

## IRM PROCEDURAL UPDATE

**DATE: 08/29/2017**

**NUMBER: sbse-05-0817-1282**

**SUBJECT: Role of Revenue Officers In Sales and Outsourcing**

**AFFECTED IRM(s)/SUBSECTION(s): 5.10.4**

**IRM 5.10.4.2.1(1) Note added guidance for Pilot on outsourcing sales to GSA.**

**IRM 5.10.4.2.1(4) updated guidance concerning commercial title reports.**

1. Once the property has been seized and the inventory has been completed, the PALS should begin preparations for the sale by documenting a plan of action in the ICS history. Section II of Form 13360, *Seizure and Sale Checklist*, contains a list of sale actions necessary to prepare and conduct a sale. The PALS will be responsible for all sale related activities for seizures conducted under IRC 6335.

**NOTE:** Though there is no statutory prohibition against revenue officers conducting perishable goods sales, current policy requires PALS to complete and/or coordinate such sales.

2. In some cases, the property may be released or redeemed prior to sale. IRM 5.10.4.13, *Redemption of Property Prior to Sale*, provides the procedures for redemption of the property prior to sale and IRM 5.10.4.14, *Conditions for Release of Seized Property*, provides the procedures for release of property prior to sale.
3. The PALS will document case actions per IRM 5.1.10.8, *Case Histories*, including updating the ICS seizure application with asset information, such as the storage location, minimum bid, fair market value, etc., as well as disposition information when the related action occurs.
4. The PALS may consider the need for a commercial title report, if one has not already been requested by the RO. Refer to IRM 5.10.1.5.3.3(4), *Equity Determination - Verify Ownership and Identify Encumbrances*, for additional information on making such requests.

**NOTE:** If the PALS determines a new title report is needed after the RO previously requested one, the PALS GM should document the ICS case history to explain the justification for the need for an additional title report.

**IRM 5.10.4.4(1) clarified documentation requirement for method of sale.**

1. The PALS must determine by which method the seized property will be sold. This determination must be documented, even when outsourcing the sale to a vendor. Seized property may be sold either by:
  - Public auction, at which open competitive bids are received and mail-in bids may be accepted
  - Public sale by sealed bid

**IRM 5.10.4.4.1(6) revised guidance regarding RO's participation in sales.**

6. The PALS will document the bidders' name, address, and the date the bid was received for all mail-in bids as they are received. If the bids are to be mailed to a local office and not directly to the PALS, the PALS should coordinate with the local office to have an employee (other than a revenue officer who has taken any collection actions **at any time** against the taxpayer whose assets have been seized) document and control the mail-in bids as they are received. Section C of Form 4425, *Public Sale Bid Tabulation*, or a similar form, may be used for this purpose; the title should be changed to "Receipt for Mail-in Bids". All mail-in bids received will be retained for safekeeping in a government facility providing protection commensurate with the standards in IRM 1.4.6.5.1, *Minimum Protection Standards*.

**IRM 5.10.4.6 changed title to Outsourcing Sales.**

<b>5.10.4.6</b>	<b>Outsourcing Sales</b>
<b>(05/20/2016)</b> <b>(08/29/2017)</b>	

**IRM 5.10.4.6.1 created to give guidance for Pilot on outsourcing sales to GSA.**

1. The Internal Revenue Service has an Interagency Agreement with the General Services Administration (GSA) to outsource sales of personal property on a case by case basis.
2. If the PALS determines the sale meets the GSA outsourcing criteria, the PALS will research values, anticipated expenses and logistics, storage needs and/or options through GSA schedules or local options.
3. The PALS will provide value and expense information to the RO for the seizure approval package and document ICS with the information.

4. Once the RO completes the seizure and mails the package to the PALS GM, the PALS will take custody and prepare Form 4585, *Minimum Bid Worksheet*, and seek approval from the PALS GM. Once approved, the PALS will mail Form 4585 via certified and regular mail to the taxpayer.
5. At the same time, the PALS will prepare and send Standard Form 126 ( <https://www.gsa.gov/portal/forms/download/115734> ) to GSA, along with the sale and lot numbers, Form 15007, *Vehicle Standard Description and Checklist* for vehicles and the pictures of the asset.

**CAUTION:** There should be no disclosure of taxpayer PII/SBU in this communication.

6. The PALS will coordinate any sale assistance needed, including the conducting of an open house/asset viewing and/or property retrieval after the sale, by contacting the RO GM located near the seized property. The PALS will provide the RO GM with details on the type of assistance needed, the guidance in providing the assistance and the amount of time expected for the RO to be involved in the requested activities. Once the RO GM identifies an available RO who has not taken any collection actions **at any time** against the taxpayer whose assets have been seized, the PALS will coordinate the logistics with the RO and prepare the Notice of Sale.

