



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

5.10.2

AUGUST 24, 2022

## EFFECTIVE DATE

(08-24-2022)

## PURPOSE

- (1) This transmits a revision to IRM 5.10.2, Seizure and Sale, Securing Approval for Seizure Actions and Post-Approval Actions.

## MATERIAL CHANGES

- (1) IRM 5.10.2.2(5), updated link to delegation order.
- (2) IRM 5.10.2.2(10), updated guidance on Advisory pre-seizure review to include Form 2433.
- (3) IRM Exhibit 5.10.2-1, added note to clarify highest level of approval necessary is indicated by check. Removed check in Area Director box for clarity on highest level of approval.
- (4) Throughout this IRM section: editorial corrections were made to update citations, references, etc.

## EFFECT ON OTHER DOCUMENTS

This supersedes IRM 5.10.2 dated July 12, 2019.

## AUDIENCE

Small Business/Self-Employed Compliance Employees

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Director, Collection Policy



5.10.2

Securing Approval for Seizure Actions and Post-Approval Actions

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5.10.2.1  
(08-10-2018)  
**Program Scope and Objectives**

- (1) **Purpose:** This section provides guidance for collection staff on securing managerial approval for seizures, including determining the appropriate approval level for seizures. It also provides guidance on some post-approval actions.
- (2) **Audience:** This section is for Collection employees involved in the seizure of assets.
- (3) **Policy Owner:** Director, Collection Policy.
- (4) **Program Owner:** Small Business/Self Employed office of Headquarters Collection Policy.
- (5) **Primary Stakeholders:** The primary stakeholders are revenue officers, advisors and Property Appraisal and Liquidation Specialists (PALS).
- (6) **Program Goals:** Enforcement is a necessary component of a voluntary assessment system, and the IRS is responsible for taking all appropriate actions provided by law to compel non-compliant taxpayers to pay their taxes (P-5-1). The determination to seize a taxpayer's interest in real or personal property is based on the individual case facts and circumstances. By following the procedures in this IRM, employees will have the information necessary to prepare the seizure file for the required level of managerial review and approval.

5.10.2.1.1  
(08-10-2018)  
**Background**

- (1) This section describes procedures for securing managerial approval for seizures. See Exhibit 5.10.2-1 for a seizure approval reference table. The intended audience for this section consists of revenue officers in field collection and Advisory offices.
- (2) IRM 5.10.2.3 through IRM 5.10.2.7 contains instructions for seizures involving the following:
  - Judicial Approval for Principal Residence Seizures
  - Seizures Requiring Area Director Approval
  - Tangible Personal Property or Real Property (other than real property which is rented) Used in the Trade or Business of an Individual Taxpayer
  - Perishable Goods
  - Contracting for Services

5.10.2.1.2  
(08-10-2018)  
**Authority**

- (1) The authority of this IRM is based on the following:
  - IRC 6331, Levy and Distraint
  - IRC 6334, Property Exempt from Levy
  - IRC 6335, Sale of Seized Property
  - IRC 6336, Sale of Perishable Goods
  - Delegation Order 1-23-2 (Rev 2), Authority to Sign and Issue Levy and Related Documents
  - Delegation Order 1-14, Delegation of Procurement Authority
  - Rule 62 of the Federal Rules of Civil Procedure

5.10.2.1.3  
(08-10-2018)  
**Responsibilities**

- (1) The Director of Collection Policy is responsible for overseeing the policies and procedures in this IRM.

- (2) The revenue officers and Field Collection management are responsible for ensuring the appropriate approval level is secured.
- (3) The advisors are responsible for reviewing the files as outlined in IRM 5.10.2.2(10).
- (4) The revenue officers, Field Collection management and the PALS are responsible for contracting for services.

5.10.2.1.4  
(08-10-2018)  
**Program Management  
and Review**

- (1) Per IRM 1.4.50, Collection Group Manager, Territory Manager and Area Director Operational Aid, and IRM 1.4.53, Advisory and Property Appraisal and Liquidation Specialist Group Manager Operational Aid, group managers are required to review ICS and Entity reports on a monthly basis to ensure cases are being effectively worked.
- (2) Managerial approval is documented in the ICS system, on Form 668-B and on Form 13719.
- (3) Management reviews case work via group manager case reviews and operational reviews conducted by territory managers/area directors.
- (4) NQRS reviews case work to verify compliance with IRM requirements.
- (5) Collection Policy completes an annual seizure and sale review to identify trends and opportunities for improvement.

