

IRM PROCEDURAL UPDATE

DATE: 01/08/2020

NUMBER: sbse-05-0120-0061

SUBJECT: Issuing a Levy to an Exchange Holding Virtual Exchange

AFFECTED IRM(s)/SUBSECTION(s): 5.11.6

CHANGE(s):

IRM 5.11.6.1(6) - Clarified the new Servicewide Policy Statement IRM section.

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.

IRM 5.11.6.1.2 - Clarified the new Servicewide Policy Statement and Delegation Order IRM sections.

1. Authorities relating to this section include:
 - Internal Revenue Code 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
 - Treasury Regulations § 301.6330-1 - Notice and opportunity for hearing prior to levy
 - Treasury Regulations § 301.6331-1 - Levy and distraint
 - Treasury Regulations § 301.6332-2 - Surrender of property subject to levy in the case of life insurance and endowment contracts
 - Treasury Regulations § 301.6333-1 - Production of books
 - Treasury Regulations § 301.6334-1 - Property exempt from levy
 - 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)
- Notice 2010–33, IRB 2010–1 C.B. 609, Frivolous Positions
- 5 CFR Parts 1653, Court Orders and Legal Processes Affecting Thrift Savings Plan Account

IRM 5.11.6.1.5 - Clarified the new Servicewide Delegation Order IRM section.

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 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. TIGTA performs a yearly audit titled, Statutory Review of Compliance With Legal Guidelines When Issuing Levies. The overall objective of the audit is to determine whether the IRS has complied with the requirements to notify taxpayers and their authorized representatives of the right to a Collection Due Process hearing prior to issuing levies and to suspend levy action during the time frames required pursuant to IRC 6330.
5. Programming 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.

IRM 5.11.6.3(3) - Clarified that taxpayer's request to levy a retirement plan contain sufficient information and a written request; Added caution that written request is actionable only for one approval and cannot be utilized for multiple retirement account levies over a period of time.

3. Because these retirement vehicles provide for the taxpayer's future welfare, levy on the assets in a retirement account (as contrasted with income from the account) only after following the procedures set forth below. If the taxpayer provides a signed written request to the Service to levy the assets in the retirement account, consider the taxpayer's request to levy the account as part of the ability to pay determination. The taxpayer's written request should contain sufficient information to identify the taxpayer and the retirement account to be levied. Prior to levying pursuant to the taxpayer's request, follow step 1 as described in paragraph (4) (consider alternatives to levy on retirement assets) and step 3 as described in paragraph (7) (determine whether the taxpayer needs the retirement assets for necessary living expenses). Document the case history and Form 15000, **Request for Approval of Levy on Funds in Pension, Retirement Plans or TSP Account** that the taxpayer requested the IRS to issue the levy; do not make

the flagrant conduct determination in step 2 as described in paragraphs (5) and (6) below. Follow guidance in IRM 5.15.1.28, *Retirement or Profit Sharing Plans*.

NOTE: If the taxpayer requests the levy and you decide that the Service should levy after following steps 1 and 3 in paragraphs (4) and (7), respectively, before issuing the levy, verify that the taxpayer has received CDP rights. If the taxpayer has not received CDP rights, then follow the procedures in IRM 5.11.1.3.3,

Satisfying the Notice Requirements.

NOTE: An imminent collection statute expiration date (CSED), alone, does not justify levying on retirement assets. Levying on assets in retirement accounts requires application of the procedures set forth below.

CAUTION: If the taxpayer wants the IRS to issue a second retirement account levy, then they must issue another letter to that effect.

IRM 5.11.6.3(9) - Clarified Form 668-R must be used when levying a retirement plan.

9. Use of Form 668-R, Notice of Levy on Retirement Plans is mandatory as it contains special instructions for levying retirement plans. It must be used instead of Form 668-A.

IRM 5.11.6.3(10) - Clarified instructions for Area Director signature on Form 668-R.

10. Have the SB/SE Director, Collection Area approve the Form 668-R, Notice of Levy on Retirement Plans by signing the Form 668-R as the Service Director or see IRM 5.11.1.3.5, *Managerial Approval*, for methods to secure managerial approval.

IRM 5.11.6.6.1 - Removed phone and fax number as DFAS has removed these contacts numbers.