**NOTE:** This estimate of time does not take into account travel time to and from the location.

**NOTE:** If the storage location is local to the PALS and no overnight travel is necessary, it is likely that no RO coordination will be necessary. The PALS will handle all actions needed.

7. The PALS will document the discussion with the RO and the arrangements made in the ICS history.
8. The PALS will send an e-mail to the RO, with a cc to the RO GM, confirming the discussion, arrangements made and the actions the RO is to take.
9. When outsourcing to GSA, the PALS will prepare the Notice of Sale and an Out of County memo and forward these documents to the PALS Territory Manager for approval and signature.
10. The PALS will wait 10 days to allow the taxpayer to challenge the minimum bid. If there is no challenge, the PALS will prepare and send the Notice of Sale to the RO for delivery to the taxpayer (or the PALS will deliver, if local). The PALS will document ICS once the delivery is complete.
  - a. If the taxpayer challenges the minimum bid, the PALS will follow the procedures in IRM 5.10.4.3.4 through IRM 5.10.4.3.8, as appropriate.
  - b. If there is no response, the PALS will contact GSA to discuss the sale date. The PALS will send copies of the Notice of Sale and Notice of Encumbrances to GSA, after delivery of such notices to the taxpayer is complete. The PALS will also advise GSA of the IRS' intent to bid in the property and will document the ICS history with this contact.

**NOTE:** Sales should be scheduled to accept bids beginning 14 calendar days in advance of the actual sale date and time. The actual sale date should be scheduled for a Monday or the first business day of the week if there is a federal holiday.

11. The PALS will complete the legally required advertisement and submit to the publisher, using Letter 5746, *Instructions to Publisher - Notice of Sale*. At the same time, the PALS will prepare and send the IRS/PALS Web Ad with the GSA URL to the PALS webmaster for online posting.
12. The PALS will remain in contact with the seizing RO for any changes in the status of the case, such as the taxpayer:
  - a. filing bankruptcy,
  - b. applying for a discharge,
  - c. redeeming the property prior to sale, and/or
  - d. coming to an alternative resolution with the RO prior to sale causing the RO to release the seizure.

If any of these conditions occur, refer to IRM 5.10.4.13 and IRM 5.10.4.14.

13. The PALS will monitor the sale online at GSA Auctions and will be available by e-mail or telephone during the sale for any questions.
14. GSA will notify the PALS of the outcome of the sale and will send a copy of the Notice of Award letter and bidders list to the PALS. GSA will send the Notice of Award letter to the successful bidder.
  - a. If the minimum bid is not met, the PALS will make a determination on whether to adjourn the sale or release the asset. See IRM 5.10.5.12.1, *Minimum Bid Not Reached*.
15. Once the successful bidder remits timely payment to GSA, which payment must be remitted within 24 hours of the acceptance of the bid, GSA will prepare a purchaser's receipt and send it to the successful bidder. GSA will send a copy to the PALS to associate with the case file.
16. Once the purchaser's receipt has been received, the PALS will prepare Form 2435, *Certificate of Sale*, and send to the successful bidder with a copy to GSA.
  - a. If the property sold was a vehicle, GSA will also prepare Standard Form 97, *Certificate of Release of a Motor Vehicle*, and send the original to the successful bidder with a copy to the PALS. This form has the odometer statement included and is used to register a vehicle in any DMV.
17. The PALS will contact the successful bidder to arrange a pick up time and date. Unless local, the PALS will then contact the assisting RO, or other assisting Service employee, to request that he/she meet with the successful bidder to get the GSA purchaser's receipt signed and allow the successful bidder to pick up the asset.
  - a. The assisting RO, or other assisting Service employee, will send the signed GSA purchaser's receipt to the PALS. The PALS will keep a copy and send the receipt to GSA.

18. The PALS will then complete Form 2433 Part 7B and Form 1963 and send to RACS/Ogden. The PALS will monitor the case for the IPAC payment from GSA for the proceeds of the sale and for the invoice for GSA expenses of sale.
  - a. The PALS will work with the COR to ensure the GSA invoice is paid via IPAC.
19. Once the IPAC is confirmed from GSA to Ogden, the PALS will complete Form 2436 and Record 21 with the closing package and send to the PALS GM for approval to close the case.
20. The PALS GM will review and approve Record 21 and Form 2436 of the closing package and forward to Advisory per IRM 5.10.6.10(3).