5.10.2.1.5  
(08-10-2018)  
**Program Controls**

- (1) Revenue Officer Group Managers will consistently review:
  - Seizure files submitted for approval to confirm the proposed action is warranted and that all legal and procedural requirements have been met
  - ICS Current Inventory Report to ensure timely actions
- (2) All seizure recommendations require managerial approval. Certain seizures will require higher levels of managerial approval (see Exhibit 5.10.2.-1), and seizures of a principal residence require judicial approval.
- (3) Advisors review seizures submitted for approval as outlined in IRM 5.10.2.2(10).
- (4) Contracting for seizure and sale related services is subject to a variety of controls depending on the dollar amount and method of vendor payment (see IRM 5.10.2.7.1).

5.10.2.1.6  
(08-10-2018)  
**Acronyms and  
Definitions**

- (1) The table below lists common acronyms used in this section.

<b>Acronym</b>	<b>Definition</b>
ICS	Integrated Collection System
IRC	Internal Revenue Code
NFTL	Notice of Federal Tax Lien
CSED	Collection Statute Expiration Date
CDP	Collection Due Process

Acronym	Definition
DOJ	Department of Justice
PALS	Property Appraisal and Liquidation Specialist
BPA	Blank Purchase Agreement
PPS	Procurement for Public Sector

5.10.2.2  
(08-24-2022)  
**Securing Managerial Approval of Seizure Actions**

- (1) If all of the IRM requirements have been met and seizure is the appropriate case action, the revenue officer should enter the appropriate asset information into the ICS seizure application and prepare
- Form 13719, Pre-Seizure Checklist and Approval Request. See ICS User Guide for instructions on preparation
  - Form 668-B, Levy. See Exhibit 5.10.2-2, Form 668-B, Levy and Instructions, for instructions on preparation.
  - Form 2433, Notice of Seizure. See IRM 5.10.3-1, Form 2433, Notice of Seizure, for instructions on preparation.
  - Form 2434-B, Notice of Encumbrances Against or Interests in Property Offered for Sale. See IRM 5.10.1-1, Form 2434-B and Instructions, for instructions on preparation.
  - Form 668-A, Notice of Levy, if the property is in the possession of a third party.

**Exception:** See IRM 5.10.2.3, Judicial Approval for Principal Residence Seizures, for procedures when preparing to seize real property used as a principal residence by the taxpayer, taxpayer’s spouse or former spouse, or taxpayer’s minor children.

**Exception:** Form 2434-B is not applicable if only cash is to be seized.

- (2) The revenue officer should review the IRM procedures for conducting the seizure to determine whether any special circumstances should be addressed before the seizure is conducted. The revenue officer should also determine to whom and where the seizure documents must be delivered. See IRM 5.10.3.8, Seizing the Property (Form 668-B Delivery), and IRM 5.10.3.9, Notice of Seizure (Form 2433 - Delivery).

**Caution:** The location and means of delivery of seizure documents are specified by IRC 6335. Failure to follow IRM instructions in IRM 5.10.3.9 can lead to significant problems and may render the seizure and sale invalid. If there is any question as to delivery requirements, consult Advisory.

- (3) Form 668-B should generally contain all outstanding tax periods. Some circumstances may lend themselves to exceptions to this rule. Examples include
- Tax periods arising after approval but prior to seizure
  - Tax balances on multiple periods significantly in excess of the fair market value of the asset when there are no junior creditors

- Tax periods currently in Appeals or pending adjustment

**Note:** The case file **must** include documentation that the RO attempted to advise the taxpayer or representative that the Form 668-B does not include all tax liabilities. The documentation requirement may be met by checking the box on Form 668-B next to the statement “Due to IRS tax processing times, appeals, or tax periods in dispute, the amount above does not reflect all taxes that may be due at this time. For a total balance due, please contact the undersigned Revenue Officer at...”

