AC 069 generated by the ALP.

- (4) The TC 971 AC 069 notice date on IDRS is the date the notice is actually mailed, even though the transaction posts approximately three weeks prior to that date.
- (5) The ALP and type of case involved will determine which Computer Paragraph (CP) generated CDP notices (from the list below) will be issued. The type of CP issued can be found in the TXMODA Notice History Section and a TC 971 AC 804 that posts with miscellaneous field that identifies an ALP CDP hearing.
  - CP 77, Final Notice, Notice of Intent to Levy and Notice of Your Right to a Hearing, AKPFD pre-levy notice.
  - CP 90 (IMF) or 297 (BMF), Final Notice, Notice of Intent to Levy and Notice of Your Right to a Hearing, FPLP pre-levy notice.
  - CP 92 (IMF), Notice of Levy on Your State Tax Refund-Notice of Your Right to a Hearing, SITLP post levy notice.
  - CP 177 (BMF), Intent to seize your assets and notice of your right to a hearing, AKPFD pre-levy notice.
  - CP 242 (BMF), Notice of Levy on Your State Tax Refund-Notice of Your Right to a Hearing, SITLP post levy notice.
  - CP 297A (BMF), Notice of Levy and Notice of Your Right to a Hearing, is issued after a FPLP DETL, post levy notice.
  - CP 90C (IMF) or 297C (BMF), Notice of Levy and Notice of Your Right to a Hearing, is issued after a FPLP FEDCON levy, post levy notice.
- (6) Taxpayers may file a request for a CDP hearing based on CP letters by mailing a Form 12153 to one of the four ACS Support sites, see IRM 5.19.8.4.2. Revenue officers can identify the requested CDP hearing by reviewing IDRS for TC 971 AC 275 and TC 971 AC 630 which indicates a timely CDP levy hearing request, see IRM 5.19.8.4.1(8), Notice of Collection Due Process (CDP) Appeal Rights. ACS Support will input the appropriate TC 520 closing code after perfection of a timely CDP hearing request, see IRM 5.19.8.4.10, Suspension of the Collection Statute Expiration Date (CSED).
- (7) Alternatively ACS Support should notify the assigned revenue officer that a CDP hearing has been received, see IRM 5.19.8.4.7, Processing CDP and Equivalent Hearing Requests.

- (8) ALP levies are not considered third-party contacts and the CP generated CDP notices listed above do not contain advance TPC notification. See IRM 25.27.1.2(2), Third-Party Contact (TPC): Definition.
- (9) For detailed procedures on the notice process for FPLP, see IRM 5.11.7, Automated Levy Programs, and for AKPFD, SITLP & MTLP, see IRM 5.19.9, Automated Levy Programs.

5.11.1.3.3.3  
(10-19-2023)

**Issuing Notice of Intent  
to Levy/Notice of a Right  
to a Hearing in Field  
Collection**

- (1) When, on initial contact, a deadline is set for a BMF or BMF/IMF combination taxpayer to take specific action, the L1058 will be issued with all required enclosures. Allow 15 additional days after the 30 day period ends before levying in case the taxpayer mails a request for a hearing on the 30th day. See IRM 5.11.1.3.2 for additional guidance. Explain to the taxpayer:
  - a. If they do not meet the deadline, the enforcement action warned of may take place after 30 days, and
  - b. That only by making a request for a CDP hearing, preferably using Form 12153, Request for a Collection Due Process or Equivalent Hearing, or a written request with the same information as on the Form 12153, within the next 30 days, will the right to go to court be preserved.

**Note:** If the taxpayer does request a hearing, continue to work with the taxpayer pursuant to IRM 5.1.9.3.3, Processing CDP and EH Requests.

- (2) When the L1058 is delivered in person, input ICS Delivery Method as "Hand Delivered". This will upload IDRS Transaction Code (TC) 971 Action Code (AC) 069 and TC 971 AC 066 on the same date.
- (3) If no contact is made on the scheduled initial contact appointment in the post of duty, the L1058 and all required enclosures may be mailed certified the same business day. Note **Caution** in (4) below.
- (4) If a taxpayer does not appear for a scheduled appointment at their location and a L1058 is left at the taxpayer's home or business, input ICS Delivery Method as "Left at Home/Business." This will upload IDRS TC 971 AC 069 and TC 971 AC 067 on the same date.

**Caution:** The date on the L1058 must be the date it is given to, left for, or mailed (return receipt requested) to the taxpayer.

- (5) If initial contact is made with the authorized representative only and a deadline is set for specific action to be taken, provide a copy of the L1058 to the representative and mail the original and all required enclosures to the taxpayer by certified or registered mail, return receipt requested. Input TC 971 AC 069, and follow-up with the appropriate transaction code per IRM 5.11.1.3.3.1 when the results of the delivery are known.
- (6) When extenuating circumstances exist such as assigned inventory covering a large geographical area, or to alleviate safety concerns, and initial contact with the taxpayer is not in person, L1058 should still be issued if a deadline is set for the taxpayer to take specific action.
- (7) Issuing L1058 in any case is not appropriate or may not be appropriate when:



- a. Levy action is prohibited, such as when the taxpayer requests an installment agreement on initial contact or the pending installment agreement transaction code has already posted.

**Note:** See IRM 5.14.9.7(13)(d) for guidance on issuing L1058 and Letter 4052, Rejection of Proposed Installment Agreement at the same time.

- b. A levy would not be issued if the taxpayer did not comply with the deadline, e.g., the taxpayer is in a hardship situation or there is doubt as to the correctness of the liability.
  - c. Information obtained during the attempted contact indicates the taxpayer may no longer be at the last known address.
  - d. IMF accounts have been in a suspended status, e.g., assigned to the Queue or reported currently not collectible for more than 12 months.
  - e. The taxpayer satisfactorily demonstrates that the deadline set will be complied with, e.g., the taxpayer provides documentation that a loan is in process to full pay the liability.
- (8) Because taxpayers only have the right to one Collection Due Process (CDP) hearing for each taxable period and assessment, do not list liabilities on L1058 that have already been included in such a notice. Issuing more than one notice for a taxable period may give taxpayers the impression they can have another CDP hearing for that liability.

**Reminder:** None of the campus IDRS Computer Paragraph (CP) notices are Notices of a Right to a Hearing.

**Reminder:** If the L1058 is mailed, it must be sent by certified or registered mail **WITH A RETURN RECEIPT**. See IRM 5.11.1.3.3.14 for procedures when L1058 is mailed through CPS.

- (9) When the delivery results are known, update the Mail Receipt Response in ICS by choosing one of the following:
- a. Accepted delivery
  - b. Unclaimed/refused
  - c. Undelivered

**Note:** If the return receipt comes back unsigned, but the envelope is not attached, use AC 067. If there is a postmark date on the receipt, use that as the date of the transaction. If there is no postmark date, use the date that the return receipt is received. See IRM 5.11.1.3.3.9 for situations where Certified Automated Mail Services (CAMS) is used. CAMS allows employees to view images of Certified Mail and Return Receipt records up to 10 years or delivery and signature status.

**Example:** The L1058 is mailed on March 10. The TC 971 AC 069, is input on March 12. The date of the TC is March 10.

- (10) This will upload a second TC 971 with either AC 066, 067, or 068 as shown in IRM 5.11.1.3.3.1. For modules that are not in status 26 or when the TC 971 AC 069, should be input for a date that is more than 30 days before the current date, prepare Form 4844, Request for Terminal Action, for manual

terminal input to IDRS. Ask the terminal operator to input the date the action took place, rather than the date of the input. If the delivery results cannot be determined, no additional input is required.

**Note:** If the return receipt comes back unsigned, but the envelope is not attached, use AC 067. If there is a postmark date on the receipt, use that as the date of the transaction. If there is no postmark date, use the date that the return receipt is received.

**Example:** The L1058 is mailed on March 10. The TC 971 AC 069, is input on March 12. The date of the TC is March 10.

- (11) Inputting AC 067 on the same date as the AC 069 shows the notice was **left at the taxpayer's home or business**. Refused delivery is distinguished from this by the AC 067 being a later date than the AC 069. If the Collection Due Process (CDP) was delivered **in person**, ACs 069 and 066 are input the same date.

**Note:** In the past, if an IDRS 504 notice (status 58) had never been issued for a module, the TC 971 Action Code 035 was input to increase the failure to pay rate to 1 percent after L1058 was issued. Action Code 069 now causes this change. If the higher rate has not already gone into effect because of a 504 notice, Action Code 035 is not necessary.

- (12) If the L1058 was not issued on initial contact, do not issue it when, after consultation with the Fraud Technical Advisor (FTA), it is determined that a firm indication of fraud has been established. (See IRM 25.1.3.3 , Preparation of Form 2797 - Referral Report of Potential Criminal Fraud Cases).
- (13) Except in cases involving a taxpayer identified as an in-business repeater trust fund taxpayer (IRM 5.7.8.3, Identifying Repeater Taxpayers), or pyramiding trust fund taxpayer (IRM 5.7.8.4, Pyramiding Taxpayers) avoid issuing the L1058 if you have issued a Collection Summons to the same taxpayer for the same tax periods and the summons is still pending. Issuing the notice while the summons is pending could conflict with the taxpayer's opportunity in CDP to resolve any issues or disputes.
- (14) A summons is considered pending when:
- Issuance of the collection summons will occur during the 30 days the taxpayer has to exercise CDP rights,
  - Compliance with the summons will occur during the 30 days the taxpayer has to exercise CDP rights,
  - Referral of the summons will occur during the 30 days the taxpayer has to exercise appeal rights,
  - The taxpayer exercises the right to a hearing and the compliance date for the summons will occur during the time the hearing is pending in Appeals.

**Note:** The L1058 may be issued when the pending summons was issued to a third-party.

- (15) TC 971 Action Codes can be posted to Non-Master File (NMF) accounts and will display a pending transaction "PN" indicator code.



5.11.1.3.3.4  
(10-19-2023)

**Issuing Notice of Intent  
to Levy/Notice of a Right  
to a Hearing for Joint  
IMF Bal Due account**

- (1) If there are Bal Dues for jointly filed income tax returns, prepare two copies of L1058-A, because the IRS is required to send notices relating to joint returns separately to each taxpayer.

- a. If they are not delivered in separate envelopes in person or left at the taxpayers' home or business, mail them in separate envelopes to the taxpayers. Address one envelope to the primary taxpayer and one to the secondary taxpayer, although both taxpayers' names will be on each of the notices. Do not use a window envelope. Do this regardless of whether the taxpayers live at the same address or different addresses. If there are joint and separate liabilities, be careful that taxpayers are not sent a notice for taxes they do not owe.

**Example:** John and Mary Doe owe tax for their 2018 joint income tax return. John Doe also owes tax for his single return for 2017. John must be sent a notice for both years, but only send Mary a notice for 2018.

- b. If the notices are going to different addresses, do not reveal one person's address to the other.

**Example:** William and Barbara Feldspar owe tax for a joint income tax return. They now have different addresses. ICS users must make two passes of the application to generate two letters, one pass to generate a letter for William and a second pass to generate a letter for Barbara. "William and Barbara Feldspar" will appear next to, "For Account of" in the upper right hand corner of the letter.

- c. Before sending the L1058-A to joint taxpayers living at different addresses, try to contact both of them, so the letter is not a surprise to either of them. If one of the taxpayers is living in a different jurisdiction, try to get a telephone number to call this person before sending the L1058-A. If a number cannot be found or the attempted call fails, the letters can still be sent.

- (2) Before sending the L1058-A to the secondary taxpayer, check the master file online to find out if this person has filed a return with a different address since the joint return(s) that generated the Bal Dues. This step is not necessary when there has been contact with the taxpayers confirming the secondary taxpayer's address or when the Bal Dues are for the most recent tax year.

**Example:** There are Bal Dues for Steven and Mary Maltese for their joint income tax return for 2018. The revenue officer has not been able to contact the taxpayers but has found a joint levy source, so two L1058-As are going to be sent. Before sending them, the revenue officer uses master file online to check Mary Maltese's social security number and finds that Mary has filed a more recent return with a married filing separate filing status and a different address. The L1058-A issued to Mary Maltese is mailed to the address on Mary's most recent return rather than the same address where Steven Maltese's L1058-A will be mailed.

