

## IRM PROCEDURAL UPDATE

**DATE: 03/28/2016**

**NUMBER: SBSE-05-0316-0613**

**SUBJECT: Levy on Wages, Salary, and Other Income**

**AFFECTED IRM(s)/SUBSECTION(s): 5.11.5**

**CHANGE(s):**

**IRM 5.11.5.6.1(2) is revised so this language is consistent with language added in other sections.**

**IRM 5.11.5.6.1(6) is revised to clarify that all modules included in continuous levy must be listed on the levy issued to the payor (levy source) to comply with IRC 6343(a)(1)(A).**

**IRM 5.11.5.6.1(7) is added to explain systemic generation.**

1. If a productive levy source is the only source of collection, group managers should approve the monitoring of levy payments as continuous by signing Form 4844, *Request for Terminal Action*, after ensuring the procedures outlined below have been followed. Group manager approval of the continuous wage levy in ICS is sufficient to reflect the action is authorized.
2. The following types of levies can be monitored in a campus or Centralized Case Processing (CCP).
  - a. Continuous levies on wages and salaries
  - b. Levies that reach a taxpayer's fixed and determinable right to a series of payments, e.g., retirement or pension income, or social security benefits. See IRM 5.17.3.4.2, *Effect of Levy*.
3. If levy payments are received monthly, then transfer for monitoring after two consecutive levy payments have been received.

**NOTE:** At local management option, accounts may be transferred after one remittance if payments will be of an equal amount and will be remitted monthly.

4. If levy payments are received weekly or bi-weekly, then transfer for monitoring after 60 days.
5. See IRM r5.1.11.7, *Delinquent Return Investigation Closures*, to close the ICS Del Ret module when the Bal Dues are to be resolved by a continuous levy.

**REMINDER:** Del Rets and Bal Dues in status 60 can coexist on IDRS. An entity can have an open Del Ret on one module and status 60 on other modules. Del Rets do not default status 60 Bal Dues.

6. Prior to transferring for systemic or manual monitoring,
  - o Ensure all open periods are included in the levy or levies.

**NOTE:** Individual SRP modules (shown as MFT 35 or MFT 65) may not be included in a continuous levy.

- o Ensure the payor (levy source) understands the levy remains in effect after the transfer.
- o Ensure the payor understands where to send the levy payment. For a continuous levy that will be systemically or manually monitored, payments should be sent to the campus designated for the Area. See the Servicewide Electronic Research Program (SERP), Who/Where, Where to File – Forms and Payments, Campus Balance Due Accounts – Where to Send Payments, [http://serp.enterprise.irs.gov/databases/who-where.dr/balance\\_due\\_accounts.htm](http://serp.enterprise.irs.gov/databases/who-where.dr/balance_due_accounts.htm). Use the State address listed under "Without the CP521/523 Notice."
- o Instruct the payor that payments should be payable to "United States Treasury."
- o Request the check or draft reflect the taxpayer name and identification number, the tax periods included on the levy form, and "Levy Proceeds."

**NOTE:** Letter 5112, *Payment Instructions to Third Party Responding to Notice of Levy on Wages, Salary and Other Income* may be sent to third parties responding to Form 668-W(c)(DO), *Notice of Levy on Wages, Salary and Other Income*. The letter provides the recipient with response and payment instructions, as detailed in IRM 5.11.5.6.1(6).

7. When a case has been identified /selected for FPLP and the manager approves the ICS Option C - Continuous Levy; ICS will process and a TC 971, AC 061 will upload systemically. Once the TC 971, AC 061 is input a TC 972, AC 060 will systemically generate.
8. If the taxpayer contacts the IRS requesting a release of levy after the continuous levy has been set up, follow procedures in IRM 5.11.2.3, *Releasing Levies* to determine if the levy should be released. The taxpayer may appeal as outlined in IRM 5.1.9, *Collection Appeal Rights*. Additionally, see IRM 5.1.9.4.1(8) for referral to Taxpayer Advocate Service.

**IRM 5.11.5.6.2(6) (j) is revised to clarify that a levy on a fixed and determinable right to receive future payments issued prior to the CSED is still enforceable.**

1. Wage levies that result in regular remittances of about the same amount, may be monitored systemically if the earliest CSED is later than 18 months. For each levy with payment received from one levy source, request a review date:
  - No more than five years in the future,
  - 18 months prior to the earliest CSED if the earliest CSED is at least 24 months in the future, or
  - 9 months prior to the earliest CSED if the earliest CSED is less than 24 months in the future.