- (4) Calculate penalties and interest on Form 668-B as of thirty (30) days after the date of submission for approval.
- (5) The determination to seize and authority to sign Form 668-B, Levy, may be delegated to revenue officers GS-09 and above. Delegation authority for approving Form 668-B is included in Delegation Order Number 1-23-2 [formerly SBSE DO 5.1 (Rev. 2)]. See IRM 1.2.65.3.1, Authority to Sign and Issue Levy and Related Documents.
- (6) Consent may be requested and secured from the taxpayer or rightful occupant before submission of approval of the seizure. If consent is denied a writ may be requested concurrently with the seizure approval package. As a general rule, the seizure should be made not more than 30 working days from the date of consent. If the seizure must be made more than 30 days later, a new consent should be requested. See IRM 5.10.3.5, Conducting the Seizure --Securing Consent for additional guidance.
- (7) The balance due case file and seizure approval package must contain the appropriate documentation to justify the seizure action. The approval package should include an adequate description of the property that is to be seized. Form 13719 should be used to document the following required information:
  - Whether a consent or writ will be required (IRM 5.10.1.14, Consent or Writ Determination)
  - Verification of the liability (IRM 5.10.1.5.1, Verifying the Liability)
  - Risk analysis comparing seizure to alternative collection methods considered (IRM 5.10.1.5.2(3), Alternative Methods of Collection)
  - Documentation of estimated minimum net sale proceeds (IRM 5.10.1.5.3, Equity Determination)
  - Due process notification with appropriate forms and publications (IRM 5.10.1.6, Pre-Seizure Taxpayer Notifications)
  - Attempts to personally notify the taxpayer of proposed seizure (IRM 5.10.1.6.1, Personal Contact to Advise the Taxpayer of Proposed Seizure Action)
  - Economic hardship - has the taxpayer substantiated that a verifiable economic hardship condition currently exists (or would be created by the seizure) as described in IRM 5.11.2.3.1, Legal Basis for Releasing Levies.
- (8) The approval package should then be submitted for approval through the appropriate levels of management. The approval package must contain the following information:
  - Form 13719, Pre-Seizure Checklist and Approval Request, the checklist may reference the appropriate history entry where the required action can be verified; “N/A” may only be entered for “Individual Taxpayer —

- Exempt Assets Considered” and “Individual taxpayer — Business Assets/Other assets were Considered.”
- Form 668–B (enter name of area director on Form 668-B, only if seizure requires director approval).
- NFTL Copies.
- Preliminary Form 2434–B (not applicable if **only** cash is to be seized).
- For real property seizures, include Form 2433 **and** deed(s).

**Note:** For real estate, the description should indicate whether the real estate is improved or unimproved. The approval package will address whether there are commercial or residential structures on the property, intended and actual use, whether or not any property is being used by any individual as a residence (specifically distinguishing between a principal residence and a personal residence; see IRM 5.10.2.3, 5.10.2.4, and Exhibit 5.10.2-1), and any other information that will allow the approving official to know exactly what type of property will be seized. This will help ensure the appropriate approval level is secured for the type of property being seized. Judicial approval applies to principal residences, not personal residences. See IRC 6334(e)(1).

- For personal property seizures, include Form 2433, with the property description blank or filled in if the assets are few and known, such as specific vehicles.
  - Any other relevant items, such as title reports, appraisals, L-1058, L-3174, L-1040 / Form 12470, Form 668-A, information on to whom seizure documents must be delivered, etc.
- (9) All approvals must be written and will be retained with the case file. (An electronic signature is acceptable evidence of approval for Form 668-B.) All Collection seizures will require a minimum approval level of the group manager. See Exhibit 5.10.2-1 for a chart containing asset types and approving official. The revenue officer group manager will review the case file for accuracy and approval of the seizure action and forward the approved file to Advisory. See Exhibit 1.4.50-2, Criteria for Review of Completed Work for group manager seizure review guide. The case file **must** be reviewed by Advisory for technical accuracy after group manager review. In cases when additional approvals are required, Advisory will forward the case file to the next level manager for seizure approval.
- (10) Advisory will review all items on Form 13719, Pre-Seizure Checklist and Approval Request, for legal sufficiency. For real property seizures, Advisory will also review Form 2433, Notice of Seizure. The revenue officer should work with Advisory throughout the entire seizure process whenever there are questions regarding the appropriate technical procedures to follow on the case. If all items on Form 13719 have been sufficiently addressed and are procedurally accurate, the seizure file will be forwarded to the territory manager for approval, if required. If it is not required, the file should be returned to the originating group manager.
- (11) The approving official(s) and the revenue officer should attempt to resolve any questions regarding the seizure as quickly as possible. Communications should be verbal, rather than written, whenever possible. Delays in the approval process should be avoided so that the seizure action is taken while it is appro-

