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From: [REDACTED]
Sent: Thursday, July 02, 2015 11:45:12 AM
To: [REDACTED]
Cc: [REDACTED]
Bcc:
Subject: Consolidated Groups

Based on the facts provided to us, the parent company, [REDACTED], is entitled to a CDP hearing under I.R.C. §§ 6320 and 6330, if it timely requested one.

Sections 6320(a) and 6330(a) require the Service to notify the taxpayer that it filed a notice of federal tax lien or of the Service's intent to levy on the property or rights to property of the taxpayer. The taxpayer then has 30 days to request a CDP hearing. §§ 6320(a), 6330(a).

Under the consolidated return regulations, CDP notices must name the common parent and the subsidiaries of a consolidated group (as defined in Code section 1504) to pursue collection activity against a subsidiary member. See Treas. Reg. § 1.1502-77(f)(1) (This provision recently changed location in the regulations. The former placement was at Treas. Reg. § 1.1502-77(a)(5)). In a consolidated group, the common parent and the subsidiaries are severally liable for any unpaid tax liability of the consolidated group. See id. § 1.1502-6(a). Thus, any known subsidiary in the consolidated group must be listed on the collection notice, as the Service may collect from it for the liability of the consolidated group. IRM 5.11.1.3.3.13, Issuing Notice of Intent to Levy/Notice of a Right to a Hearing for Consolidated Groups, misleadingly suggests that the Service should list the subsidiaries only if the Service anticipates collection from them at the time of the CDP notice. Generally, however, we advise that all known subsidiaries be put on the CDP notices, whether or not collection against the subsidiaries is anticipated.

The common parent is the sole agent authorized to act in its own name with respect to all matters relating to the tax liability of the consolidated group, and the subsidiary has no authority to act or represent itself in any manner relating to the tax liability for the consolidated tax year (with limited exceptions). See Treas. Reg. §§ 1.1502-77(a)(1)(i), 1.1502-77(a)(3). Therefore, the Service cannot send separate notices to the common parent and to the subsidiary. See I.R.C. §§ 6320, 6330. If the CDP notice was not addressed to both the common parent and the subsidiaries, and the notice does not

contain a list of the subsidiaries, the Service should treat the original CDP notice as invalid, and a new CDP notice must be mailed to the common parent with the proper addressee line and list of subsidiaries. Doing so ensures the common parent is put on notice that the Service may seek collection from a subsidiary's assets and the common parent may also voluntarily look to a subsidiary's assets to pay the tax liability.

In this case, _____, the subsidiary of the common parent, _____, was not named in the levy notice issued to _____ on _____, nor was it named in the lien notice issued to _____ on _____. Because the original CDP notices were invalid, the Service was correct to issue new notices on _____ and _____, respectively. These new notices entitled _____ to a CDP hearing if it timely requested a hearing.

Please let me know if you have any further questions or concerns.

Best,