**NOTE:** If fewer than 18 months remain prior to the CSED, a continuous wage levy must be monitored manually.

**NOTE:** Revenue officers cannot close a case module on a FPLP levy source without converting the FPLP levy to the paper levy. The FPLP excludes Status 60 modules. Status 60 is normally used for continuous levies or installment agreements. For guidance see IRM 5.11.7.2.5.1, *FPLP or Paper Levy (Form 668-A/668-W)*.

2. For all continuous levies, if the levy source sends payments on a weekly or bi-weekly (every two weeks) basis, the levy may be monitored systemically using the monthly total of these payments. In this situation, monitor payments for 60 days to ascertain the correct monthly total to be entered on the Form 4844, *Request for Terminal Action*. Do not close the case on ICS until the Form 4844 is submitted for input.

**NOTE:** If payment amounts vary, use the lowest amount it is possible will be received monthly. That amount should not be less than \$10.

3. Do not input transaction code (TC) 971, action code (AC) 063 (Installment Agreement) on Bal Dues included in a continuous levy.
4. Document the ICS case history with "Monitor Continuous Levy the same as IA."
5. No TSIGN change is required for levy monitoring. Systemically monitored levies will be transferred to Compliance Service Collection Operation (CSCO) (formerly SCCB).
6. To complete the ICS template version of Form 4844 choose "Contin. Levy - ST60" in Installment Agreement, Option C-Continuous Levy on ICS. The following information will be populated into the Form 4844:
  - a. Request for input of status 60;
  - b. "Suppress Default and Payment Reminder Notices";
  - c. The amount of the payment will be \$\$\$ and will be received on the date # of each month;
  - d. Name of the employer/payor levied;
  - e. Address of employer/payor levied;
  - f. Telephone number of employer/payor levied;

g. **"Input Installment Agreement Locator Number 0208";**

**NOTE:** Installment Agreement Locator Number 0208 identifies these accounts as continuous wage levies on the Installment Agreement Account Listing (IAAL) in the campus. Proper identification of these accounts may result in fewer field case issuances on defaults.

- h. For wage levies that will be released when the CSED expires, request input of TC 971 AC 687, misc. 002 for each module included in the continuous levy;
  - i. For levies that reach a fixed and determinable right to receive future payments (e.g., retirement or pension income, Social Security benefits) and will not be released when the CSED expires, request input of TC 971 AC 687, misc. 001 for each module included in the continuous levy. See IRM 5.19.10.4.6.1, *TC 971 AC 687*, and *Miscellaneous Codes for CSED* for explanation of miscellaneous codes. See IRM 5.11.2.3.1.2, *Statutory Collection Period Expired* for when levies do not have to be released.
7. When approved, the information from the Form 4844 is written into the ICS history. The GM has the option to either email the approved Form 4844 or print and mail Form 4844 to CCP/General Case Processing Unit.

**REMINDER:** Group manager approval is required. If there is no additional collection potential on the case, group managers should approve these transfers.

- 8. Route the physical case file to CCP using the ICS generated Form 3210.
- 9. CSCO will send Form 668-D, *Release of Levy/Release of Property from Levy*, one month prior to the account being full paid advising the employer of the amount to remit to full pay the levy.
- 10. At the time of the review discussed in paragraph (1) above, campus Installment Agreement Account Listing (IAAL) personnel will:
  - o Attempt to secure an installment agreement to fully pay the taxes;
  - o Consider other avenues of collection such as offer in compromise or part pay installment agreement;
  - o Consider recommending the account(s) be reduced to a judgment.

**IRM 5.11.5.6.3(4) (g) is revised to clarify that a levy on a fixed and determinable right to receive future payments issued prior to the CSED is still enforceable.**

- 1. Some continuous levies cannot be transferred to CSCO for systemic monitoring in status 60. Transfer those continuous levies to Centralized Case Processing (CCP) for monitoring in the same way manually monitored installment agreements are monitored. The following types of accounts and levies must be monitored in CCP:
  - a. NMF accounts;

- b. Accounts with a wage levy and fewer than 18 months remaining prior to the earliest CSED;
- c. Accounts with an unreversed TC 971, AC 065 (claim pending for joint and several liability relief under IRC section 6015);
- d. In-Business Trust Fund accounts;
- e. Levies with irregular payments dates;
- f. Levies with irregular payment amounts;
- g. Levies with payments received from multiple levy sources
- h. Levies on a spouse whose SSN is not the Bal Due account TIN;
- i. Levies on seasonal employees unless payments will satisfy the Bal Dues.

