

## IRM PROCEDURAL UPDATE

**DATE:** 12/09/2020

**NUMBER:** sbse-05-1220-1291

**SUBJECT:** Eliminate Additional Administrative Warning of Enforcement

**AFFECTED IRM(s)/SUBSECTION(s):** 5.11.1

**IRM 5.11.1.3.3.8 removed:** Recent legislative changes to third party contact requirements eliminates the need for an additional administrative warning of enforcement action.

**IRM 5.11.1.5.4(1) removed reference to deleted IRM section.**

1. When warranted, the Service may exercise its discretion to issue a pre-levy CDP notice for DETL periods; i.e., even where a taxpayer's employment tax liabilities meet DETL criteria. Ensure the Letter 1058 to be issued includes a third-party contact notification.

**EXAMPLE:** If there has been no contact with the taxpayer the issuance of a pre-levy notice might be advisable to resolve this issue.

**IRM 5.11.1.6.3(1) removed reference to deleted IRM section.**

1. When warranted, the Service may exercise its discretion to issue a pre-levy CDP notice on modules eligible for FEDCON levy based upon the unique case factors. Examples of unique case factors:
  - The issuance of a pre-levy notice might be advisable if there was no contact with the taxpayer.
  - When the Letter 1058 is issued on initial contact with a BMF or combination BMF/IMF taxpayer when a deadline is set for the taxpayer to take specific action. See IRM 5.11.1.3.3, Satisfying the Notice Requirement.
  - When the Letter 1058 will be issued during initial contact on IMF case but a FEDCON levy is not yet appropriate. See IRM 5.11.1.3.3.
  - Ensure the Letter 1058 to be issued includes a third-party contact notification. IRM 25.27.1, Third-Party Contact Program.

**NOTE:** The Federal contractor exception in IRC 6330(f) applies to a FEDCON levy. Similar to a DETL levy, a FEDCON levy can be served during a timely requested pre or post-levy CDP hearing or judicial review of such

hearing to collect tax liabilities (FEDCON tax periods) subject to the hearing. Prior to levying, you are required to determine if Appeals or Counsel has information that prohibits levy (OIC, IA, etc.) or may affect the decision to levy. Follow the guidance in IRM 5.1.9.3.15 (7) for contacting Appeals or Counsel. FEDCON levies may be issued for any levy source, not just Federal payments.