- (3) If levy on one of the taxpayer's property is prohibited, use the L1058 rather than the L1058-A and do not issue a separate L1058 to the prohibited person. Instead, prepare a notice with the taxpayer name to be provided a CDP hearing on it, and deliver or mail it in an envelope addressed to the taxpayer

whose property can be levied. When the condition that prohibits levy no longer exists, an L1058 can be issued to that person. Also, see IRM 5.11.2.2.2(4), Preparing the Notice of Levy.

**Example:** John and Mary Doe owe tax for a joint return. They are separated, and Mary is making payments on an installment agreement for the joint liability. John is not a party to the installment agreement. The L1058 will have John's name on it, and only be issued to John. Issuing an L1058 to Mary would be improper, because the installment agreement prevents levy on Mary's property. Later, Mary defaults on the agreement; Mary has the right to appeal the default. Mary must also be issued an L1058 giving Mary the right to a CDP hearing if Mary has not already received that right for each liability. During the appeal and during the 30 days Mary has to request a CDP hearing, collection can continue against John.

- (4) However, when separate notices are sent for joint assessments on ICS, when entering the Delivery Method and Mail Receipt Response, select "Primary, Secondary, or Both" as appropriate. If the L1058 is not input through ICS, Form 4844 should be prepared including the secondary taxpayer's SSN as "X-Ref XXX-XX-XXXX" in the "Remarks" on the Form 4844 for inputting the record of that person's notice. This will distinguish the primary and secondary taxpayer's ACs.

**Example:** John and Mary Doe's notices for their joint 2018 income tax return are both mailed on January 31, 2020. John's return receipt comes back signed, but Mary's is returned undeliverable. There will be two TC 971 AC 069 on January 31, 2020. One will have Mary's X-Ref SSN. The other will have no X-Ref SSN. There will also be a TC 971 AC 066 with no X-Ref SSN for John's notice and a TC 971 AC 068 with Mary's X-Ref SSN for Mary's notice.

- (5) Separate notices do not have to be issued when Field Collection is collecting the same liabilities for which ACS already issued its LT11, Notice of Intent to Levy/Notice of Your Right to a Hearing. While working the Bal Dues in Field Collection, you may discover that the taxpayers were separated, and one of them was not living at the last known address when the LT11 was sent. As long as that was the person's last known address when the notice was sent, it was a legally valid Notice of a Right to a Hearing. Refer to IRM 5.11.1.3.2.2. Nevertheless, it may be inequitable to take this person's property without notice. Give Letter 3174 or Letter 3164 -B to the taxpayer who was not living at the address before serving additional Notices of Levy on that person's property, and release Notices of Levy that have been served on that person's property.
- (6) You may send two L1058-As for a joint Bal Due and discover later that one of the taxpayers was living at a different address when the letters were sent. Although the notice is legally valid if it is sent to the last known address, it has been administratively determined that Letter 3174 or Letter 3164 -B will be sent to this taxpayer before serving additional Notices of Levy on that person's property, and Notices of Levy that have already been served on that person's property will be released.

**Note:** Because of procedures in (2), above, this should only be an issue if the secondary taxpayer has not reported a new address.

- (7) In a situation where you determine that you have erred by only mailing one L1058 to each spouse listed on the jointly filed income tax return (e.g., in an envelope addressed to both of them), a substitute Letter 1058 (Letter 1058-A) must be issued to each spouse who has not timely requested a CDP hearing from the one L1058. The L1058-A should be dated the day it is issued. Follow the procedures in the table below to determine if a substitute L1058 must be issued.

If ...	Then ...
both spouses timely request a CDP hearing prior to you discovering the inadvertent error,	the CDP hearing request(s) should be processed per IRM 5.1.9. The invalidity of the improperly sent notice is cured by the timely hearing request.
only one spouse timely requests a CDP hearing prior to you discovering the inadvertent error	the CDP hearing request should be processed per IRM 5.1.9 for the requesting spouse, and the L1058-A should be issued to the non-requesting spouse
neither taxpayer has requested a CDP hearing,	the notice is invalid as to both taxpayers, send separate L1058-A to each, and release Notices of Levies that have been served on either spouse's property based on the invalid notice.

- (8) When the notice is substituted, input Transaction Code (TC) 972, Action Code 069, to reverse each TC 971 that has already been input for the invalid letter. The input date for each TC 972 must be the same as the date for the TC 971 it is reversing.

5.11.1.3.3.5  
(06-09-2023)

## Issuing Notice of Intent to Levy/Notice of a Right to a Hearing for Deceased Taxpayers

- (1) Generally, if a taxpayer has died, a proof of claim may be filed to collect delinquent tax from the estate. Generally, the IRS should not levy on property in control of the probate court. However, some circumstances may call for the issuance of a Notice of Levy.

**Example:** The estate or certain assets may not be going through probate.

**Example:** For a joint return, the assets of the surviving spouse may be levied to collect the delinquent tax.

- (2) CEASO and/or Associate Area Counsel (L&A) may need to be consulted to determine whether a Notice of Levy can be served.
- (3) If a Notice of Levy will be issued, L1058 must be sent to the estate administrator or executor. Research probate records to obtain the name of the estate administrator or executor. See IRM 5.5.3.4, Field Collection Actions, for procedures to be followed in investigations involving a deceased taxpayer.

(4) For single liabilities:

IF	THEN
There is no estate administrator or executor	Send the L1058 to: <b>John Feldspar (Deceased)</b> <b>John Feldspar's Last Known Address</b>
There is an estate administrator or executor	Send the L1058 to: <b>John Feldspar (Deceased)</b> <b>Charles Maltese, Administrator (or Executor or Personal Representative)</b> <b>Charles Maltese's Last Known Address</b>

**Note:** The estate administrator or executor is the point of contact and acts as power of attorney for the taxpayer's estate. See IRM 5.5.1.7, Fiduciary Authority, for additional information. Do not issue L1058 to the estate administrator or executor if L1058 was previously issued to the taxpayer.

(5) For joint IMF liabilities, one spouse deceased:

***No Estate Administrator***

IF	THEN
There is no estate administrator or executor	Send two L1058s. Address both to: <b>Mary Doe and James Doe (Deceased)</b>
Address second L1058 to	Use James's last known address on one L1058 and Mary's last known address on the other. Put James's L1058 in a non-window envelope addressed only to James at the last known address. Put Mary's L1058 in a non-window envelope addressed only to Mary at the last known address or issue it to Mary on initial contact.

## *Has Estate Administrator*

IF	THEN
There is an estate administrator or executor	<p>Send two L1058s.</p> <p>Address one to:  <b>Mary Doe and James Doe (Deceased)</b>  <b>William Granite, Administrator (or Executor)</b>  <b>William Granite's Last Known Address</b></p> <p>Put the L1058 in a non-window envelope addressed the same way as the letter, except delete Mary's name.</p>
Address the other L1058 to:	<p><b>Mary Doe and James Doe (Deceased)</b>  <b>Mary Doe's Last Known Address</b></p> <p>Put the L1058 in a non-window envelope addressed the same way as the letter, except delete James' name. The L1058 can also be delivered on initial contact with Mary.</p>

5.11.1.3.3.6  
(08-01-2014)

### **Issuing Notice of Intent to Levy/Notice of a Right to a Hearing for Partnership Liability**

- (1) The IRS may levy on the property of a partnership or the general partner's property and rights to property to collect the employment tax liability of the partnership.
- (2) If the IRS intends to levy on the partnership assets to collect the partnership liability, send the L1058 to the last known address of the partnership. Do not send additional L1058s to the partners at their addresses.

**Exception:** If the partnership is no longer operating, or there is another reason to know the last known address is not current, the L1058 must still be sent to this address. Also send a copy of the letter and the enclosures to any general partners whose addresses are known, e.g., partners who provide their addresses when contacted about the taxes, and partners whose addresses are found through normal skip tracing when a partnership is no longer at its last known address. Use regular mail for the copies sent to the partners.

- (3) If the IRS intends to levy on the property or rights to property of an individual general partner to collect the employment tax liability of the partnership, send the L1058 to the individual general partner whose property the IRS intends to levy and to the partnership. Use regular mail for the copy sent to the partnership.

- (4) If the IRS intends to levy on the partnership assets and an individual general partner's assets to collect the partnership liability, send an L1058 to the last known address of the partnership and the individual partner by certified/registered mail.
- (5) ICS generally reflects the partnership name as it appeared when it was established on IDRS. It may contain the name of the partnership, its trade name and/or the names(s) of its general partners. Before generating the L1058 to the individual general partner, you must:

1. Identify the general partner.
2. Document the ICS case history.

**Note:** Enter "Individual Gen Ptr, see history MMDDYYYY" in the MISC INFO section on the IDRS MAILING ADDRESS screen on ICS. This provides a central location for others reviewing a case to locate the history entry that identifies the individual general partner.

3. Create a new name line on ICS to identify the individual general partner.

**Note:** Create it as an OTHER ADDRESS, and select it when requesting administrative collection actions.

4. Create a separate name line for each individual general partner, if the identity of the individual general partner changes from one period to the next.
5. Clarify the tax periods attributed to each individual general partner in your summarizing ICS history entry.

**Note:** Select the correct name line created to generate the L1058 through ICS.

**Note:** Include only the name and TIN(s) of the individual general partner on the L1058.

5.11.1.3.3.7  
(07-07-2020)

**Issuing Notice of Intent  
to Levy/Notice of a Right  
to a Hearing for Limited  
Liability Company (LLC)**

- (1) Prior to issuing Letter 1058, for employment taxes assessed in the name of the LLC, determine the liable taxpayer for each tax period; i.e., whether the LLC or the single-member owner is liable and input appropriate TC 971 action codes on each module:
  - a. AC 364 (LLC is the liable taxpayer)
  - b. AC 365 (LLC owner is the liable taxpayer)
  - c. AC 366 (liable taxpayer changed during this period)

**Note:** See IRM 5.1.21, Collecting from Limited Liability Companies (LLCs), for guidance.

- (2) When the LLC is the liable taxpayer, the Letter 1058 is issued in the name of the LLC and the LLC, itself, has the right to a hearing.
- (3) When the owner of the LLC is the liable taxpayer, the Letter 1058 must be issued in the name of the owner, and the owner has the right to a hearing.

**Note:** If the Letter 1058 is mailed, it must be sent to the **owner's** last known address. If the Letter 1058 is hand delivered then it must be either given in person or left at the dwelling or usual place of business of the **owner**.

- (4) When a husband and wife, as sole owners of an LLC owned as community property under the laws of a state, chose to treat it as a disregarded entity for Federal tax purposes, the IRS will accept that position. See IRM 5.1.21.10.2, Community Property Considerations. The Letter 1058 should be sent to each spouse separately following the steps set forth in IRM 5.11.1.3.3.4. This is only true if the owners are liable for the employment taxes. For wages paid on or after Jan. 1 2009, the LLC is always liable for the employment taxes.
- (5) If the identity of the liable taxpayer changes due to changes in classification or regulations, issue one notice to the LLC for the tax period(s) when the LLC is liable and a separate notice to the owner for the tax period(s) when the owner is liable.
- (6) If the Letter 1058 was originally issued to an incorrect liable taxpayer or address, issue a new notice to the last known address of the correct liable taxpayer. Input TC 972 AC 69 to reverse each TC 971 relating to the incorrect notice(s).