appropriate and while the case information is still current. If the seizure is not approved, the reasons must be documented and retained as part of the case file.

5.10.2.3  
(07-12-2019)  
**Judicial Approval for  
Principal Residence  
Seizures**

- (1) The IRS must secure judicial approval prior to seizing a principal residence (Internal Revenue Code (IRC) section 6334(e)(1)). Pursuant to Treas. Reg. 301.6334-1(d), this includes any real property used as a principal residence by any of the following individuals:

- Taxpayer
- Taxpayer's spouse or former spouse
- Taxpayer's minor children

**Note:** For a principal residence seizure, the liability must exceed \$5,000 (IRC 6334(a)(13)(A)).

- (2) If there are issues related to ownership, nominee situations, collection statute concerns (CSED expires in one year or less), or other items, then a suit recommendation to foreclose the Federal Tax Lien and/or to reduce the tax claim to judgment may be the appropriate case action. Consult Advisory or Area Counsel for further guidance. Additional information on principal residence seizures is located in IRM 5.17.3.5.5, Seizure of a Residence/Principal Residence.
- (3) If all of the IRM requirements have been met and it is determined that seizure is the appropriate case action, enter the asset information into the ICS seizure and sale application and begin preparing Form 4477-B, **Civil Suit Narrative Report** (see IRM 5.17.4.9, Proceeding to Seize a Principal Residence, and IRM 5.17.12, Investigations and Reports, for additional information). The use of Form 4477-D, **Civil Suit Package**, will allow for auto-population between the required suit forms.

**Note:** The ICS history and Form 4477-B, Civil Suit Narrative Report, should include a statement regarding economic hardship. The history statement will contain a discussion of whether the action proposed would result in an inability to secure future housing or otherwise lead to an economic hardship (see Treas. Reg. § 301-6343-1(b)(4)(i)). Base this on all available information obtained while working with the taxpayer. This would include any health issues experienced by the taxpayer or others impacting acquisition, by the taxpayer, of future housing. Otherwise, include the reason sufficient data does not exist to provide this analysis.

- (4) The format of Form 4477-B, Civil Suit Narrative Report for principal residence seizures is much the same as in other suit narrative reports. Form 4477-B details the results of the investigation and contains the recommendation to seize the principal residence. The narrative should be complete and concise and should contain only facts and not opinions. All supporting documents should be included as exhibits.
- (5) Form 4477-B begins with the taxpayer's name, address, and taxpayer identification number, followed by three sections:
- Introduction
  - Body
  - Conclusion and Recommendation

(6) The “Introduction” includes the following information:

- A request for institution of civil action for judicial approval of a principal residence seizure
- The amount of money expected as the net sale proceeds
- The type(s) of tax and current outstanding balance(s), including accruals, through a current date; this information should be the same as the account information included on Form 4477, Civil Suit Recommendation
- The earliest collection statute expiration date (CSED)
- A summary of administrative actions taken or the reason why specific administrative actions were not taken
- The need for urgent action if required

**Note:** Settlement Option Procedures do not apply to these actions.

(7) The “Body” should contain a chronological presentation of the facts supported by exhibits. The following table describes the information and exhibits that should be included. Additional exhibits may be used as necessary.