**NOTE:** Do not request manual monitoring of continuous FPLP payments. For guidance see IRM 5.11.7.2.5.1, *FPLP or Paper Levy (Form 668-A/668-W)*.

- 2. Do not input TC 971 AC 063 (Installment Agreement) on Bal Dues included in a continuous levy.
- 3. Note the Bal Due account and document the case history, "Monitor Continuous Levy as IA."
- 4. To complete the ICS template version of Form 4844 choose "Contin. Levy MMIA (CCP)" in Installment Agreement, Option C-Continuous Levy on ICS. Selecting this option will set the sub code to "902," the location field in the Name and Address will set to "LEVY." The following information will be populated into the Form 4844.
  - a. "Transfer to CCP for Manually Monitored Continuous Levy Payments";
  - b. The amount of the payment will be \$\$\$ and will be received on the date # of each month;
  - c. Name of the employer/payor levied;
  - d. Address of employer/payor levied;
  - e. Telephone number of employer/payor levied;
  - f. For wage levies that will be released when the CSED expires, request input of TC 971 AC 687, misc. 002 for each module included in the continuous levy;
  - g. For levies that reach a fixed and determinable right to receive future payments (e.g., retirement or pension income, Social Security benefits) and will not be released when the CSED expires, request input of TC 971 AC 687, misc. 001 for each module included in the continuous levy. See IRM 5.19.10.4.6.1, *TC 971 AC 687*, and *Miscellaneous Codes for CSED* for explanation of miscellaneous codes. See IRM 5.11.2.3.1.2, *Statutory Collection Period Expired* for when levies do not have to be released.
- 5. If fewer than 18 months remain in the statutory period for collection when the account(s) is being transferred to CCP and the levy will be released when the CSED expires, document the case history to include the following statement "CSED = (insert date). No suit recommended."
- 6. If a copy of the levy form is not available in the case file, document the case history accordingly.

7. The manager will review the case for approval and return the Form 4844 to the **requestor**. When approved the information from the Form 4844 is written into the ICS history and the manager is given option to either email or print the Form 4844, Form 3210.

**NOTE:** Do not email the Form 4844 to CCP for Manually Monitored Continuous Levies. The ICS assignment number is automatically updated. See "Note" in paragraph (8) below.

**REMINDER:** Group manager approval is required. If there is no additional collection potential on the case, group managers should approve these transfers.

8. After approval, place a copy of the approved Form 4844 in the physical case file.

**NOTE:** Choosing "Contin. Levy MMIA (CCP)" in Option C under Installment Agreements on ICS will generate Form 3210, Document Transmittal, for transmitting the physical case file to CCP. ICS will automatically update the case assignment to CCP.

9. Route the physical case file to CCP using the generated Form 3210.
10. CCP will monitor continuous levies to ensure payments are received timely. If payments are not received, CCP will follow-up with the payor.
11. CCP will send a notice of levy release one month prior to the account being full paid advising the payor of the amount due to full pay the levy. A notice of levy release will not be issued until:
  - a. All Bal Dues for which the levy was made are full paid;
  - b. The last CSED is about to expire so the wage levy is released far enough in advance that no payments are received for wages earned after the expiration of the CSED;
  - c. One of the criteria in IRM 5.11.2.3, *Releasing Levies*, exists;
12. For CSED cases assigned for monitoring, CCP will:
  - a. Not release the wage levy if one or more CSED expires, but other periods included on the levy are within the statutory period for collection;
  - b. Monitor levy payments until all Bal Dues included on the levy are paid or the last CSED on a wage levy is about to expire, whichever comes first;
  - c. Follow the procedures in IRM 5.11.5.6.2, Systemic Monitoring of Continuous Levy Payments above if some Bal Dues are full paid or the CSED expires on one or more but not all periods and the case now qualifies for systemic monitoring. Note on the copy of the levy form, "The following period(s) have expired CSEDs:" and list the applicable Bal Due periods.

**NOTE:** If the levy form is unavailable, record this information in the case history and ensure a list of the tax periods on the original levy is included as well as the tax periods with expired CSEDs.