**Note:** The input date for each TC 972 must be the same as the date for the TC 971 it is reversing.

### 5.11.1.3.3.8

(07-07-2020)

#### **Invalid Collection Due Process Notice and Rescinding a Valid Collection Due Process Notice**

- (1) If a Collection Due Process (CDP) levy notice is **invalid**, a substitute notice must be issued, so that the taxpayer will be entitled to request a hearing. Situations warranting the issuance of a substitute CDP notice because the CDP levy notice was invalid include when the taxpayer:
  - a. Did not receive a CDP notice or made an untimely hearing request because the notice was not sent to the taxpayer's last known address (in which case the notice is invalid). If the taxpayer makes a timely hearing request from the invalid notice, a substitute notice need not be issued.
  - b. Is in bankruptcy and the automatic stay in effect prohibits the issuance of collection notices and collection by levy (in which case the CDP notice is treated as void and is invalid). Issue the substitute CDP notice when the automatic stay is no longer in effect. Contact Specialty Collection Insolvency for assistance in determining whether the automatic stay is in effect as to certain property.
  - c. Did not receive a CDP notice because it was not sent individually to each joint filer. A notice may be valid as to one or both of the joint filer(s) if there is proof that person actually received the notice or that person timely requested a CDP hearing. If the taxpayer makes a timely hearing request from the invalid notice, a substitute notice need not be issued.
- (2) If a taxpayer makes a timely hearing request from a CDP notice that is invalid, because it was not sent to the last known address or not sent individually to a joint filer, treat the request as timely. By making a timely hearing request, the taxpayer is deemed to have waived any defect in the addressing of the CDP notice.
- (3) If the taxpayer submits a CDP hearing request in response to a CDP levy notice issued during the automatic stay, notify the taxpayer that they are not entitled to a hearing because the notice is invalid and that a substitute notice will be issued if the IRS intends to levy after the automatic stay is no longer in



effect. A taxpayer is not entitled to a CDP hearing pursuant to a CDP levy notice issued in violation of the automatic stay.

- (4) A valid CDP levy notice issued in error can be rescinded but only if:
  - a. the rescission is accomplished before the expiration of the time period in which the taxpayer may request a CDP hearing; and
  - b. the taxpayer has not requested a CDP hearing.
- (5) You should rescind a valid CDP notice during the 30-day period for requesting a CDP hearing unless the taxpayer timely requested a CDP hearing, if you learn that the notice was issued when the case is in a status in which levy action is prohibited. Rescission is not permitted once the 30-day period expires or the taxpayer makes a timely hearing request. See IRM 5.1.9.3.2.4, Invalid CDP Notices and Rescinding a Valid CDP Notice. Situations where levy action is prohibited on a taxpayer's property and rights to property after a valid CDP levy notice is sent include:
  - During a pending installment agreement request.
  - During a pending offer-in-compromise.
  - When an installment agreement is in effect.
  - During a pending innocent spouse request.
  - While the bankruptcy automatic stay is in effect.

**Example:** A revenue officer issues a L1058 to a taxpayer during the initial contact on April 26, 2019. On June 3, 2019, while analyzing the case the revenue officer discovers a pending installment agreement code on all the modules which prohibits levy action. The revenue officer cannot rescind the valid CDP hearing once the 30-day period expires or the taxpayer makes a timely hearing request.

- (6) The time period for requesting a hearing is suspended during and for an additional 180 days (IRC 7508 status) after:
  - a. the taxpayer is in a combat zone (CZ)
  - b. part of a contingency operation away from the taxpayer's permanent duty station, or
  - c. recuperating during a qualified hospitalization.

**Note:** Because the time period for requesting a hearing is extended when the taxpayer is in IRC 7508 status, the time period for rescinding the IRC 6330 notice is also extended.

**Note:** Check IDRS for any TC 500 that may extend the 30-day period for requesting a hearing. See IRM 5.1.7.10, Accounts of Taxpayers Who Serve in a Combat Zone.

**Note:** The time for requesting a hearing resumes when the IRC 7508 status ends (e.g. combat zone exit date plus 180 days). CDP requests that appear untimely may in fact be timely if made by taxpayers who were in IRC 7508 status at the time of the original CDP notice issuance or during the time period for requesting a hearing. Look for prior TC 500s and their reversals on all untimely requests and compare those dates to the CDP notice dates. The TC 500 indicates the date the taxpayer entered IRC 7508 status and its reversal the date of exit from a combat zone, contingency operation, or



qualified hospitalization. All requests received in that timeframe or during the following 180 days should be honored as timely, with an explanation on the case when sent to Appeals.

**Caution:** If the taxpayer has requested a hearing, the IRS cannot rescind the CDP notice but the IRS shall delay the CDP hearing in accordance with IRC 7508.

- (7) Use Letter 3876, Rescission of Collection Due Process Levy Notice, to notify the taxpayer. The letter explains that the Notice of Intent to Levy and Notice of Your Right to a Hearing is rescinded and as a result any CDP hearing request submitted after the date of the letter is disregarded. It also explains that the taxpayer's CDP hearing rights are preserved.
- (8) If you receive a properly-addressed timely hearing request after sending the Letter 3876, check the dates to see which one was mailed first (check postmark date on request). If the taxpayer's request pre-dates the dates of the Letter 3876, the Letter 3876 is ineffective and the CDP rights cannot be rescinded. The request must be forwarded and resolved by Appeals.

**Reminder:** If the timely hearing request was not properly addressed, use the date of the receipt of the request. The CDP levy notice is rescinded if the Letter 3876 was mailed before the hearing request was received.

- (9) When the notice is rescinded or invalid, input Transaction Code (TC) 972 Action Code (AC) 069, to reverse each TC 971 that has already been input for the rescinded letter or invalid notice. The input date for each TC 972 must be the same as the date for the TC 971 it is reversing.

**Note:** The TC 971 AC 069 need not be reversed if the taxpayer has submitted a timely hearing request from an invalid CDP levy notice sent to an address other than the last known address or not mailed to a joint filer individually.

- (10) When inputting the TC 972 AC 069 through ICS Collection Activities screen refer to the ICS User Guide, Chapter 15 - Forms and Correspondence for detailed instructions. Refer to the *Integrated Collection System (ICS) Table of Contents* site.
- (11) Once a taxpayer requests a CDP hearing following a valid notice that has not been previously rescinded, Appeals must conduct the hearing and issue the Notice of Determination, unless the taxpayer withdraws the hearing request. Pending OICs, requests for IAs or innocent spouse relief and combat zone CDP hearing requests should be worked by Appeals in the CDP or equivalent hearing if the taxpayer requests a hearing.

**Note:** IRM 8.22.5.4.2.4.2(2), Corrective Actions on Improperly Issued CDP Notices and Notices Issued in Error, provides the procedures Appeals should follow if the taxpayer requests a CDP hearing when collection by levy is prohibited.

5.11.1.3.3.9  
(04-03-2025)

**Verification of Notice of Intent to Levy/Notice of a Right to a Hearing**

- (1) A record will be made in the ICS history showing when and how the Notice of Intent to Levy and Notice of Your Right to a Hearing is given to the taxpayer. This will be automatically generated by ICS when the input described in IRM 5.11.1.3.3.3 is done. When the L1058 is mailed through CPS the history entry will list the certified mail date.
- (2) If the notice is mailed, the Postal Service's rubber stamp imprint on a Certified Mail Receipt (Postal Service (PS) Form 3800, Certified Mail ) or a Certified Mail Book (PS Form 3877) is desirable to verify the mailing. However, getting the form stamped may not be practical, e.g., the nearest Post Office may be many miles from a remote post of duty. Even if the postal stamp is not obtained, keep the unstamped Certified Mail Receipt in the case file.

**Exception:** Employees may use PS 3800 or PS 3811 form if Certified Automated Mail Services (CAMS) system is down or there is a supply issue. See IRM 5.11.1.3.3.9.1 for requirements on using CAMS system for certified mail.

- (3) If the notice is delivered by the Postal Service, the return receipt (PS Form 3811, Domestic Return Receipt) should come back. If the notice is not delivered, the envelope with the attached return receipt should come back.
- (4) Keep the return receipt or the undelivered envelope (with the attached return receipt) in the case file. These can serve as proof that the notice was mailed. When neither the return receipt nor the envelope is returned, verification can be made within six months through the Postal Service's web site at <https://www.usps.com/>. The Track and Confirm information at this website should be printed and maintained in the case file to show the Postal Service's receipt of the certified mailing, delivery attempts, delivery result, and return of the mail item where delivery was not accomplished.

**Note:** See IRM 5.11.1.3.3.14 for procedures when L1058 is mailed through CPS.

5.11.1.3.3.9.1  
(04-03-2025)

**Using Certified Automated Mail Services (CAMS) Application**

- (1) Since October 13, 2023, anyone who sends, or processes IRS certified mail must now use the CAMS application. CAMS is an automated internet-based shipping system for IRS employees to use to generate shipping labels for outgoing certified mail. The centralized application will generate the correct barcode and necessary tracking for all certified mail. See IRM 1.22.5.12, Processing Outgoing Mail.

**Note:** CAMS use is required whenever IRS employee sends certified letter, unless impossible to do so.

- (2) Using CAMS will ensure the IRS is compliant with the United States Postal Service (USPS) regulations. Following the new guidance will help decrease costs. It also provides the IRS with a central location for tracking and researching all certified mail to comply with legal requirements. CAMS allows users to print labels and track certified mail and certified mail return receipts for letters from their desktops.
- (3) When mailing the L1058, request for certified mail return receipt **MUST** be included. CAMS allows employee to request "Purchase Signature" when sending as Return Receipt. Employees can view images of Certified Mail and

Return Receipt records up to 10 years or delivery and signature status. For detailed guidance on using CAMS system see, *Task Reference Guide: Certified Automated Mailing Solution*.

**Note:** When you select the signature box, the CAMS cover page prints “RETURN RECEIPT REQUESTED ELECTRONICALLY” above tracking number.

- (4) Mail processed with CAMS has certified mail barcode visible in envelope window. PS 3800 or PS 3811 (Green Card) will no longer be used. Green Cards won't be returned to mail room when CAMS transition is complete. Digital signature indicating proof of delivery is in CAMS once delivered.

5.11.1.3.3.10  
(11-09-2017)

**Waiver of Notice of Intent to Levy/Notice of a Right to a Hearing**

- (1) Occasionally, a taxpayer may want the IRS to issue a Notice of Levy quickly.

**Example:** The taxpayer is expecting another creditor to attach assets. The taxpayer may want the assets levied before the other creditor can attach them.

- (2) Normally, a levy cannot be issued until an L1058 has been issued, and the waiting period has passed. However, in this situation, the taxpayer may have an incentive to waive the waiting period and the right to a hearing, so the notice of levy can be issued promptly.
- (3) Waiver of this right must be informed and voluntary, or it is not a valid waiver. The waiver must be in writing.
- (4) First, give the taxpayer an L1058, including all the enclosures so they have an opportunity to understand the rights they are waiving. Discuss those rights with the taxpayer and document the case history accordingly. Then, have the taxpayer sign Form 13207, Waiver of Right to Receive a Collection Due Process Hearing under IRC 6330.
- (5) If this form does not fit the situation, discuss the need for some alternative language with Advisory, which may consult with Associate Area Counsel (L&A). The right to a Collection Due Process must be waived in its entirety. Do not accept a proposed waiver that is restricted to allowing levy only on a specific asset or class of assets.
- (6) Input the appropriate delivery codes shown in IRM 5.11.1.3.3.3(9)

5.11.1.3.3.11  
(08-01-2014)

**Issuing Notice of Intent to Levy for Child Support Obligation Bal Dues**

- (1) IRC 6305 provides that Federal courts have no jurisdiction to restrain or review the assessment and collection of Child Support Obligation (CSO) Bal Dues. It also says that the assessment and collection are not, “...subject to review by the Secretary in any proceeding...”.
- (2) This means that the Collection Due Process does not apply to these liabilities, so no Notice of a Right to a Hearing (L1058) will be issued when CSO Bal Dues are being collected. Similarly, the taxpayer can neither request review under the Collection Appeals Program nor by the Taxpayer Advocate Service.
- (3) Before a Notice of Levy can be issued to collect a CSO liability, there must be a:
  - Notice and Demand, and

- Notice of Intent to Levy.
- (4) The Notice and Demand is issued at the campus when the liability is assessed.
  - (5) Use Letter 3524, Final Notice - Notice of Intent to Levy, Please Respond Immediately, instead of L1058. This is the Notice of Intent to Levy for CSO Bal Dues. It is available as an ICS template. This must be given to the taxpayer, as described in IRM 5.11.1.3.2. If it is mailed, no return receipt is required.
  - (6) If the person who owes child support also owes tax, give L1058 to the taxpayer for delinquent tax modules, but do not include the child support obligation on this letter. Letters 1058 and 3524 can be mailed in the same envelope, but if that is done, a return receipt is required.
  - (7) Because L1058 has not been issued for the CSO Bal Dues, ICS will not allow the revenue officer to issue a Notice of Levy. Instead, this must be done by the group manager.