<b>Information About the Taxpayer</b>
<ul style="list-style-type: none"> <li>• Age, Health (including mental and physical disabilities), Marital Status, Occupation, Dependents, Tax compliance history</li> <li>• Current compliance, other factors bearing on the case, related case information</li> <li>• ID of all Powers of Attorney for the taxpayer or other involved parties</li> </ul>
<b>Information regarding occupants (including children)</b>
<ul style="list-style-type: none"> <li>• Name(s), Relationship(s) to the taxpayer, Brief history (Age, health, etc.)</li> <li>• Current mailing address of the occupants of the principal residence</li> </ul>
<b>Verification of Liability</b>
<ul style="list-style-type: none"> <li>• Basis for assessment(s) (voluntarily filed, examination assessment, etc.)</li> <li>• Date of assessment(s), Timeliness of the assessment(s) per IRC 6501</li> <li>• Date of notice and demand for payment for each liability</li> <li>• Exhibits: Certificates of Assessment (Form 4340) or other certified transcripts</li> </ul>
<b>Collection Due Process (CDP)</b>
<ul style="list-style-type: none"> <li>• Dates of each liability’s CDP notification with appropriate forms and publications</li> <li>• Results of notification – any responses received from the taxpayer</li> <li>• Dates of any CDP or Equivalent hearings</li> <li>• A summary of the relevant issues raised in prior IRC 6320/6330 hearings</li> <li>• Exhibits: Letter 1058, CDP filing information, Information received from Appeals, Results of CDP or Equivalent hearings</li> </ul>
<b>Lien filing information for all modules</b>
<ul style="list-style-type: none"> <li>• Lien filing information on all modules (dates and locations, including refiled liens)</li> <li>• IRC 6320 notification for each module</li> <li>• Dates of any CDP or Equivalent hearings, CDP/EH determination results</li> <li>• A summary of the relevant issues raised in prior IRC 6320 hearings</li> <li>• Exhibits: Copies of Lien, CDP filing information, Information received from Appeals, Results of CDP or Equivalent hearings</li> </ul>

<b>Information About the Taxpayer</b>
<b>Property description</b>
<ul style="list-style-type: none"> <li>• Accurate legal description of the property from the local recording office deed</li> <li>• Taxpayer's ownership interest in the property</li> <li>• Any evidence of denial of ownership interest provided by the taxpayer or third party</li> <li>• Any additional information to describe the property (including improvements to the property, especially when the improvements were made to accommodate a disability)</li> <li>• Exhibits: Copy of Deed, Form 2433, Notice of Seizure</li> </ul>
<b>Valuation of the Property/Encumbrances against property</b>
<ul style="list-style-type: none"> <li>• Fair Market Value and how derived, Forced Sale Value and Minimum Bid Calculation</li> <li>• Encumbrances, Nature/Amount/Priority of any encumbrances</li> <li>• Identification of any parties with competing liens</li> <li>• Description of the nature and amount of anyone else's interest in the property</li> <li>• Determination of expected net proceeds</li> <li>• Exhibits: Estimated minimum sale net proceeds calculation, Commercial Title search results, Letter 1040/Form 12470 or other documentation of current status and amount due for each encumbrance, Form 2434-B, Appraisal (if secured), Commercial title report</li> </ul>
<b>Sufficient information to establish that all other legal and procedural requirements relevant to the proposed seizure have been met, including IRC 6331(j) requirements</b>
<ul style="list-style-type: none"> <li>• Discussion of Alternative Methods of Collection Considered/Risk Analysis</li> <li>• Attempts to personally notify the taxpayer of proposed seizure</li> <li>• All other pre-seizure requirements met</li> <li>• Exhibits: Form 13719, Pre-Seizure Checklist and Approval Request - the checklist should reference the appropriate paragraph from the suit narrative where the action is addressed</li> </ul>

(8) The "Conclusion and Recommendation" is the closing for the report. Include the following information in this section:

- A brief summary of the recommendation for a principal residence seizure
- A restatement of the request for institution of civil action

(9) The suit package should contain:

- Form 4477-C, Table of Contents and Contact List
- Form 4477, Civil Suit Recommendation
- Form 4477-B, Civil Suit Narrative Report
- Form 4480, Civil Suit Service of Legal Papers
- Form 13719, Pre-Seizure Checklist and Approval Request (the checklist should reference the appropriate paragraph from the suit narrative where the action is addressed)
- Form 2434-B, Notice of Encumbrances Against or Interests in Property Offered for Sale
- Form 2433, Notice of Seizure, with the current accurate legal description (and current derivation clause, if required)
- Copies of Notices of Federal Tax Lien
- Copy of Deed to Property
- Commercial title report, if secured, with explanation of title search results
- Any other relevant documents, such as appraisals, L-1058, L-3174, L-1040 / Form 12470, Form 668-A, etc.

