

CC-2013-007

February 4, 2013

Subject: Levy on Thrift Savings Plan
Accounts

Cancel Date: Upon incorporation
into the CCDM

PURPOSE

This notice discusses the procedures for levies upon Thrift Savings Plan accounts, in light of recent legislation confirming that TSP accounts are subject to levy. Chief Counsel Notice CC-2012-011 (May 31, 2012) is superseded.

DISCUSSION

Congress recently enacted, and the President has signed, Public Law Number 112-267, 126 Stat. 2440 (2013), entitled "To amend title 5, United States Code, to make clear that accounts in the Thrift Savings Fund are subject to certain Federal tax levies," which became law on January 14, 2013. The legislation amends 5 U.S.C. § 8437(e)(3) to state, "Moneys due or payable from the Thrift Savings Fund to any individual and, in the case of an individual who is an employee or Member (or former employee or Member), the balance in the account of the employee or Member (or former employee or Member) . . . shall be subject to a Federal tax levy under section 6331" The legislation confirmed that TSP accounts may be levied to collect Federal taxes. See also, H.R. Rep. 112-630, at 3 (2012).

The Service and the Federal Retirement Thrift Investment Board currently are working out implementation issues. During this implementation period, it is essential that all TSP levies be coordinated with Counsel.

The current procedures for levying upon a taxpayer's TSP account can be found in IRM 5.11.6.2.1(4). A levy on a TSP account should be treated in the same way as a levy on a private pension or retirement plan or IRA. The procedures set forth in IRM 5.11.6.2 require Service personnel to consider alternative means of collecting the liability (IRM 5.11.6.2(4)); whether the taxpayer's conduct has been flagrant (IRM 5.11.6.2(5)); and whether the taxpayer depends on the money in the TSP account (or will in the near future) for necessary living expenses (IRM 5.11.6.2(7)). Examples of flagrant conduct are set forth at IRM 5.11.6.2(6).

All levies on TSP accounts should be addressed to the following, in care of the General Counsel, Federal Retirement Thrift Investment Board:

Distribute to:	Tax Litigation staff	X	Tax Litigation staff & Support personnel
	All Personnel	X	Electronic Reading Room
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