**Note:** See IRM 5.11.1.4.2, Property Exempt from Levies Used to Collect Child Support Bal Dues.

5.11.1.3.3.12  
(08-01-2014)

**Issuing Notice of Intent to Levy/Notice of a Right to a Hearing for Consolidated Groups**

- (1) A consolidated group is an affiliated group of corporations connected through stock ownership in a parent-subsidary relationship as defined in IRC 1504 that has elected to file a consolidated income tax return to offset income and losses of the affiliates.
- (2) Treas. Reg. 1.1502-6(a) imposes on the common parent and each subsidiary that was a member of the consolidated group during any part of the consolidated return year joint and several liability for the tax of the consolidated group for that year. The IRS may levy on the property of a subsidiary corporation for unpaid income tax liability of the consolidated group in these situations. Under certain limited circumstances, the Commissioner may make assessment and collection from a subsidiary that has left the group based on such subsidiary's allocable portion of the consolidated group's deficiency under Treas. Reg. 1.1502-6(b).
- (3) When the determination is made to collect the income tax liability from the assets of the subsidiaries, the common parent and the subsidiaries must be listed on the L1058.
- (4) ICS generally reflects the common parent name as it appeared when it was established on IDRS. Before generating the L1058 to the common parent, you must identify all the subsidiaries. Document the ICS case history.
- (5) The name of the common parent and all the subsidiaries must be listed on the L1058. ICS limits the number of name lines that can be generated on the L1058; if the number of subsidiaries exceeds the number of name lines provided, the IRS can list the names of the subsidiaries on an attachment to the L1058.
- (6) The L1058 must be mailed to the common parent's last known address. The common parent is the only entity authorized to act for the subsidiary with respect to its several liability for the consolidated tax year. The common parent is the only entity with the right to participate in a CDP hearing on behalf of a subsidiary member of the group.

5.11.1.3.3.13  
(11-09-2017)

**Issuing Notice of Intent to Levy/Notice of a Right to a Hearing for Assessments related to Employee Benefit Plans**

- (1) Levies may be issued in relation to Form 5330, Return of Initial Excise Taxes Related to Employee Benefit Plans, and Form 5500, Annual Return/Report of Employee Benefit Plan. These assessments create unique challenges for revenue officers since manual actions are required prior to issuing the levy.
- (2) Assessments made for Form 5330 appear on IDRS under MFT 76 and for Form 5500 under MFT 74. Whenever an assessment is made under either of these MFTs, a corresponding plan number is embedded in the assessment.
  - Each plan has an associated three digit plan number assigned by the employer/sponsor (e.g., 001, 002).
  - Employers may have more than one type of retirement or benefit plan. Command code INOLEP lists all plans maintained by the employer.
  - Multiple MFT 74/76 assessments can exist for each tax period if the employer has a deficit in more than one plan.
  - Proper identification of the plan number related to the assessment is needed when issuing the Letter 1058.
- (3) The same required notices and pre-levy determination used for other balance due accounts apply for these assessments. See IRM 5.11.1.3.2, Required Notices.

**Note:** CP 504 notices are not generated on MFT 74/76 accounts.

- (4) Prepare manual Letter 1058 and take the following steps.
  1. In the Form Number section, enter “5330” or “5500” and include the plan number associated with the assessment (i.e. Plan Number 001).
  2. Issue L1058 per IRM 5.11.1.3.3.3.
  3. Prepare Form 4844 to request input Transaction Code (TC) 971 Action Code (AC) 069, and follow-up with the appropriate transaction code per IRM 5.11.1.3.3.1 when the results of the delivery are known.

5.11.1.3.3.14  
(06-09-2023)

**Issuing Notice of Intent to Levy/Notice of a Right to a Hearing through Correspondence Production Services (CPS)**

- (1) In January 2020, ICS added the Correspondence Production Services (CPS) print option to the L1058 series of letters. Field Employees can choose to either print at the CPS site or print L1058's at their local network printer. When the L1058 is delivered in person, left in an envelope at the taxpayer's home or business do not select the CPS print option.
- (2) ICS will batch L1058's daily and the letters are considered received at CPS sites the next business day. The L1058 is printed and mailed from the CPS site within six business days after receipt of the file, excluding weekends and holidays. If you choose to print at the CPS site, a file copy of the L1058 will still print at your local network printer.

**Example:** Revenue officer Coal generates a L1058 for mailing by CPS on Monday June 28, 2021. CPS will mail the certified L1058 on July 8 since the file is considered received by CPS on Tuesday June 29, 2021 (skipping weekend and the July 4 holiday when counting six business days).

**Caution:** Employees can only delete L1058 from ICS CPS dashboard on the same day the letter was generated. CPS is not able to pull individual letters from the print queue.

- (3) Once a Print to CPS L1058 is sent to the CPS site, they will systemically generate a certified mail number (if applicable), print and mail the letter. The certified mail number is written in the ICS history the next business day after the L1058 is mailed. CPS will then upload a TC 971 AC 069 to IDRS (if applicable) and a systemic history will be generated notating that the TC 971 AC 069 was input.
- (4) The United States Postal Service (USPS) will provide CPS with the results of mailing after delivery to the taxpayer's last known address. CPS completes the response by systemically uploading the TC 971 AC 066, 067 or 068 depending on how the taxpayer acknowledges the certified mailing (signed, unclaimed/refused, undeliverable). The signed taxpayer response will be systemically uploaded to IDRS as TC 971 AC 066 and a systemic ICS history entry will be made. The USPS captures an image of the signature and returns to the IRS for storage. The IRS will store this image in a separate location. Employees can obtain copies of the signature by submitting an ICS Help Request through the "Support" button in ICS.

**Note:** Do not submit request for copies of the signature for every case. You should only need a copy if requested by Advisory, Counsel or Appeals.

- (5) Employees can also obtain a copy of the L1058 that was mailed by CPS by submitting an ICS Help Request through the "Support" button in ICS. This copy will have the certified mail number listed on the letter.

**Note:** Do not submit request for copies of the L1058 for every case. You should only need a copy if requested by Advisory, Counsel or Appeals.

- (6) A POA copy will be generated when using the CPS option, however for a POA copy to print, the POA must be authorized to receive copies of notices and the POA must be authorized for all periods included on the L1058. Follow the steps in IRM 5.1.23.4.2.3 , Written Communication to a Taxpayer's Representative, when the POA is not authorized for all periods on the L1058.
- (7) The USPS stamps and forwards the Field Collection Certified Mail Lists for maintenance to Collection Policy, CTCO:S:C:HQC:P:E, Attn: Levy Analyst. Requests for copies of certified mail lists pertaining to CDP notices mailed by CPS for Field Collection are processed by Collection Policy.

5.11.1.3.4  
(07-07-2020)  
**Delegation Orders**

- (1) See Servicewide Delegation of Authority 5-3 (Rev. 1), Levy on Property in the Hands of a Third-Party (not to include Levy Form 668-B) at IRM 1.2.2.6.3, Delegation Order 5-3 (Rev. 1).

5.11.1.3.5  
(07-07-2020)  
**Managerial Approval**

- (1) Certain Notices of Levy must be approved by managers. See Servicewide Delegation Order 5-3 (Rev. 1).
- (2) When submitting a Notice of Levy for approval, include the following information:
  - A summary of any information the taxpayer has provided that may affect the decision to levy, e.g., claims that the assessment is wrong.
  - If the taxpayer has submitted such information, explain your analysis of that information and why the Notice of Levy should still be served.



- Verification that the amount is still owed, e.g., IDRS confirms the amount is still unpaid.
- An explanation that the Notice of Levy is appropriate in consideration of the amount owed and any circumstances that are known about the taxpayer and the liability.
- Other collection alternatives considered and rejected.

**Reminder:** In the case of levies on retirement accounts, the information must demonstrate that the requirements of the three-step process in IRM 5.11.6.3 have been met.

- (3) Consider the information in IRM 5.11.1.3.1, Pre-Levy Considerations, when determining if the levy is appropriate. See IRM 5.11.6.3 for a full discussion of the three-step process for levying on the corpus of retirement accounts.

**Example:** A 35 year-old self-employed salesperson has accumulated unpaid income taxes over multiple tax periods and will not make adequate estimated tax payments to prevent future delinquencies. The taxpayer is unresponsive since your initial contact and the only asset located is an Individual Retirement Account (IRA), which will satisfy the tax liability if levied. You have determined the factors for levy described in IRM 5.11.6.3 have been met. Document the case history accordingly and submit for IRA levy for managerial approval.

**Example:** A self-employed service contractor submits a financial statement that reflects their only asset is a whole life insurance policy with a \$900 cash surrender value. The financial statement also reflects the business can make current FTD but has no ability to make payments on the tax liability. The RO determines to allow the taxpayer to retain the asset without requiring them to borrow or sell the policy because the taxpayer has few assets, and the policy has a face value below \$1000. Document the case history accordingly.

- (4) This information must be in writing, but the format can be at local management discretion.
- (5) The approval must also be in writing, but the method can be at local management discretion. Either the manager must write the approval in the ICS history, or a copy of the manager's written approval must be kept in the case file. Electronic signature by the approving official is an acceptable method of written approval.

**Example:** The revenue officer and manager are at the same location, so the Notice of Levy is turned in to the group manager who signs the levy. A copy of the Notice of Levy, with the manager's signature on it, is put in the case file.

**Example:** The revenue officer and manager are at the same location, so the revenue officer signs the Notice of Levy and turns it in to the manager who initials it to show it has been approved. A copy of the Notice of Levy, with the manager's initials on it, is put in the case file.

**Example:** The revenue officer and manager are at different locations. The revenue officer writes an explanation of why the Notice of Levy should be approved on a copy of the first page of the levy form, includes an “Approved” line on it, and faxes this to the manager. The manager signs on the “Approved” line, and faxes this back to the revenue officer who puts this in the case file to document the approval, and then the revenue officer signs the Notice of Levy.

**Example:** The revenue officer and manager are at different locations. The revenue officer faxes a copy of the first page of the Notice of Levy to the manager who signs it and faxes it back to the revenue officer. The revenue officer places this in the case file to document the approval, and then the revenue officer signs the Notice of Levy.

**Example:** The revenue officer sends the manager an encrypted email message asking for approval of the Notice of Levy. The manager accesses the ICS case and records a decision in the ICS history. The manager’s ICS case access generates a notification alerting the revenue officer of the manager’s action. If approved, the revenue officer will print and sign the Notice of Levy.

- (6) A Notice of Levy that requires the approval of the SBSE Collection Area Director must include a memo explaining the information in (2). If all levels approve the Notice of Levy, but the Director rejects it, the rejection must be in writing and explain the reason(s). The Form 15000, Request for Approval of Levy on Funds in Pension, Retirement Plans or TSP Account will replace the memo when a levy is issued on the assets accumulated in retirement account or TSP account. Complete Form 15000 each time a Notice of Levy is issued on a retirement plan, even if the subsequent Notice of Levy is issued to the same financial entity. Maintain copies of all approvals and rejections in the case file including a printed copy of the electronically executed form.

**Note:** If the original Notice of Levy on a retirement plan is sent back due to an incorrect address and/or an incorrect entity and the correct address and/or entity is provided, the immediate reissuance of the notice of levy does not require a new approved Form 15000.

- (7) If a courtesy levy is involved, indicate the required manager has approved of the Notice of Levy.

5.11.1.3.6  
(04-03-2025)

#### Approval of Alter Ego and Nominee Notices of Levy

- (1) Notices of Levy that name alter egos or nominees often involve complex issues and are likely to result in litigation. Seek pre-submission advice on the merits of the case from CEASO or Associate Area Counsel (L & A) to ensure that the elements needed to substantiate the request have been established.

**Caution:** In most cases, before property can be levied, the taxpayer must be given the required notices prior to special condition actions. See IRM 5.11.1.3.2, Required Notices. Parties determined to be alter egos or nominees are only entitled to CAP rights for the special condition levy. See IRM 5.1.9.4(1), Collection Appeals Program (CAP).