**Note:** The use of Form 4477-D, Civil Suit Package, will allow for auto-population between the required suit forms.

- (10) The completed suit package should be forwarded from the group manager, through Advisory, and then through the appropriate levels of management, including the area director. Advisory will complete the pre-seizure review as part of the suit review and approval process.
- (11) After approval of the suit recommendation, Advisory will submit the case to Area Counsel for referral to the Department of Justice (DOJ). The DOJ will file a petition with the court and will make an initial showing that:
  - The liability is due
  - The government has complied with all legal/administrative requirements
  - There are no collection alternatives to the principal residence seizure
- (12) The taxpayer will be served with an order to show cause (Exhibit 5.10.2-3) why the residence should not be seized. In most cases, the revenue officer will be asked to serve the show cause order. Generally, the show cause order requires personal service or it may be left at the defendant's usual place of abode with someone of suitable age and discretion. Contact Advisory or counsel if there are any questions on the procedures for delivery of these documents. If the taxpayer files a response to the show cause order, a hearing will be held. The taxpayer cannot dispute the tax liability during this hearing.
- (13) Where the property to be seized is also the principal residence of the taxpayer's spouse, former spouse, or minor child, DOJ will send a "notice letter" to those parties informing them of the petition filed with the court and giving the number/address of the Clerk of the Court, if they wish to learn the date and location of the hearing.

**Note:** These individuals will not be parties to the proceeding. Only the taxpayer will have an opportunity to be heard at the hearing.

- (14) This notice letter also instructs the addressee to contact the revenue officer assigned the case to provide any other relevant information the IRS should consider before seizure. The revenue officer should forward any information received to the DOJ trial attorney through Advisory.
- (15) After the court order is received, the revenue officer should prepare Form 668-B, Levy, and secure the appropriate approvals, based on local guidelines. Form 668-B includes only the periods for which the court order was approved.

**Reminder:** A complete seizure package is not required and no additional Advisory review is required at this point since the necessary review took place prior to submitting the suit for approval.

- (16) Rule 62 of the Federal Rules of Civil Procedure generally places a 30-day stay on execution of judgments. This delay is intended to provide time for the taxpayer to post a bond or file a motion to stay the action. If it is necessary to seize the property earlier than 14 days after the date the order is signed, consult Counsel through Advisory.

- (17) If judicial approval is denied, consult with Advisory, and, if appropriate, Area Counsel, to determine further case action.

5.10.2.4  
(07-12-2019)  
**Seizures Requiring Area  
Director Approval**

- (1) The following seizures require approval by the area director (either Field Area or Advisory) or SCI Director (Insolvency) unless collection of the tax is in jeopardy:

- Principal residences of the taxpayer, taxpayer's spouse or former spouse, or taxpayer's minor children.

**Note:** See IRM 5.10.2.3, Judicial Approval for Principal Residence Seizures, when preparing to seize real property used as a principal residence by the taxpayer, taxpayer's spouse or former spouse, or taxpayer's minor children.

**Note:** There is no jeopardy exception to the judicial approval requirements.

- All tangible personal property or real property used in the trade or business of an individual taxpayer, including state commercial fishing or wildlife licenses

**Exception:** Seizures of rented real property only require group manager approval.

- Perishable goods determination/Perishable goods seizure under IRC 6336

**Note:** The Director of Field Collection has the final approval authority for perishable seizures.

- Contents of the principal residence of the taxpayer, taxpayer's spouse, former spouse or taxpayer's minor children, including items located in garages and other structures on the land on which the residence is located
- Stock in a retirement plan, including an IRA

- (2) In addition to area director concurrence, judicial approval is required for certain principal residence seizures. (See IRM 5.10.2.3, Judicial Approval for Principal Residence Seizures. This includes any real property used as a principal residence by any of the following individuals:

- Taxpayer
- Taxpayer's spouse or former spouse
- Taxpayer's minor children

**Reminder:** When planning to seize improved real property, the revenue officer must determine whether the relationship of any of the current occupants to the taxpayer meets the requirement for securing judicial approval.

