

## **IRM PROCEDURAL UPDATE**

**DATE: 07/10/2023**

**NUMBER: sbse-05-0723-0812**

**SUBJECT: Various Updates; Clarification; Edits**

**AFFECTED IRM(s)/SUBSECTION(s): 5.19.4**

**CHANGE(s):**

### **IRM 5.19.4.3.1(9) for consistency, added the LT75 to listed CDP letters**

(9) Authorized taxpayer representatives must receive a copy of the LT11, LT73, LT75 including only the modules for which the representative is authorized to receive information. When a CAF indicator is present the ACS system will generate a PO11. Representatives will only receive a copy of the LT11, LT73, LT75 for tax periods in which they are authorized. Should the need arise follow the instructions in IRM 5.19.5.4.9, POA/CAF Letters and the RAF, to manually issue the POA copy of LT11 on ACS. To issue POA copy of LT11, LT73, LT75 on ACSWeb overlay the POA name and address on the Letters screen. Select LT11, click on "Authorized Representative" button, then click "submit" to send PO11.

### **IRM 5.19.4.3.5.2 In accordance with IMD Alert: Updated Digital Asset IRM Language, dated April 19, 2023, where appropriate updated language from "virtual currency" to "digital asset"**

#### **Levy on Digital Assets**

(1) For information on levies on digital assets see IRM 5.11.6.21, Virtual Currency. Additional information can also be found at [www.irs.gov](http://www.irs.gov) using search term "virtual currency" or "digital asset(s)"

(2) The IRS may issue a levy to a digital asset service provider. Prior to issuing the levy, ensure:

- a. the digital asset service provider is located in the U.S. Just like banks, some may only have a presence in a foreign country.
- b. If possible, determine if the digital asset service provider qualifies as a bank under IRC 408(n). Digital asset service providers that qualify as a bank must wait 21 calendar days after service of a levy before surrendering the funds in the account (including interest thereon) held by the bank, subject to extension. See IRM 5.11.4.2, Holding Period.

- c. Levying property held by a digital asset service provider requires special instructions. ACS employees will need to manually prepare the Notice of Levy following the procedures in IRM 5.19.4.3.11 Typing Manual Levies. State on the notice of levy or in the "Special instructions" field, "This levy attaches to all property and rights to property, including digital assets belonging to the taxpayer that is currently held by the digital asset service provider named above. Please liquidate the digital asset and remit the proceeds to us by mailing a check payable to United States Treasury."

**Note:** Use Form 668-A, Notice of Levy to levy property that a digital asset service provider is holding.

**Note:** Be aware of the taxpayer's contractual rights to withdraw fiat currency or digit assets held through an account with an digital asset service provider and the potential effect this may have on the levy. When the IRS issues a notice of levy to a third party, the IRS steps into the shoes of the taxpayer with respect to all property or rights to property. For example, customers of a digit asset service provider may be contractually limited to a specific withdrawal amount each day, depending on account characteristics. If the taxpayer's rights are contractually limited, the IRS must understand these limitations prior to pursuing a levy enforcement action.

(3) A levy source may call inquiring how to honor a levy that has attached digital asset or to income paid by digital asset. Advise the caller to liquidate the digital asset and remit the proceeds by mailing a check payable to the United States Treasury.

(4) If the digital asset service provider refuses to convert the digital asset into USD and responds that they wish to comply by turning unliquidated digital asset over to the IRS, via a digital asset wallet, advise the caller that the Service does not have digital asset wallets.

- a. Advise the caller to liquidate the digital asset and remit the proceeds by mailing a check payable to the United States Treasury.
- b. If the caller indicate they will not liquidate the digital asset, follow the procedures in IRM 5.19.4.4.7(14) and route to Advisory

### **IRM 5.19.4.3.11(3) corrected the links for information on manual computations of interest and penalties**

(3) When a manual levy is needed and one or more modules contains restricted penalty and/or interest, calculate and update IDRS.

- See IRM 20.2.1.4.2, Manual Computations, for information on restricted interest.
- See IRM 20.1.2.2.5, Manual Penalty Adjustments, for information on restricted penalties.

**IRM 5.19.4.3.11(5) added a new (5) to include information on signature requirements for the Notice of Levy and renumbered the remaining paragraphs**

(5) When signing the Notice of levy, the IRS employee's name (contact person) – can be either the person's full name, e.g., John Jones, or the person's title and last name, e.g., Mr. Jones.

(6) A copy of the Notice of Levy, along with a print of AMS histories and ACSWeb action histories documenting approvals must be maintained in a paper case file.

- For Form 668-A retain part 5
- For Form 668-W retain part 6

**Note:** Taxpayer records of any kind cannot be maintained by Collection personnel after disposition of the account. All records must be held at the originating call site for 1 year and then disposed of in accordance with approved records control schedules. Refer to Document 12990, Schedule 22 (2)

(7) When a Form 668-A(c)(DO) is prepared manually, the initiating office must also send a levy notification to the taxpayer.

- a. Remove part 4 of the levy assembly, i.e., Form 8519, and mail the rest to the levy source.
- b. Five workdays later, mail Form 8519 to the taxpayer.
- c. Input action history "OADT,00,8519MLD" on the day the Form 8519 is mailed.
- d. When the Form 8519 is sent to a spouse, employees must document AMS history with spousal name/address information.

(8) A Form 12175 must be prepared when issuing a manual levy, see IRM 5.19.5.13, Notification of Third Party Contact, for documentation requirements.

(9) A manager or lead must review and initial the manual levy before it is mailed. Additionally, the reviewing manager or lead must document the review in AMS history and on ACS by entering action history "OADT,00,MLEVYAP"

(10) Employees must input action history "OADT,00,MLVYMLD" on the day the notice was mailed or faxed.