- (2) Guidance about whether the facts support an alter ego or nominee determination and creating a request package are detailed in the following IRMs:



- IRM 5.17.2.5.7.2, Nominee
- IRM 5.12.7.6.1, Nominee NFTLs
- IRM 5.17.2.5.7.1, Alter Ego
- IRM 5.12.7.6.2, Alter Ego NFTLs
- IRM 5.12.7.6.5.2, Revenue Officer Request Actions
- IRM 5.17.14.7, Nominee, Alter Ego, and Transferee Elements

- (3) Prepare a draft special condition levy to include with the request memorandum for approval. Develop and substantiate the basis for a special condition levy. Document ICS history to summarize case facts that support special condition request. See IRM 5.12.7.6.5.2(4), for tips on creating the name line for the special condition levy. The request memorandum must follow the same general requirements outlined for special condition liens, see IRM 5.12.7.6.5.2(4).

**Note:** When levying on property held by a third-party determined to be alter-egos, or successors, you can add a statement to the Remarks field of the levy such as, "This notice attaches to all property in the name of (third-party, TIN, as [special condition, such as alter-ego] of Taxpayer)." Remarks for nominee cases should focus on identified property of Taxpayer that Third-Party is holding as nominee. IRM 5.11.2.2.2, Preparing the Notice of Levy, has additional guidance on the use of the remarks field on a notice of levy.

- (4) Request for alter ego and nominee Notices of Levy require group manager approval. The manager must write the approval in the ICS history, or a copy of the manager's written approval must be kept in the case file, see IRM 5.11.1.3.5. Forward the group manager approved request to CEASO for review. CEASO will review and forward the group manager approved request to Associate Area Counsel (L&A) for concurrence.

**Note:** If the group manager determines the case requires expedited treatment and either an expedited CEASO review is not available or Counsel was previously involved in the case then forward the group manager approved request to Associate Counsel (L&A) for concurrence and provide Advisory with a copy of the manager approved request and the Counsel approval or disapproval.

- (5) With Counsel concurrence, the Notice of Levy can be issued by GS-09 and above Revenue Officers, GS-12 Specialty Collection Insolvency employees and CEASO employees. See Servicewide Delegation Order 5-3 (Rev. 1) at IRM 1.2.2.6.3, Delegation Order 5-3 (Rev. 1), for the complete list of employees with the delegated authority to issue such levies.
- (6) Do not issue Notices of Levy listing alter egos or nominees without first getting legal review, advice, **written direction, and approval** from Associate Area Counsel (L&A) as to the,
- Issuance of the levy
  - Language to be included on pre-levy notices and the Notice of Levy

**Note:** The Notice of Federal Tax Lien (NFTL) filed in a nominee situation must contain a statement on the face of the NFTL that identifies the specific property that the lien attaches to. An NFTL in an alter ego situation will not be limited to certain identified property. See IRM 5.12.7.6, Special Condition NFTLs (Nominee, Alter Ego, Transferee, Successor in Interest).

5.11.1.3.7  
(04-03-2025)

**Advisory Review  
Actions of Alter Ego and  
Nominee Notices of  
Levy**

- (1) CEASO generally becomes involved with a special condition Notice of Levy request prior to submission of the request package. CEASO employees provide advice to revenue officers on the merits of the case and the substantiation needed for approval. The CEASO employees will seek the assistance of Associate Area Counsel (L&A), as needed, at this stage.
- (2) When receiving a special condition NFTL or Notice of Levy request package, CEASO opens an ICS NFOI 191 control.
- (3) CEASO is responsible for reviewing and working with the revenue officer to perfect the request package for approval consideration. They are to ensure that all required elements to establish the special condition relationship have been adequately substantiated.
- (4) Once the special condition levy has been approved, CEASO then notifies the originating revenue officer of the approval. CEASO will assist the revenue officer in perfecting the language to be included on pre-levy notices, if not previously issued, and the Notice of Levy, based on Associate Area Counsel's instructions.

**Reminder:** Each special condition levy should have only one condition type in the name line. Do not create a name line mixing together more than one condition. Avoid name lines such as Y is the alter-ego of Z, Z is the alter ego of W. See the table in IRM 5.12.7.6.5.2(4), Revenue Officer Request Actions

5.11.1.3.8  
(04-03-2025)

**Post Approval Revenue  
Officer Actions**

- (1) After receiving from CEASO a copy of the approved special condition levy and confirmation that the special condition levy name line conforms with Associate Area Counsel (L&A) instructions, the revenue officer is responsible for issuing the levies, see IRM 5.11.2.
- (2) After serving a levy in person or faxing it, mail a copy to the taxpayer and third-parties determined to be nominees, alter-egos. Notices of Levy, such as Form 668-A, include two taxpayer copies. Mail Part 4 to the taxpayer and third-parties determined to be nominees or alter-egos. Leave Part 2 with the person who receives the levy.

**Reminder:** If service of a special condition levy, or similar enforcement action requires an unannounced field call, revenue officers should pair with a manager or fellow revenue officer. See IRM 5.11.2.2.3, Serving Notice of Levy in Person.

- (3) If the levy is mailed locally, do not send the taxpayer or third-party copies immediately. Wait five business days so the taxpayer and third-parties determined to be nominees or alter-egos do not get the levy before the levy source does. Consider local experience with mailing times and the promptness of a particular entity's compliance.
- (4) The revenue officer must associate the special condition levy documents, a copy of the approval memorandum from Associate Area Counsel (L&A), and any other relevant documents with their case file.

5.11.1.4  
(07-07-2020)  
**Exempt Property and  
Restrictions on Levy**

- (1) This subsection contains restrictions on levy. See IRM 5.1.9.3.5.1, Levy Action during the Period of the CDP or EH, regarding restrictions on levy during CDP hearings.

5.11.1.4.1  
(06-09-2023)  
**Property Exempt from  
Levy**

- (1) IRC 6334(a) describes property that is exempt from levy. The exempt levy sources include:

<b>Exempt Levy Sources</b>
Wearing apparel and school books
Household goods, arms for personal use, livestock and poultry up to \$6,250 in value, as adjusted for inflation
Books and tools of the trade necessary for a trade, business, or profession up to \$3,125 in value, as adjusted for inflation
Unemployment benefits
Undelivered mail
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
Workers Compensation
Judgments for support of minor children, if the judgment is before the date of the levy
Minimum exemption for wages, salary, and other income. See IRM 5.11.5.4, Exempt Amount
Certain military service-connected disability payments
Certain public assistance payments
Assistance under the Job Training Partnership Act
Residences exempt in small deficiency cases and principal residences and certain business assets exempt in absence of certain approval or jeopardy

**Note:** IRC 6331(h) allows for levy on 15 percent of certain otherwise exempt government payments only under the Federal Payment Levy Program. See IRC 5.11.7.3.1, Levy Authority and Background, and IRM 5.11.7.3.2, FPLP Selection Criteria, for additional information about levies issued under IRC 6331(h).

- (2) In addition to these exempt sources of income, a portion of a taxpayer's wages, salary, and other income is exempt from levy under IRC 6334. See IRM 5.11.5.4, Exempt Amount, for additional information about this exemption.
- (3) See IRC 6334(a) for information about other property types exempt from levy.

- (4) Other than property listed in IRC 6334(a), no property is exempt from levy. No state or local law can exempt property from levy to collect Federal tax. See, however, IRM 5.11.1.4.3, regarding property in the hands of the courts.

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

5.11.1.4.2  
(08-01-2014)

**Property Exempt from Levies Used to Collect Child Support Bal Dues**

- (1) When child support Bal Dues are being collected, three of the items in IRM 5.11.1.4.1 are not exempt from levy per IRC 6305(a)(2). They are:
- Unemployment benefits
  - Certain annuity and pension payments
  - 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(CG), Property Exempt From Levy Levied to Collect Child Support, to explain the exemptions that do not apply for child support levies.
- (3) See IRM 5.11.1.3.3.11, Issuing Notice of Intent to Levy for Child Support Obligation Bal Dues

5.11.1.4.3  
(06-09-2023)

**Property in the Custody/Control of the Courts**

- (1) The IRS generally does not levy on assets in the custody or control of a court unless the levy would not interfere with the work of the court or the court grants permission to levy. If the court is expected to order the distribution of property under its control, a levy may be served on the court clerk to ensure the levy attaches to the property when the distribution order is entered.
- (2) If a taxpayer is in bankruptcy or the subject of other Federal or State insolvency proceedings do not levy assets in the custody/control of the court to collect the tax owed without the advice of Specialty Collection Insolvency or Advisory.

**Note:** The IRS may issue and execute a Notice of Intent to Levy on a bankruptcy trustee (or debtor-in-possession) to collect amounts owed by such debtor to a creditor that also owes tax. Such notice would not violate the bankruptcy automatic stay because the IRS is not attempting to collect against the debtor but against the non-debtor creditor.

**Example:** Fred Green is a delinquent taxpayer who files bankruptcy. Fred's assets are in the hands of the court to determine which of Fred's creditors will be paid and how much. While this is underway, generally, a levy will not be served on the court in an attempt to take any of these assets to collect Fred's tax. However, Joe Blue is one of Fred's creditors, and Joe also owes delinquent tax. A levy can be served on the trustee to attach Joe's fixed and determinable right to assets that may be distributed to him.

**Caution:** Do not levy without getting advice from Specialty Collection Insolvency 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 IRS for damages and attorney fees when the automatic stay or

discharge injunction is violated. Information on the Insolvency employee to contact can be found at SERP, Who/Where, Insolvency (Bankruptcy) Tools,

*SERP - Insolvency (Bankruptcy) Tools - Who/Where (irs.gov).*

**Caution:** Contact Advisory regarding levy on property that is or may be in the control of a probate court.

- (3) Property may have been seized before the taxpayer began court proceedings. In non-bankruptcy cases, this may affect whether the property can be sold. Contact Advisory for advice. In bankruptcy cases, property that has not been sold may have to be turned over to the bankruptcy estate. Contact Specialty Collection Insolvency in your territory for advice.
- (4) If levies were served and in place prior to referring a case to the Department of Justice (DOJ), do not release the levy without consultation with Advisory. DOJ has settlement authority under IRC 7122, Compromises. This authority extends during litigation, after a judgment, or with a DOJ settlement.
- (5) Even if 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. Advise this person not to surrender the property until the court releases it.

### 5.11.1.4.3.1 (11-09-2017) **Cash Deposited as Security for Bail**

- (1) Issue a Notice of Levy on cash deposited as security for bail only if collection is at risk. The Field Compliance Manager (FCM)/Territory Manager or the Advisory Territory Manager must approve the levy.
- (2) If collection is a risk and if a levy is served, tell the Court Clerk to respond when the taxpayer no longer requires a bond.
- (3) If collection is not at risk, do not levy. Instead, ask the Court Clerk to notify the IRS when the bond is no longer required. Then decide whether to levy the bond before it is returned to the taxpayer.

### 5.11.1.4.3.2 (08-01-2014) **Forfeited Property**

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

**Example:** Criminal Investigation may seize money used in violating the law. This may be subject to judicial forfeiture.
- (2) If property can be forfeited in a Federal proceeding, it will not be levied. However, Criminal Investigation may alert Collection to levy property if the property will not be forfeited. In a state or local forfeiture, contact Associate Area Counsel (L&A) to determine whether the Federal Tax Lien encumbers the property under IRC 6323(i)(3), which would allow the IRS to levy the property.

5.11.1.4.4  
(07-07-2020)

**Property Outside the  
United States**

- (1) Notices of Levy should only be served within the United States, including the District of Columbia and U.S. territories (also known as possessions), collectively referred to as the "U.S."
- (2) If the taxpayer is outside the U.S., but there are assets within the U.S., the assets can be levied.
- (3) A Notice of Levy shall never be served outside the U.S. or outside the U.S. possessions or territories. Also, never serve a levy at the embassy, consulate, or mission of another country, even if it is physically located within the U.S. See IRM 5.11.6.10, United Nations (UN) Employees' Income, for levies served at the United Nations.
- (4) A Notice of Levy can be served at the U.S. branch of a foreign bank and can reach funds held there. In limited circumstances, the levy may also reach funds in branches outside the U.S., but only when the Notice of Levy specifies that such funds are intended to be reached. See 26 CFR 301.6332-1(a)(2). Contact Advisory and Associate Area Counsel (L&A) for advice. See IRM 5.21.3.3, Levy on a Domestic Branch of a Financial Institution.
- (5) Chapter 15 of the United States Bankruptcy Code provides a procedural framework for the administration of cross-border insolvency. In particular, Chapter 15 provides foreign debtors and their representatives, who have filed bankruptcy in another country, with access to U.S. courts in the administration of their U.S. assets. See IRM 5.9.7.3, Chapter 15 - Ancillary and Other Cross-Border Cases.
- (6) The U.S. treaties with Canada, Denmark, France, Netherlands, Sweden and Japan permit the United States and the other country to collect taxes on behalf of each other. See IRM 5.21.3.7, Mutual Collection Assistance Requests, and IRM 5.21.7.4.8, Outbound Mutual Collection Assistance Requests.