**IRM 5.10.4.8.3(5) added time frame allowed for deferred payments per IRC.**

5. If deferred payment is allowed, the initial payment will be made upon acceptance of the bid and the balance must be paid on or before the date specified, not longer than one month from the date of the sale, per IRC 6335(e)(2)(D). For sealed bids, the initial payment will be in the amount required to be submitted with the sealed bid.

**IRM 5.10.4.9(2) revised guidance regarding RO's participation in sales.**

2. Because of the large geographic areas that a PALS may cover, any revenue officer (including an RO who has taken any collection actions **at any time** against the taxpayer whose assets have been seized) may deliver the Notice of Sale. This will generally occur when the sole purpose of the PALS travel would be to deliver the Notice of Sale to the taxpayer's place of abode or business, and no other sale related actions are needed. The revenue officer will deliver the documents according to IRM procedures and advise the PALS of the delivery. An RO who has taken any collection actions **at any time** against the taxpayer whose assets have been seized may not be involved in the preparation of the Notice of Sale and may not discuss any aspects of the sale with the taxpayer while delivering the Notice of Sale. Any such revenue officer should advise the taxpayer to contact the PALS if there are any questions. All revenue officers (including an RO who has taken any collection actions at any time against the taxpayer whose assets have been seized) can discuss alternative methods of resolution with the taxpayer during this contact.

**NOTE:** It is the PALS' responsibility to confirm proper delivery of the Notice of Sale and document verification of this action in the ICS history prior to the sale date.

**NOTE:** Delivery to the POA alone does not constitute proper service since attempted personal delivery to the owner is required under IRC 6335(b).

**IRM 5.10.4.18.1 Terms updated payment language to match IRM 5.10.4.8.3.**

**IRM 5.10.4.18.1 bullet 3 revised guidance regarding RO's participation in sales.**

1. If the amount of the appraised value of the seized property is not paid or a bond is not furnished within the time specified in the notice, the property should be sold, as soon as practicable, in accordance with the following terms and conditions:
  - Authority to Conduct Sales of Perishable Goods — The PALS is responsible for all sale actions to include the post seizure inventory and valuation, preparation and delivery of the sale notices and *Asset Valuation Notice*, documentation of all sale actions, and completion of the post-sale paperwork.
  - Notice of Sale — If the owner can readily be found, a Notice of Sale will be given to him or her. The Notice of Sale will also be posted in two public places in the county in which the property is to be sold. Form 2434, *Notice of Public Auction Sale* (Exhibit 5.10.4-1) may be adapted for the sale of perishable goods by changing the authority quoted from IRC 6335 to IRC 6336. The time frames for conducting a sale under IRC 6335(d) do not apply to sales of perishable goods.
  - Sale — The property will be sold at public auction to the highest bidder, and if only perishable goods are being sold, the procedures pertaining to establishing a minimum bid price may be waived. IRM 5.10.5.7, *Public Auction - General*, through IRM 5.10.5.11, *Conducting a Public Auction*, are equally applicable to sales under IRC 6336, except that any reference to IRC 6335 should be interpreted to mean a reference to IRC 6336. Any prohibitions against a revenue officer who has taken any collection actions **at any time** against the taxpayer whose assets have been seized are not applicable in perishable goods sales.
  - Terms — Full payment at time of acceptance of highest bid will be required in sales of this type. The payment shall be made in cash or by a certified, cashier's, or treasurer's check made payable to United States Treasury drawn on any bank or trust company incorporated under the laws of the United States or under the laws of any state, territory, or possession of the United States, or by United States postal, bank, or express money order

#### **IRM 5.10.4.19 updated arrangements to deposit sale proceeds.**

1. Prior to conducting a sale, make arrangements to deposit any cash or certified funds that may be received at the sale. Deposit proceeds into a Treasury General Account (TGA) using OTCnet. The manner in which sale proceeds are handled must always be fully documented in the case file history. See IRM 5.10.5.21, *Securing and Depositing Sale Proceeds*, for actions to take after the sale.
2. In the event the PALS has certified funds and is unable to make a deposit using OTCnet, refer to IRM 5.10.6.3, *Submitting Bank Deposit Information or Certified Funds from Sale of Seized Property*, for submitting to Ogden Submission Processing using overnight traceable mail.
3. Any unusual arrangements, such as using an armed escort from Criminal Investigation to transport significant amounts of cash, should be discussed with the PALS manager prior to the sale. IRM 5.10.4.