



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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

December 20, 2012

Control Number: SBSE-05-1212-095

Expiration: July 1, 2013

Impacted: IRM 5.10.2

IRM 5.10.3

IRM 5.10.6

MEMORANDUM FOR DIRECTOR, ADVISORY AND INSOLVENCY
DIRECTORS, COLLECTION AREA OPERATIONS

FROM: Scott D. Reisher **/s/ Scott D. Reisher**
Director, Collection Policy

SUBJECT: Reissuance of Interim Guidance Memorandum for Pre and Post
Seizure Review Criteria and Issuance of Form 5942 Reviewer's
Report

This is a reissuance of Interim Guidance Memorandum SBSE-05-1211-107 dated December 23, 2011.

The purpose of this memorandum is to provide interim guidance to clarify pre and post seizure review criteria for Advisory and to specify the items for which a mandatory Form 5942, *Reviewer's Report*, will be issued. Please ensure that this information is distributed to all affected employees within your organization. These guidelines are effective immediately and will be incorporated into Internal Revenue Manual (IRM) sections 5.10.2, 5.10.3, 5.10.6, and the related sub-sections throughout. This memorandum is not applicable to approvals for perishable goods for which existing IRM guidance will be followed.

The responsibility to ensure that all pre-seizure considerations and actions per IRM 5.10.1 have been taken and properly documented remains with the group manager. A summary of the required group manager pre and post-seizure review considerations can also be found in IRM 1.4.50, Exhibit 1.4.50-2.

Pre-seizure Advisory Review:

IRM 5.10.2.17(5) states that the revenue officer group manager will review the case file for accuracy and approval of the seizure action and forward the approved file to Advisory. The case file must be reviewed by Advisory for technical accuracy after group manager review and before it is forwarded to the territory manager for seizure approval.

The IRM presently does not specify or limit the items for pre-seizure review. In order to clarify and provide for consistency in the pre-seizure review process, Advisory's review prior to seizure will be limited to the following items:

- Approval Authority (per IRM 5.10.2-1)
- Asset ownership and lien interest - verification of taxpayer ownership and/or interest in the asset (e.g. deed, title, purchase information) and lien interest per IRM 5.10.1.3.3(4)
- Consideration of exempt assets (per 5.10.1.3.3.3)
- Consent/Writ of Entry (per IRM 5.10.2.13)

If the above items have been sufficiently addressed and are procedurally accurate, the seizure file will be forwarded to the territory manager for approval.

Post-seizure Advisory Review:

IRM 5.10.3.17(2) states that all seizure related documents from the revenue officer will be forwarded to Advisory within five workdays after the seizure. Each document will be reviewed by Advisory upon receipt and Form 13361, *Post-Seizure Review Checksheet*, must be used by Advisory when completing the post-seizure review. The IRM currently does not specify or limit the items for post-seizure review. In order to clarify and provide for consistency in the post-seizure review process, Advisory's review of post-seizure items will include the following:

- Proper approval secured (per IRM 5.10.2-1)
- IDRS research prior to seizure (per IRM 5.10.1.3.1)
- Consent/Writ secured when required (per IRM 5.10.2.13)
- Form 668B delivery to taxpayer meets legal sufficiency
- Form 2433 delivery to taxpayer/owner meets legal sufficiency
- Pub 1660 provided with Form 2433
- Not a prohibited seizure (per IRM 5.10.1.2)
- NFTL filed on all modules
- Letter 1058 sent for all modules on Form 668B

In addition to the above, Advisory will also insure that all statutory requirements related to the action have been satisfied.

Issuance of Mandatory Form 5942:

IRM 5.10.6.11(6) states that the Form 5942 may be used by the reviewer to make observations to management, to furnish advisory information, to request that a corrective action be taken, or to request additional information from the originator. The IRM presently

does not specify when a Form 5942 will be issued regarding the pre and post seizure review process.

The information contained on Form 5942 can be used for training, correcting case actions, providing positive feedback, conducting trend analysis, and improving the overall quality of the seizure and sale. In order to accomplish this, the IRM will be revised to include the specific items noted below. The errors identified on the following chart will require a mandatory response from the applicable group manager.

The following chart specifies when a mandatory Form 5942 will be issued:

Pre-Seizure	Post Seizure	Interim	Closed Seizure
Incorrect Approval Level	Form 668B not completed correctly	Form 4585 preparation, delivery and documentation	Form 2436 preparation, accuracy and timeliness
Ownership/Lien Interest	Form 2433 not completed correctly	Form 2434 preparation, delivery and documentation	Record 21 preparation, accuracy and timeliness
Consent/Writ of Entry	Documentation & Delivery of Form 668B & 2433	Incorrect or no advertising order	Form 2436R preparation, accuracy and timeliness
Consideration of Exempt Assets	Problems identified with Consent/Writ of Entry	No approval for change of sale location	Invoices not received from PALS
			Form 2435 preparation
			Form 2433, parts 8A & 7B not received from RO/PALS
			RO/PALS does not submit closed case file

If you have any questions or need additional information, please feel free to contact me or a member of your staff may contact Alan Gilds or Matthew Roberts, Senior Program Analysts. Territory personnel should direct any questions through their management staff to the appropriate Area contact.

cc: Director, Field Collection
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