5.11.1.4.5  
(07-07-2020)

**Appearance Date of  
Summons**

- (1) Do not levy on the day the taxpayer must appear for a summons that was issued to secure information to collect delinquent tax. For example, when a taxpayer is summoned to provide information to complete a Collection Information Statement. See IRC 6331(g).
- (2) Even if a summons is issued for another reason, e.g., an examination summons issued to assist a RO to prepare an unfiled return, do not levy on the appearance date. For example, there may be Bal Dues and Del Rets on the same taxpayer. The summons could be issued for the unfiled return.
- (3) You are not expected to contact other divisions to ask if they have summoned the taxpayer.
- (4) 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 at IRM 1.2.1.5.27.
  - a. The Territory Manager or the Advisory Territory Manager must approve the jeopardy levy. Also secure the concurrence of the responsible Associate Area Counsel (L&A).
  - b. If the notices described in IRM 5.11.1.3.2 have been sent, and the time periods for them have passed, the appeal process in IRM 5.11.3.7, Appealing the Jeopardy Levy, does **not** apply. The taxpayer can discuss



the levy with the group manager, the Taxpayer Advocate Service, or Appeals.

- c. If the notice requirements have not been satisfied, see IRM 5.11.3, Jeopardy Levy Without a Jeopardy Assessment, for required procedures and approval level.

5.11.1.4.6  
(07-07-2020)  
**Repeated Levies on the Same Source**

- (1) Exercise caution when levying repeatedly on the same source
- (2) Per Policy Statement P-5-28, at IRM 1.2.1.6.5, while the Code allows for the issuance of as many successive levies on the same source as necessary to satisfy the tax liability, judgment should be exercised to avoid undue hardship on the taxpayer and/or the taxpayer's family.

5.11.1.4.7  
(07-07-2020)  
**Government Training Allowances**

- (1) Some individuals receive payment for government training programs to develop skills so they can get jobs. Except for payments under the Job Training 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 at IRM 1.2.1.6.7.

5.11.1.4.8  
(07-07-2020)  
**Pending & Active Installment Agreements**

- (1) If the taxpayer makes an offer to pay a liability through installments, no levies can be served on the taxpayer's property or rights to property while the proposal is pending.

**Note:** An unreversed Transaction Code (TC) 971 Action Code (AC) 043 means there is a pending installment agreement. This can be reversed by a TC 972, AC 043. If the pending agreement becomes an active agreement, there will also be a TC 971 AC 063, in which case both the pending and active installment agreement coding are reversed by a TC 971 AC 163.

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

**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 at IRM 1.2.1.5.27.

- The Field Compliance Manager (FCM)/Territory Manager or the Advisory Territory Manager must approve the jeopardy levy.
- Secure Associate Area Counsel (L&A) concurrence before issuing the levy
- If this happens while a rejected installment agreement is being appealed, notify Appeals of the jeopardy determination.
- If the required notices have been sent, and the time periods for them have passed, the appeal process in IRM 5.11.3.7, Appealing the Jeopardy Levy, does not apply. The taxpayer can still discuss the levy with the group manager, the Taxpayer Advocate Service, or the appeals officer in a Collection Appeals Program hearing.
- If the notice requirements in IRM 5.11.1.3.2 have not been satisfied, see IRM 5.11.3, Jeopardy Levy Without a Jeopardy Assessment, for required procedures and approval level.



**Caution:** To avoid potential prohibited ex-parte communication, contact should be between the Collection group manager and the Appeals manager and remain strictly factual. For example, “We are proceeding with levy action based upon a jeopardy determination by Collection and Counsel. All jeopardy levy protocols were followed.” Avoid any discussion about extraneous details such as the accuracy of the facts or positions presented by the taxpayer, or Collection’s views on the demeanor or credibility of the taxpayer or representative. See IRM 5.1.9.5 for more information on communications with Appeals.

(2) In addition to the period that an offer of an installment agreement is pending, no levy can be served on the taxpayer’s property or rights to property,

- For 30 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 30 days after notifying a taxpayer that an agreement has been defaulted and will be terminated, i.e., CP523 or Letter 2975, Notice of Defaulted Installment Agreement Under IRC 6159(b)
- For an additional 30 days after an agreement is terminated
- While termination (or proposed termination) of an agreement is being appealed.

**Caution:** Before levying, wait an additional 15 days after each of these 30 day periods to allow for receipt of a timely mailed appeal.

**Note:** Status 60 or an unreversed TC 971 AC 063 means there is an active installment agreement. This is reversed by TC 971 AC 163.

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

**Note:** While the Internal Revenue Code prohibits any levy action against “the property or rights to property” of the taxpayer while I/As are pending or while an I/A is in effect, the IRS is not prohibited from levying on any property otherwise encumbered by a Federal tax lien but no longer owned by the taxpayer to collect outstanding liabilities from taxpayers during such times.

(3) If a levy is served and then the taxpayer requests an installment agreement, the levy does not have to be released while installment agreement is pending. Once the parties enter into an installment agreement, however, the levy must be released, unless the installment agreement provides otherwise. See IRC 6343(a)(1)(C).

(4) If an offer of an installment agreement is made merely to delay collection, levies can be served to collect the tax (Treas. Reg. 301.6331-4(a)(4)).

- a. If the notices described in IRM 5.11.1.3.2 have been issued, and the time periods after them have passed, jeopardy is not required, and the appeal process in IRM 5.11.3.7, Appealing the Jeopardy Levy, does not apply. The taxpayer can discuss the levy with the group manager, the Taxpayer Advocate Service, or Appeals in a Collection Appeals Program hearing.
- b. If the notice requirements in IRM 5.11.1.3.2, have not been satisfied, the jeopardy levy procedures in IRM 5.11.3, Jeopardy Levy Without a Jeopardy Assessment, must be followed.

**Caution:** The determination that the offer of an installment agreement is merely to delay collection must be apparent to any impartial observer, i.e., there is clearly no reality to the offer. The revenue officer must secure group manager concurrence regarding the solely to delay collection determination. See IRM 5.14.3.3(5), Installment Agreement Requests Made to Delay Collection Action. For non-jeopardy levies once the group manager concurrence is received on the delay of collection determination, the revenue officer may approve the levy per Delegation Order 5-3 (Rev. 1) at IRM 1.2.2.6.3.

**Example:** The taxpayer offers to make a periodic, token payment such as \$1 a month.

**Example:** A taxpayer offers to make installment payments. The agreement is rejected. The taxpayer then offers to increase the proposed agreement by a token amount, such as \$1.

## 5.11.1.4.9 (07-07-2020) Refund Litigation

- (1) Responsibility for refund litigation depends on who is suing and the type of tax involved.
  - a. Advisory is responsible for refund litigation if a suit is filed by a third-party regarding a Trust Fund Recovery Penalty assessment.
  - b. The campus refund litigation unit is responsible for all other refund litigation.
- (2) For tax periods that began before January 1, 1999, if the taxpayer files a suit for a refund of divisible taxes, Advisory or the campus refund litigation unit determines whether collection is suspended during the suit. For further information about refund suits, see IRM 25.3, Litigation and Judgments.
  - a. Divisible taxes include employment taxes, trust fund recovery penalties, excise taxes (except chapters 41-44 taxes), penalties for aiding and abetting the underpayment of tax and abusive tax shelter penalties.
  - b. Unlike other taxes where full payment is required in order to sue for a refund, the taxpayer need pay only a portion of the amount owed before filing suit for refund, so this refund litigation happens while there still is an amount owed.
  - c. Collection does not have to be in jeopardy, as long as the pre-levy notice requirements of IRM 5.11.1.3.2 (but not including a CDP levy notice because such a notice was not required before January 1, 1999) have been satisfied. Get Associate Area Counsel's approval because of their ongoing involvement in the case and keep Advisory apprised of case developments. The Territory Manager or the Advisory Territory Manager must also approve the levy.
- (3) Generally, for tax periods beginning after December 31, 1998, no levy can be served to collect certain divisible taxes that are included in a suit for refund.
  - a. This change only applies to employment taxes and trust fund recovery penalties for employment taxes.
  - b. For trust fund recovery penalties for other taxes, continue to follow (2), above.

- (4) If collection is in jeopardy, levies can be issued to collect the tax.
  - a. If the notice requirements of IRM 5.11.1.3.2 have not been satisfied, see IRM 5.11.3, Jeopardy Levy Without a Jeopardy Assessment, for required procedures and approval level of the jeopardy levy
  - b. If the notice requirements of IRM 5.11.1.3.2 have been satisfied, the jeopardy levy must be approved by the Field Compliance Manager (FCM)/Territory Manager or the Advisory Territory Manager. It must also be approved by Associate Area Counsel (L&A). Keep Advisory apprised of case developments. The appeal process in IRM 5.11.3.7, Appealing the Jeopardy Levy, does not apply. The taxpayer can still discuss the levy with the group manager, the Taxpayer Advocate Service, or Appeals in a Collection Appeals Program hearing.

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

**Note:** If collection is in jeopardy or the taxpayer waives the restriction on levy in writing, notify Advisory that collection is not being withheld.

- (5) A levy that was issued before the suit was filed does not have to be released. Contact Associate Area Counsel (L&A) 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. Keep Advisory apprised of case developments.

5.11.1.4.10  
(08-01-2014)  
**Due Process for Lien Filing**

- (1) Generally, within five business days after a Notice of Federal Tax Lien (NFTL) is filed, Letter 3172, Notice of Federal Tax Lien Filing and Your Right to a Hearing under IRC 6320, is sent to taxpayers to tell them about the NFTL and allow them a chance for a CDP hearing about the lien. See IRM 5.12.6, Federal Tax Liens, Appeals Processes Involving Liens.
- (2) If the notice requirements in IRM 5.11.1.3.2 have been satisfied, Letter 3172 does not create a new waiting period before a notice of levy can be issued. However, once the taxpayer appeals the lien filing, generally as a matter of policy, no Notices of Levy will be issued during the administrative or judicial appeal. See IRM 5.1.9.3.5.1, Levy Action during the Period of the CDP or EH, for a description of when property can be levied during the appeal of an NFTL filing.

**Example:** On April 5, 2019, a Notice of Federal Tax Lien is filed, and Letter 3172 is sent to the taxpayer on April 7. The taxpayer appeals the NFTL on April 29. Until April 29, as long as the notice requirements in IRM 5.11.1.3.2 have been satisfied, a Notice of Levy can be issued to collect the amount that is owed, including the periods that are included in Letter 3172.

5.11.1.4.11  
(07-07-2020)  
**Offers in Compromise**

- (1) Notices of Levy cannot be served on the taxpayer's property or rights to property while an offer in compromise is pending, within 30 days after an offer is rejected, or while a rejected offer is being appealed. Ensure that the offer in compromise has been closed before issuing the levy on the taxpayer's property or rights to property.

**Caution:** After the 30 days run out following rejection of the offer, before levying allow an additional 15 days for receipt of a timely mailed appeal.

**Exception:** Notices of Levy can be served if collection is in jeopardy. If this happens while a rejected offer is being appealed, notify Appeals of the jeopardy determination.

**Caution:** To avoid potential prohibited ex-parte communication, contact should be between the Collection group manager and the Appeals manager and remain strictly factual.

- The Field Compliance Manager (FCM)/Territory Manager or the Advisory Territory Manager must approve the jeopardy levy.
- Secure Associate Area Counsel (L&A) concurrence before issuing the levy
- If the notices described in IRM 5.11.1.3.2 have been sent, and the time periods have passed, the appeal process in IRM 5.11.3.7, Appealing the Jeopardy Levy, does not apply. The taxpayer can discuss the levy with the group manager, the Taxpayer Advocate Service, or Appeals in a Collection Appeals Program hearing.
- If the notice requirements in IRM 5.11.1.3.2 have not been satisfied, see IRM 5.11.3, Jeopardy Levy Without a Jeopardy Assessment, for required procedures and authority level.