(11) Employees must manually input of TC 971 AC 640 for each module included on a manual levy that does not already have a posted TC 971 AC 640. Request the manual input of TC 971 AC 640 only after the taxpayer's right to a post-levy CDP hearing has expired or the CDP hearing is resolved. Refer to IRM 5.19.1.5.19, Passport Certification in Case of Certain Tax Debts, for additional information.

#### **IRM 5.19.4.5.3.1(7) Clarified the positions with delegated authority to request a NFTL**

(7) ACS employees generally have delegated authority to request the NFTL filing (SBSE and W&I Collection personnel GS-592/962-6 or higher; W&I Customer Service Representatives GS-8 or higher). For cases on ACS (status 22) where the only issue is NFTL filing, not manager approval, issue the NFTL following the procedures in IRM 5.19.4.5, Notice of Federal Tax Lien Determinations and Filing Criteria, through IRM 5.19.4.6.4, Post-NFTL Filing Calls and NFTL Withdrawals.

#### **IRM 5.19.4.6.1(4) Added row to table to clarify instruction to employees**

(4) If the account contains both notice status and Status 22 modules and you have access to ACS, there are options for filing the NFTL. It depends on if and when the taxpayer had been issued an CP504 Notice or equivalent.

<b>If</b>	<b>Then</b>
A CP501 or equivalent has not been issued on each module to be included on the NFTL	Issue a Correspondence letter referring to NFTL filing, e.g., 2603C, 2271C or 4624C. Show that payment is required 17 days from today's date. Create a suspense file, following-up in 31 days to request NFTL filing, and immediately dispose of the case.  <b>Note:</b> When directed to accelerate the notice modules to ACS and schedule a follow-up to request FM10 and dispose of the case after all modules are in Status 22. Key is to ensure the NFTL is filed, but not prematurely.
A CP501 or equivalent has been issued less than 31 days ago	Create a suspense file to follow-up 31 days after the written notice to request NFTL filing, and immediately dispose of the case.
A CP501 or equivalent has been issued 31 days or more ago	Input History Code <b>FM10 twice, and</b> document in AMS history using the issue code "Liens" which notice modules are to be included in the NFTL. If you need approval for NFTL filing, recommend this action to a manager or designated employee. NOTE: If there are more than 15 tax modules on the NFTL request or the account contains modules with an unreversed TC470, the automated systems cannot process it. Handle it manually using Form 12636 per (1) above.  <b>Reminder:</b> Do not include any individual SRP modules, MFT35/MFT65 on the Form 12636.

**Reminder:** The taxpayer MUST have been warned of the NFTL filing for EACH module included on the NFTL

**IRM 5.19.4.6.6.1(2) updated the name of Publication 783 to: How to Apply for a Certificate of Discharge From Federal Tax Lien**

(2) To apply for a tax lien discharge, taxpayer's must follow directions in Publication 783, How to Apply for a Certificate of Discharge From Federal Tax Lien. Taxpayers should be encouraged to complete the Form 14135 when applying for a Certificate of Discharge. The request should be mailed to the appropriate Collection Advisory Group. See Publication 4235, Collection Advisory Group Numbers and Addresses.

**IRM 5.19.4.6.6.2(2) updated the name of Publication 784 to: How to Apply for a Certificate of Subordination of Federal Tax Lien**

(2) To apply for a certificate of lien subordination, taxpayers must follow directions in Publication 784, How to Apply for a Certificate of Subordination of Federal Tax Lien. Taxpayers should be encouraged to complete the Form 14134 when applying for a Certificate of Lien Subordination. The request should be mailed to the appropriate Collection Advisory Group. See Publication 4235, Collection Advisory Group Numbers and Addresses.

**Exhibit 5.19.4-1 modified exhibit to remove the graphic and provide step list only with links to applicable IRM section**

When taxpayers do not voluntarily pay their tax liabilities and do not participate with case resolution procedures, we must take actions to protect the government's interest and encourage participation. It is important that we only take these actions when appropriate. We must follow all required procedures and ensure the taxpayer has been sent the required notices before taking this action.

1. Pre-Levy Requirements, IRM 5.19.4.3.1
2. Levy Determinations, IRM 5.19.4.3.4
3. Choosing a Levy Source, IRM 5.19.4.3.7
4. Issue Levy, IRM 5.19.4.3.12
5. Levy Responses, IRM 5.19.4.4
6. Next Action, IRM 5.19.4.4.8
7. Levy Release, IRM 5.19.4.4.10
8. Wrongful/Erroneous Levy, IRM 5.19.4.4.12
9. Erroneous Levies: Bank Charges, IRM 5.19.4.4.13

**Exhibit 5.19.4-2 modified exhibit to remove the graphic and provide step list only with links to applicable IRM section**

The decision to file an NFTL requires complete account research and analysis, balancing the need for the efficient collection of tax with legitimate concerns the taxpayer may have about the filing of the NFTL. ACS employees make a determination to file NFTLs as a result of speaking with the taxpayer or when working inventory.

1. NFTL Determination, IRM 5.19.4.5.1
2. Consider when not to file a NFTL, 5.19.4.5.3 IRM 5.19.4.5.2
3. Before Filing NFTLs, IRM 5.19.4.5.3.1
4. Notify TP of NFTL filing, IRM 5.19.4.5.3.3
5. Apply NFTL criteria, IRM 5.19.4.5.3.2
6. Apply NFTL procedures, IRM 5.19.4.6
7. NFTL withdrawal, IRM 5.19.4.6.4
8. Lien Release, IRM 5.19.4.6.5