

## IRM PROCEDURAL UPDATE

**DATE: 08/29/2017**

**NUMBER: sbse-05-0817-1283**

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

**AFFECTED IRM(s)/SUBSECTION(s): 5.10.1**

### **IRM 5.10.1.2(2) revised guidance regarding RO's participation in sales.**

1. When the facts of the case indicate seizure is the next appropriate case action begin the seizure process. Follow all legal and procedural guidelines. Fully document the case history with support for the seizure approval request.
2. Revenue Officers have the authority to seize assets and Property Appraisal and Liquidation Specialists (PALS) have the authority to sell assets. When it is appropriate, a revenue officer who has not taken any collection actions **at any time** against the taxpayer whose assets have been seized may assist the PALS with some sale activities. Coordination between the revenue officer and PALS is essential before, during, and after the seizure. The revenue officer will make the seizure and take all seizure actions up through inventory and securing of the property. The revenue officer and the PALS may work together to complete the inventory after the seizure has been conducted. As soon as possible after the inventory, transfer custody of the property to the PALS, who will generally be responsible for all further sale related actions. The revenue officer will retain responsibility for final case resolution.
3. Form 13360, *Seizure and Sale Checklist*, is a two-part checklist that should be used by revenue officers and PALS when conducting a seizure and sale. Part 1 will be completed by the revenue officer and Part 2 will be completed by the PALS after custody of the asset is transferred. The checklist contains a step by step listing of seizure and sale procedures with IRM citations. Employees should review the applicable IRM references when taking the action and completing the checklist so that all current required guidelines are followed during the seizure and sale. The completed checklist will be submitted with the closing documents by the revenue officer and PALS and will be included in the seizure case file maintained in Advisory.

**NOTE:** The Form 13360, *Seizure and Sale Checklist*, should be completed by PALS even when there is no sale.

**IRM 5.10.1.5.3.2(2) revised guidance regarding RO's determination of FMV, and added guidance for the Pilot on outsourcing sales to GSA.**

2. The FMV must exceed the anticipated expenses per IRC 6331(f). In order to accurately estimate the net proceeds of the sale, the RO should discuss the FMV with the PALS during the RO PALS discussion of the estimated sale expenses and seizure expenses including moving and storage. See IRM 5.10.1.5.3.4, *Equity Determination, Expenses of Seizure and Sale*. In certain situations, the PALS may need to view the assets with the revenue officer. Examples of such instances include:
  - It appears there is marginal equity
  - The asset is unique or unusual
  - There is a large volume of personal property involved
  - Logistical and expense factors are a major consideration

When possible, the PALS and the revenue officer should agree on the FMV prior to the seizure. A discussion between the revenue officer and PALS should be held and documented in the case history within 60 days of routing the seizure approval request. After this discussion, the PALS will determine if the property to be sold should be done so via GSA outsourcing or a traditional PALS sale. This determination should be made after the PALS has discussed the facts of the case with the PALS GM. See IRM 5.10.4.6.1, *Outsourcing to the General Services Administration*, for more information on the GSA outsourcing Pilot.

- If the case does not meet the criteria for GSA sales, the PALS will continue working the case for a traditional PALS sale.
- If the PALS determines the case is to be outsourced to GSA, the PALS will determine the estimated expenses of sale based on the interagency agreement fee schedule.

**IRM 5.10.1.5.3.3(4) revised guidance regarding title report requests.**

4. At local management option, commercial firms may be contracted to provide title search and encumbrance information reports. The delegation authority to approve the use of commercial title searches is contained in Delegation Order SBSE - 5.6. If the title search is requested in anticipation of a seizure, the cost **must be charged to the balance due account as an expense of seizure and sale if the property is seized**. A revenue officer or other Service employee will normally complete the records search. Securing a commercial title report prior to seizure should be **limited** to those cases involving clouded title or complex lien issues identified in the employee's search of public records. The Group Manager should document the ICS history identifying the reason for the request and concurrence for approval. If public records cannot be checked prior to seizure because of a jeopardy situation, complete this action as soon as possible after the seizure and

document the results in the history. Payments for revenue officer commercial title searches must be made through the Integrated Procurement System (IPS). See IRM 5.1.18.4.2, *Title Reports*, for additional information. Document the case history with the facts that led to the determination that a jeopardy situation existed. See IRM 5.11.3, *Jeopardy Levy Without a Jeopardy Assessment*, for information on jeopardy situations.

**NOTE:** A commercial title report is required on all cases requiring judicial approval for seizure of a principal residence.