1. Paper levies issued to attach monies due Department of Defense (DoD) contractors should be sent to:
Defense Finance and Accounting Service - Columbus Center
Attn: DFAS-BKSD/CC
Debt Management Office
P.O. Box 182317
Columbus, OH 43218-2317

2. For information regarding contracts and payments, send an E-mail message to CCO-IRS@DFAS.MIL.
3. As an alternative to a paper levy, the Federal Payment Levy Program (FPLP) can now continuously levy DoD contractor and vendor payments paid through the Defense Finance and Accounting Service (DFAS) at 100 percent.
 - o Since April 15, 2005, contractor payments paid through DFAS Mechanization of Contract Administration Services (MOCAS), have been levied at 100 percent of the payment or balance due, whichever is less.
 - o Since July 18, 2005, contractor payments paid through the remaining DFAS vendor payment systems have been levied at 100 percent of the payment or balance due, whichever is less.
 - o Prior to those dates, any Defense contractor/vendor payment levied through the FPLP was at 15 percent.

IRM 5.11.6.10 - Clarified UN levy procedures when the taxpayer receives income other than wages.

1. Legal processes can be served at the UN:
 - o with the Secretary General's approval
 - o in conditions the Secretary General approves.

NOTE: This authority comes from a joint resolution of the 80th Congress.

2. Consider a levy on UN employees' salary only after all other sources have failed. Send the Form 668-W(ICS) or 668-W(c)(DO) from the SB/SE Director, Collection Area to the Director of Collection Policy SE:S:C:HQC:P at Headquarters. Include a memo that explains attempts to collect the tax and any other relevant information. See IRM 5.11.1.3.5, *Managerial Approval*.

NOTE: For a levy on payments that a contractor receives from the UN, the IRS should follow these procedures, and ensure that the immunities granted to the UN as a sovereign entity are respected.

3. Headquarters will forward the levy to the State Department and return to the revenue officer a copy for the case file.
4. Because of the restriction on legal process, the levy is used to counsel the employee.

IRM 5.11.6.21 - Added new section to address issuing a levy to an exchange holding virtual currency.

Virtual Currency

1. Virtual currency is a digital representation of value, other than a representation of the U.S. dollar (USD) or a foreign currency ("real currency"),

that functions as a unit of account, a store of value, and a medium of exchange. Some virtual currencies are convertible, which means that they have an equivalent value in real currency or act as a substitute for real currency.

Exhibit 5.11.6-1 - Updated contact for Pension Benefit Guaranty Corporation.

Pension Benefit Guaranty Corporation	Attention: Matthew Vitello, FOD-GAB, 1200 K Street NW, Suite 6415, Washington, DC 20005
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Exhibit 5.11.6-4 - Added additional acronyms.

Acronym	Definition
ACA	Affordable Care Act
ACS	Automated Collection System
BFS	Bureau of the Fiscal Service
CAP	Collection Appeals Program
CDP	Collection Due Process
CEASO	Civil Enforcement Advice and Support Operations
CMS	Centers for Medicare and Medicaid Services
CPS	Correspondence Production Sites
CSCO	Compliance Services Campus Operations
CSED	Collection Statute Expiration Date
CSRS	Civil Service Retirement System
CZ	Combat Zone
DFAS	Defense Finance and Accounting Service
DLN	Document Locator Number
DPC	Designated Payment Code
EAEP	Exempt, Abandoned or Excluded Property
EFTPS	Electronic Funds Transfer Payment System
EIN	Employer Identification Number
FERS	Federal Employees Retirement System
FPLP	Federal Payment Levy Program
FRTIB	Federal Retirement Thrift Investment Board
FSA	Farm Service Agency
HHS	Health and Human Services
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IRA	Individual Retirement Arrangements
IRC	Internal Revenue Code
ISO	Independent Sales Organization
LLC	Limited Liability Company

LTC	Long-Term Care
MAC	Medicare Administrative Contractors
MFT	Master File Tax
MSP	Merchant Service Provider
NFTL	Notice of Federal Tax Lien
NLRB	National Labor Relations Board
OASDI	Old-Age, Survivors, and Disability Insurance
POA	Power of Attorney
QTP	Qualified Tuition Programs
RSDI	Retirement, Survivors, and Disability Insurance
SBSE	Small Business/Self-Employed
SITLP	State Income Tax Levy Program
SSA	Social Security Administration
SSI	Supplemental Security Income
SSN	Social Security Number
TAS	Taxpayer Advocate Service
TC	Transaction Code
TIGTA	Treasury Inspector General for Tax Administration
TIN	Taxpayer Identification Number
TSP	Thrift Savings Plan
UN	United Nations
USD	U.S. Dollar
USPS	United States Postal Service
VA	Veterans Affairs