**Exception:** Notices of Levy can be served if the taxpayer waives the restriction in writing.

**Note:** While the Internal Revenue Code prohibits any levy action against “the property or rights to property” of the taxpayer while OICs are pending or while an OIC is rejected or appealed, the IRS is not prohibited from levying on any property otherwise encumbered by a Federal tax lien but no longer owned by the taxpayer to collect outstanding liabilities from taxpayers during such times.

(2) See IRM 5.8.3.14.1, Offers Submitted Solely to Delay Collection per Forms 657.

(3) If an offer in compromise is made solely to delay collection, levies can be served to collect the tax. The provisions in IRM 5.11.1.4.8 also apply to such levies.

### 5.11.1.4.12 (07-07-2020) Special Treasury Fund

(1) Members of the military and Public Health Service employees may deposit money in a Special Treasury Fund, while they are outside the U.S. and its possessions.

(2) Get advice from Associate Area Counsel (L&A) before attempting to levy money in the Special Treasury Fund. Keep Advisory informed in light of the potential for litigation and wrongful levy actions.

**Note:** Refer Counsel to Section 1035 of Title 10 of the U.S. Code.

5.11.1.4.13  
(08-01-2014)  
**Indian Tribal  
Governments**

- (1) When a determination is made to levy the assets of a tribal government the employee should coordinate as required with the Indian Tribal Government (ITG) specialist. See IRM 5.1.12.24.2, Indian Tribal Government Procedures.
- (2) The IRS must comply with Presidential Executive Orders regarding Tribal Sovereignty and the ITG specialist can assist the employee with case-related technical issues specific to Indian tribes.

5.11.1.4.14  
(06-09-2023)  
**Affordable Care Act's  
(ACA) Individual Shared  
Responsibility Payment  
(SRP)**

- (1) Starting in 2014, the individual shared responsibility provision of IRC 5000A(b) calls for each individual to have minimum essential health coverage (known as minimum essential coverage (MEC)) for each month, qualify for a coverage exemption, or make a SRP when filing their Federal income tax return. For years after 2018, the individual SRP was reduced to \$0.
- (2) Per IRC 5000A(g)(2)(B)(ii) and Treas. Reg 1.5000A-5, if a taxpayer fails to pay the shared responsibility payment imposed by this section and Treas. Reg. 1.5000A-1 through 1.5000A-4, the Secretary will not levy on any property of the taxpayer for the failure.

**Note:** In addition to the taxpayer's property not being subject to levy for the individual SRP balance, the balance is not subject to penalties or the filing of a Notice of Federal Tax Lien. However, interest continues to accrue until any SRP is paid, and the IRS may offset federal tax refunds until payment has been made in full.

- (3) The individual SRP assessments (shown as MFT 35 or mirrored MFT 65) are processed on the Individual Master file (IMF).

5.11.1.4.15  
(04-03-2025)  
**Unassessable Erroneous  
Refunds**

- (1) An erroneous refund is "defined as the receipt of any money from the IRS to which the recipient is not entitled". This definition includes all erroneous refunds regardless of taxpayer intent or whether the error that caused the erroneous refund was made by the IRS, the taxpayer, or a third party.
- (2) There are five categories of erroneous refunds. Each category has a specific method that must be used to recover the erroneous refund and different statutes of limitation apply. The following IRM sections will provide the necessary guidance IRM 21.4.5.5, Erroneous Refund Categories and Procedures. The types of erroneous refunds are either assessable erroneous refunds or unassessable erroneous refunds.
- (3) Unassessable erroneous refunds are refunds that cannot be recovered by tax assessment procedures. The IRS **cannot** take administrative lien or levy action to recover an unassessable erroneous refund. See IRM 5.1.8.8.1.3, Unassessable Erroneous Refunds Recovery Procedures, for remedies generally available to the IRS to recover unassessable erroneous refunds.

5.11.1.5  
(08-01-2014)  
**Post-Levy Actions -  
Disqualified Employment  
Tax Levy**

- (1) This section contains guidance on post-levy actions for a Disqualified Employment Tax Levy.

5.11.1.5.1  
(11-24-2021)  
**Legal Authority**

- (1) The Small Business and Work Opportunity Tax Act of 2007 modified the Collection Due Process (CDP) procedures for certain employment tax liabilities. This Act amended IRC 6330(f) and IRC 6330(h) to permit issuance of a Disqualified Employment Tax Levy (DETL) for collection of certain employment taxes without first giving the taxpayer pre-levy CDP notice. This amendment is effective for such levies served on or after September 22, 2007 and relates to Forms 941, 943, 944, 945, 940, and CT-1.
- (2) IRC 6330(h) DISQUALIFIED EMPLOYMENT TAX LEVY. —For purposes of subsection (f), a Disqualified Employment Tax Levy is any levy in connection with the collection of employment taxes for any taxable period if the person subject to the levy (or any predecessor thereof) requested a hearing under this section with respect to unpaid employment taxes arising in the most recent 2-year period before the beginning of the taxable period with respect to which the levy is served. For purposes of the preceding sentence, the term employment taxes means any taxes under chapter 21, 22, 23, or 24.

5.11.1.5.2  
(11-24-2021)  
**Disqualified Employment Tax Levy (DETL)**

- (1) IRC 6330(h) describes a DETL, as any levy for the collection of employment taxes for a taxable period that is within the two-year period after an employment tax period for which the taxpayer or predecessor timely requested a hearing under IRC 6330 . Generally, employment taxes include FICA, FUTA, and withheld income taxes.
- (2) When a DETL is served, the taxpayer will be given post-levy CDP rights. The taxpayer may seek Tax Court judicial review of the determination resulting from the post-levy hearing.
- (3) A DETL is comprised of these three components:
  - a. Levy served to collect employment taxes,
  - b. Taxpayer or its predecessor previously requested a CDP levy hearing relating to employment taxes,  
**Note:** See IRM 5.1.9.3.14 (3), Disqualified Employment Tax Levy, for help in determining if the taxpayer requested a prior CDP levy hearing involving unpaid employment taxes.
  - c. The prior CDP hearing included unpaid employment taxes that arose within the two-year period prior to the beginning of the period for which the levy is served.
- (4) If the taxpayer requested a prior CDP levy hearing involving employment taxes, determine if the CDP levy tax periods occurred in the two-year “look back” period. The two-year look back period is measured from the beginning of the period for which the DETL is served. If the CDP levy hearing periods fall within this two-year period, the new period meets the criteria for a DETL. See examples below.



Prior CDP Levy Hearing for 941 Quarter Ending	New 941 Tax Assessed for Quarter Ended	Beginning Date for New 941 Tax Quarter	Look Back Period Starts with Beginning Date for New 941 Tax Quarter	Then subtract 2 years for Look Back Period	Did the Quarter for the Prior CDP Levy Hearing Fall within Look Back Period?	Does New 941 Tax Quarter Qualify for DETL?
12/31/2018	06/30/2019	04/01/2019	04/01/2019	04/01/2017	Yes	Yes
12/31/2018	03/31/2018	01/01/2018	01/01/2018	01/01/2016	No	No
03/31/2017	06/30/2019	04/01/2019	04/01/2019	04/01/2017	No	No

5.11.1.5.3  
(07-07-2020)  
**Predecessor  
Determination**

- (1) Determine whether a business is a predecessor business for the purpose of IRC 6330(h) by applying the following factors:
  - The taxpayer has substantially the same owner(s) or shareholder(s) and the same officer(s) as the prior business.
  - The same individual(s) are actively involved in running the taxpayer that were actively involved in running the prior business, regardless of whether they are officially listed as the owners/shareholders/ officers.
  - There is no evidence that the taxpayer's owner(s) or shareholder(s), if different than before, acquired the business in an arms-length transaction for fair market value.
  - The taxpayer provides substantially the same product(s), service(s), or function(s) as the prior business.
  - The taxpayer has substantially the same customers as the prior business.
  - The taxpayer has substantially the same assets as the prior business.
  - The taxpayer has the same location/telephone number/fax number, etc. as the prior business.

**Caution:** No one factor is determinative. A tax-avoidance motivation for the change is not a requirement.
- (2) A business will not be considered a predecessor if there has been a genuine change in control and ownership of the business. A genuine change in control and ownership of the business is present if:
  - It was acquired in an arm's length transaction for fair market value, and
  - The previous owner(s) has (have) ceased all involvement in running the business.
- (3) If the previous owner serves for a limited period as a consultant to the new business solely in an CEASO capacity, then the prior owner should not be deemed to have any involvement in running the new business.

**Example:** Pike Company, in the business of selling equipment, was owned by John Doe. After Pike Company failed to pay employment taxes for several quarters in 2017, the IRS sent Pike Company a CDP notice. Pike Company requested a CDP hearing. After the CDP hearing, John Doe formed Robin Inc., which also sold equipment. Robin Inc. used the same

supervisors, sold the same equipment, was in the same location and had the same phone number, as Pike Company. Pike Company is a predecessor of Robin Inc.

**Example:** Salmon Company, in the business of storage, was owned by John Q. Public. After Salmon Company failed to pay employment taxes for several quarters in 2018, the IRS sent a CDP notice to Salmon Company. Salmon Company requested a CDP hearing. After the CDP hearing, John Q. Public sold the assets of Salmon Company to Mary Doe for fair market value in an arm's length transaction. Mary Doe used these assets to form Trout Inc., which also engaged in the storage business and used the same employees and maintained the same customers, location, and phone number as Salmon Company. Mary Doe was not involved in the operation of Salmon Company. Therefore, Salmon Company is not a predecessor of Trout Inc.

**Example:** Tuna Company, in the business of providing childcare, was owned by Roberta Granite. After Tuna Company failed to pay employment taxes for several quarters in 20017, the IRS sent a CDP notice to Tuna Company. Tuna Company requested a CDP hearing. After the CDP hearing, Roberta Granite's daughter, Tammy Granite, formed Guppy Inc., which also provided childcare. Roberta Granite was actively involved in running Guppy Inc. Guppy Inc. used the same supervisors, cared for the same children, was in the same location and had the same phone number, as Tuna Company. Tuna Company is a predecessor of Guppy Inc.

- (4) Contact Advisory for advice on questions regarding whether the taxpayer has meet the factors to be considered a **predecessor**. Advisory will consult with Associate Area Counsel (L&A), as needed.
- (5) When it is determined that a predecessor previously requested a CDP levy hearing relating to employment taxes, the revenue officer will document the ICS history with the factors that supported the determination. The group manager or the Advisory group manager must approve the determination of "predecessor" in the ICS History. The group manager signature on the levy is not required. See IRM 5.11.1.3.5, Managerial Approval.

### 5.11.1.5.4 (04-03-2025) Issuing Notice of Levy/Notice of a Right to a Hearing in Field Collection

- (1) When warranted, the IRS may exercise its discretion to issue a pre-levy CDP notice for DETL periods; i.e., even where a taxpayer's employment tax liabilities meet DETL criteria. Ensure the Letter 1058 to be issued includes a third-party contact notification.

**Example:** If there has been no contact with the taxpayer the issuance of a pre-levy notice might be advisable to resolve this issue.

- (2) If the tax period meets the criteria for issuing a DETL and levy action is determined to be appropriate:
  - Make sure the IRC 6331(d), Notice of Intent to Levy, was properly issued.

**Note:** This is the CP 504 notice or the “Status 58” notice. If the CP 504 notice was not issued, issue the pre-levy CDP notice, L1058. This meets the IRC 6331(d) and IRC 6330 requirement. If the CP 504 notice was not issued the DETL can only be issued 30 days after issuance of the L1058 per IRC 6331(d).

**Example:** Tax period 01-201709 meets criteria for issuing a DETL but CP 504 was not issued prior to assignment to revenue officer Pike. Revenue officer Pike issues L1058 providing pre-levy CDP hiring rights to meet the requirement for IRC 6331(d) and issues a DETL on the 31st day.