#### **IRM 5.10.1.5.3.6 revised to update exempt amounts for calendar year 2017.**

1. If seizure of an individual taxpayer's assets is being considered, revenue officers must be aware of the property that is exempt from levy. These exemptions do not apply to partnerships or corporations. Revenue officers must document the case history as to how the exempt property value was determined.
2. The following exemptions, which will be indexed annually for inflation, apply to individual taxpayers for calendar year 2017:
  - Fuel, provisions, furniture, personal effects in the taxpayer's household, arms for personal use, livestock, and poultry up to \$9,200 in value
  - Books and tools necessary for the trade, business or profession of the taxpayer up to \$4,600 in value

**REMINDER:** Vehicles are not generally considered exempt property either as personal effects or as tools of the trade.

3. The following exemption also applies to individual taxpayers but is not adjusted for inflation:
  - Any wearing apparel and school books that are necessary for the taxpayer or members of his or her family
4. For seizure of the assets of an individual taxpayer used in the trade or course of business (including vehicles), the revenue officer must document that the taxpayer's other assets are insufficient to satisfy the amount due plus expenses. This type of seizure requires approval by the area director.
5. Unopened mail is exempt from seizure.

#### **IRM 5.10.1.13.4 revised to update approval level required.**

1. Firearms of substantial value may be seized if they are included as a business asset (e.g., the inventory of a sports equipment outlet, hardware store, or gunsmith). Because of the sensitive nature of this type of seizure, approval by the Territory Manager is required. Prior to the seizure, the

revenue officer must contact the Property Appraisal and Liquidation Specialist (PALS) to discuss the potential seizure. The PALS should contact the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for information regarding firearms sales.

**NOTE:** Consider recommending a suit to foreclose the federal tax lien instead of seizure.

2. Single guns or firearms that are customarily retained for personal use should not be seized unless their value is such that a suit to foreclose the Federal tax lien may be appropriately recommended. Certain arms for personal use may be exempt from seizure (IRM 5.10.1.5.3.6, *Equity Determination - Exempt Assets*).

**IRM 5.10.1.13.5 revised to update approval level required.**

1. Drug paraphernalia generally includes items such as pipes, syringes and other devices designed to introduce drugs into the human body. Do not seize drug paraphernalia unless it consists of wholesale or retail inventory.
2. These assets should not be seized unless they are the sole asset through which collection can be enforced. Other avenues of collection, such as levy on bank accounts or accounts receivable, or seizure of vehicles, cash register contents, or furniture and fixtures, should be used instead.
3. If other assets will not satisfy the liabilities, a seizure may be made of the controlled substances or drug paraphernalia. Contact area counsel prior to seizure.
4. In no event should drug paraphernalia be advertised or offered for sale until the following actions are taken:
  - a. Contact local authorities to determine whether possession of such material violates any local law — if possession is illegal, the material should be released to those authorities.
  - b. If possession is not illegal or authorities refuse to accept the material, refer the matter to area counsel for an opinion as to whether administrative or judicial sale of such material is legal. Consult area counsel in any case where there is a question whether the material seized is drug paraphernalia.
  - c. Once counsel issues an opinion, submit a report to the Territory Manager outlining all of the pertinent facts in the case, including the alternative collection measures which were taken or explored prior to seizure of such material and the results of the risk analysis.

**IRM 5.10.1.13.6 revised to update approval level required.**

1. Other avenues of collection, such as levy on bank accounts and/or accounts receivables, seizure of vehicles, cash register contents, or furniture and fixtures, should be used prior to seizing obscene or pornographic material.
2. If other assets will not satisfy the liabilities, a seizure may be made of the obscene or pornographic material. Contact area counsel before such material is seized. In no event should the material be advertised or offered for sale until the following actions are taken:
  - a. Contact local authorities to determine whether possession of such material violates any local law. If possession is illegal, the material should be released to those authorities.
  - b. If possession is not illegal or authorities refuse to accept the material, refer the matter to area counsel for an opinion as to whether administrative or judicial sale of such material is legal. Consult area counsel in any case where there is a question whether the material seized is obscene or pornographic.
  - c. Once Counsel issues an opinion, submit a report to the Territory Manager outlining all of the pertinent facts in the case, including the alternative collection measures which were taken or explored prior to seizure of such material and the results of the risk analysis.

**IRM 5.10.1.13.7 revised to update approval level required.**

1. Service personnel are not authorized to participate in arrests, raids and similar activities with Drug Enforcement Administration (DEA) personnel. However, revenue officers may take seizure action against narcotics-related taxpayers in connection with jeopardy or termination assessments.
2. Because of the nature of this type of seizure, the approval of the Territory Manager is required. Prior to making personal contact, review the provisions of IRM 5.1.3.5, *Armed Escort to Contact a Taxpayer*.