- Ensure the advanced third-party notification requirements are met prior to issuance of DETL. See IRM 25.27.1, Third-Party Contact Program.
- Document the ICS case history regarding the DETL determination, and

**Example:** DETL to be issued for tax periods 01-201606 and 01-201609. TP qualifies for a DETL based on CDP levy hearing requested on July 27, 2017 for tax periods 01-201512 and 01-201603

- Prepare and issue the DETL

**Note:** ICS will block revenue officer issuance of the DETL unless the revenue officer answering yes when ICS prompts with the following: “Final Notice Delivery Date is not 30 days prior to levy. Is this a DETL levy? (Yes or No)?” This is a requirement because there is no TC 971 AC 069 on the module.

- (3) If a DETL is served, send the post-levy CDP notice with the taxpayer’s copy of the levy within 10 business days. Letter 1058-D, Notice of Levy and Notice of Your Right to a Hearing, is used to provide post-levy CDP rights.

**Caution:** If the taxpayer received a pre-levy CDP notice (L1058) for the employment tax period(s) being levied, do **not** issue a post-levy CDP notice (L1058-D).

- (4) Both the post-levy and/or pre-levy CDP notice must be:

- a. Given in person,
- b. 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.

**Note:** Refer to IRM 5.11.1.3.2.2 IRM 5.11.1.3.2.2 IRM 5.11.1.3.2.2.

**Exception:** Where L1058-D has been correctly sent to the taxpayer’s last known address and another address is subsequently found, do not send an additional L1058-D, relating to the same employment tax liability, to the new address.

**Exception:** If L1058-D is mistakenly sent to an address other than the last known address, immediately send a new L1058-D to the correct last known address.

- (5) Include a copy of the Levy, Publication 594, Publication 1660 and Form 12153 with the L1058-D.
- (6) If the L1058-D is issued more than 10 business days after issuing the DETL, document the reason in the ICS history.
- (7) DETL post-levy hearing requests are processed similarly to other hearing requests. Refer to IRM 5.1.9, Collection Appeal Rights, for guidance in processing hearing requests.
- (8) A DETL may be served during a timely requested pre or post-levy CDP hearing or judicial review of such hearing to collect employment tax liabilities (DETL tax periods) subject to the hearing.
  - If the DETL levy is to take place during the hearing, check IDRS for actions that may prohibit levy action, i.e., TC 480 or TC 971 AC 043. If there are no apparent TC codes, then contact the Appeals Team Manager of the assigned hearing officer, preferably via email, to inform Appeals that levy action will be taken. Determine whether Appeals has information that prohibits levy or may affect the decision to levy.
  - If the DETL levy is to be issued during the judicial review, contact the Counsel attorney assigned the case to advise them of the planned levy action and to determine if there is any new information that may affect the decision to levy.

**Example:** Collection is at risk (e.g., taxpayer's business is deteriorating or taxpayer is pyramiding).

5.11.1.6  
(08-01-2014)

## **Post-Levy Actions - Federal Contractor Levy**

- (1) This section contains guidance on post-levy actions for a Federal contractor levy cases in Field Collection.

5.11.1.6.1  
(06-09-2023)

### **Levy Authority Amended**

- (1) The Small Business Jobs Act of 2010 (SBJA) section 2104, amended IRC 6330(f) and (h)(2) to allow the Collection Due Process (CDP) notice and hearing to occur post-levy with respect to "Federal contractor levies." This term is defined in IRC 6330(h)(2) as "...any levy if the person whose property is subject to levy is (or any predecessor thereof) a Federal contractor."

5.11.1.6.2  
(07-07-2020)

### **Federal Contractor Levy**

- (1) IRC 6330(h)(2) describes a Federal contractor (FEDCON) levy, as any levy if the person whose property is subject to levy is a Federal contractor. When a FEDCON levy is served, the taxpayer will be given post-levy CDP rights. The taxpayer may seek Tax Court judicial review of the determination resulting from the post-levy hearing.
- (2) Federal contractors are any person or entity who currently has a contract with the Federal government to sell or lease property, goods or services. This does not include a taxpayer who was in the past a Federal contractor but currently is not involved in any contractual relationship with the Federal government. A contract is a mutually binding legal relationship obligating the person or entity to furnish property, goods, or services and the Federal executive agency to pay for those property, goods, or services.

**Caution:** Receipt of Social Security or RRB benefit payments is not an indication that the person is a federal contractor.

- (3) Our computer systems identify some Federal contractor cases on the Individual Master File (IMF) and the Business Master File (BMF). Indicators that a person or entity is a Federal contractor may include the following:
- Federal Contractor Indicator. See IRM 5.7.9.2.1, Identifying Federal Contractors (FEDCON), (unreversed TC 971 AC 647).
  - Federal Payment Levy Program (FPLP), TC 971 AC 062 Document Location Number (DLN). See IRM 5.7.9.2.2 and IRM 5.11.7-5 Exhibit, TC 971 AC 062 (Document Locator Number (DLN) Format, Miscellaneous Field, XREF Field).
  - The Federal Payment Levy Program (FPLP) can also issue Federal Contractor (FEDCON) levies and can be identified by a TC 971 AC 677 posted to the module. See IRM 5.11.7.3.3.4(4).

**Note:** Revenue officers can also identify Federal contractor cases. See IRM 5.7.9.

**Note:** The TC 971 AC 062 DLN positions 11 and 12 are also designated with a '03' in the payment position for Medicare payments, and positions 7, 8 & 9 will show the Federal agency code of '0306' for HHS Medicare match, which are not FEDCON eligible.

- (4) Only the Federal contractor may be listed on the FEDCON levy. For Federal payments a FEDCON levy may be issued to any payment source on all BMF tax modules and IMF tax modules if the entity is identified as a Federal contractor with an unreversed TC 971 AC 647 posted on the entity. For BMF tax modules do not include or list the general partners and members of a LLC on the FEDCON levy. For IMF tax modules only include the spouse identified as the Federal contractor on filing status 2, married filing joint modules.
- (5) A FEDCON levy may have previously been issued by FPLP. A TC 971 AC 677 will post on the module with the literals **SAL, OTH** displayed in the Miscellaneous Field. This will generate a post-levy CDP notice CP 90C (or 297C) and post a TC 971 AC 069. The taxpayer is provided their CDP appeal rights after the levy. See IRM 5.11.7.3.3.3, FPLP Notice Process (TC 971 AC 069 or AC 169).
- (6) The FEDCON (TC 971 AC 677) levy processes occur after the expiration of the 30-day notice required by IRC 6331(d). The issuance of the CP 504 meets the 30-day pre-levy requirement of IRC 6331(d)

5.11.1.6.3  
(04-03-2025)

**Issuing Notice of Intent to Levy and Notice of Your Right to a Hearing in Field Collection FEDCON Case**

- (1) When warranted, the IRS may exercise its discretion to issue a pre-levy CDP notice on modules eligible for FEDCON levy based upon the unique case factors. Examples of unique case factors:
- The issuance of a pre-levy notice might be advisable if there was no contact with the taxpayer.
  - When the Letter 1058 is issued on initial contact with a BMF or combination BMF/IMF taxpayer when a deadline is set for the taxpayer to take specific action. See IRM 5.11.1.3.3, Satisfying the Notice Requirement.
  - When the Letter 1058 will be issued during initial contact on IMF case

- but a FEDCON levy is not yet appropriate. See IRM 5.11.1.3.3.
- Ensure the Letter 1058 to be issued includes a third-party contact notification. IRM 25.27.1, Third-Party Contact Program.

**Note:** The Federal contractor exception in IRC 6330(f) applies to a FEDCON levy. Similar to a DETL levy, a FEDCON levy can be served during a timely requested pre or post-levy CDP hearing or judicial review of such hearing to collect tax liabilities (FEDCON tax periods) subject to the hearing. Prior to levying, you are required to determine if Appeals or Counsel has information that prohibits levy (OIC, IA, etc.) or may affect the decision to levy. Follow the guidance in IRM 5.1.9.3.15 (7) for contacting Appeals or Counsel. FEDCON levies may be issued for any levy source, not just Federal payments.

(2) If the tax period meets the criteria for issuing a FEDCON levy and levy action is determined to be appropriate:

- Make sure the IRC 6331(d), Notice of Intent to Levy, was properly issued at least 30 days prior to levy action.
- Make sure that the advanced third-party notification requirements are met prior to issuance of the FEDCON levy.

**Note:** This refers to the CP 504 notice or the **Status 58** notice. If the CP 504 notice was not issued, issue the pre-levy CDP notice, L1058. This meets the IRC 6331(d) and IRC 6330 requirement. FEDCON levy can only be issued 30 days after issuance of the L1058 per IRC 6331(d).

- Document the ICS case history regarding the FEDCON determination.
- Verify the existence of a Federal contractor indicator (FCA) on the ICS Case Summary screen. The FCA is required before a FEDCON levy can be generated through ICS. Reference IRM 5.7.9.2.1(2) .

**Note:** When there is no TC 971 AC 069 on the module, ICS will block revenue officer issuance of the FEDCON unless the revenue officer answers yes when ICS prompts with the following: **Final Notice Delivery Date is not 30 days prior to levy. Is this a FEDCON levy? (Yes or No)?** .

(3) Include Letter 1058-F, Post-Levy Federal Contractor Collection Due Process with the taxpayer's copy of a FEDCON levy for post-levy CDP notices.

**Caution:** If the taxpayer was issued a pre-levy CDP notice (L1058) for the FEDCON tax period(s) being levied, do not issue a post-levy CDP notice (L1058-F).

(4) Both the post-levy or pre-levy CDP notice must be:

- Given in person,
- Left at the taxpayer's home or business, or
- Sent to the taxpayer's last known address by certified or registered mail return receipt requested.

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



**Reminder:** Where L1058-F has been correctly sent to the taxpayer's last known address and another address is subsequently found, do not send an additional L1058-F, relating to the same tax liability, to the new address.

**Reminder:** If L1058-F is mistakenly sent to an address other than the last known address, immediately send a new L1058-F to the correct last known address.

- (5) Include a copy of the Levy, Publication 594, Publication 1660 and Form 12153 with the L1058-F.
- (6) If the L1058-F is issued more than 10 business days after issuing the FEDCON, document the reason in the ICS history.
- (7) FEDCON post-levy hearing requests are processed similarly to other hearing requests. Refer to IRM 5.1.9, Collection Appeal Rights, for guidance in processing hearing requests.

## Exhibit 5.11.1-1 (04-03-2025)

### Acronyms

Acronym	Definition
AC	Action Code
ACA	Affordable Care Act
ACS	Automated Collection System
AKPFD	Alaska Permanent Fund Dividend Levy Program
BMF	Business Master File
CAMS	Certified Automated Mail Services
CAP	Collection Appeals Program
CDP	Collection Due Process
CEASO	Civil Enforcement Advice and Support Operations
CP	Computer Paragraph
CPS	Correspondence Production Sites
CSED	Collection Statute Expiration Date
CSO	Child Support Obligation
CZ	Combat Zone
DETL	Disqualified Employment Tax Levy
DLN	Document Locator Number
DOJ	Department of Justice
DPC	Designated Payment Code
DUT	Document Upload Tool
EFTPS	Electronic Funds Transfer Payment System
EIN	Employer Identification Number
FEDCON	Federal Contractor Levy
FPLP	Federal Payment Levy Program
FTA	Fraud Technical Advisor
FTD	Federal Tax Deposit
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IRA	Individual Retirement Account

**Exhibit 5.11.1-1 (Cont. 1) (04-03-2025)****Acronyms**

<b>Acronym</b>	<b>Definition</b>
IRC	Internal Revenue Code
ISO	Independent Sales Organization
ITG	Indian Tribal Government
LLC	Limited Liability Company
MED	Medicare
MFT	Master File Tax
NCOA	National Change of Address
NFTL	Notice of Federal Tax Lien
NLS	National Levy Source
NMF	Non-Master File
OIC	Offer in Compromise
PN	Pending Transaction
POA	Power of Attorney
PRC	Penalty Reason Code
PRN	Penalty Reference Number
RO	Revenue Officer
SBSE	Small Business/Self-Employed
SITLP	State Income Tax Levy Program
SSI	Supplemental Security Income
SSN	Social Security Number
TAS	Taxpayer Advocate Service
TC	Transaction Code
TIN	Taxpayer Identification Number
TPC	Third-Party Contact
TSP	Thrift Savings Plan
UN	United Nations
UPC	Unpostable Code
USPS	United States Postal Service