## 5.10.2.5

(04-11-2013)

### **Tangible Personal Property or Real Property (Other than Real Property Which is Rented) Used in the Trade or Business of an Individual Taxpayer**

- (1) The prior written approval of the area director must be secured for seizure of these types of assets unless collection of the tax is in jeopardy. The revenue officer must document in the history that the taxpayer's other assets subject to collection are insufficient to satisfy the liability and expenses of the proceeding (see IRM 5.17.3.5.6, Seizure of Business Assets).

**Note:** The contents of a cash register are considered tangible personal property. Therefore, the area director must approve any such seizure when the cash register is used in the trade or business of an individual taxpayer.

- (2) If the asset to be seized is a state commercial fish or wildlife license, the revenue officer must consider the value of any future income that could be derived from the commercial sale of fish or wildlife harvested under the license.
- (3) This approval level is based on the use of the asset, not the type of liability for which the seizure is being conducted.
- (4) For the purpose of determining seizure approval authority, a liquor license is considered a tangible asset. Area director approval is required to seize a liquor license from a sole proprietorship.
- (5) Following are examples that meet the definition of tangible personal or real property used in the trade or business of an individual taxpayer:

**Example:** The taxpayer owns a restaurant as a sole proprietor. The revenue officer determines the next appropriate action is to seize the contents of the restaurant including the tables, chairs, kitchen equipment, and liquor license. The required approval level for this seizure is the area director.

**Example:** The taxpayer owns real property with waterfront access to a river which includes a boat dock. He operates guided duck hunting and fishing trips as a sole proprietorship on this property and sells temporary permits allowing unguided access onto both the real property and the dock. A determination is made that sufficient equity exists in the real property and seizure is the next appropriate action. The required approval level for this seizure is the area director.

**Example:** A self-employed real estate agent uses a vehicle as transportation for business. The taxpayer owes Form 1040, U.S. Individual Income taxes and the revenue officer determines seizure of the vehicle is the next appropriate action. The required approval level for this seizure is the area director.

## 5.10.2.6

(08-18-2017)

### **Perishable Goods**

- (1) See IRM 5.10.1.7 and IRM 5.10.1.8 for criteria and pre-seizure development procedures for perishable goods.
- (2) To secure approval for a seizure and expedited sale of property under IRC 6336, the revenue officer must prepare Form 13719, Pre-Seizure Checklist and Approval Request, Form 668-B, Levy and the **Perishable Goods Criteria and Sale Plan memorandum** for approval by the Director of Field Collection. In

addition to the information required for all seizures outlined in IRM 5.10.2.2, Securing Managerial Approval of Seizure Actions, include the following on Form 13719:

- Proposed date of seizure
- The perishable goods criterion selected per IRM 5.10.1.7
- The appraised value of the property
- The expected net sale proceeds under IRC 6335 and IRC 6336

The PALS Perishable Goods Criteria and Sale Plan memorandum must be included in the documents submitted for approval.

- (3) The Director of Field Collection will determine whether the property seized is of a type to which an expedited sale under IRC 6336 is applicable. If he or she determines the property is not perishable within the meaning of IRC 6336, he or she will inform the revenue officer and normal seizure and sale procedures will be followed. If the Director of Field Collection agrees that the property is perishable, he or she will approve Form 668–B, Form 13719 and the Perishable Goods Criteria and Sale Plan memorandum and advise the revenue officer to proceed. If the seizure and sale is approved as a normal IRC 6335 sale, the revenue officer and PALS will discuss and develop an appropriate seizure and sale case strategy given the changes to the initial plan.
- (4) IRM 5.10.4.18, Pre-Sale Procedures for Perishable Goods, contains procedures for the sale of perishable goods. The PALS function will have responsibility for all perishable goods sales with assistance from the revenue officers.

5.10.2.7  
(04-11-2013)

**Contracting for Services**

- (1) Estimated seizure and sale related expenses should have been determined in consultation with the PALS prior to submitting the case for approval, see IRM 5.10.1.5.3.4, Equity Determination - Expenses of Seizure and Sale, and IRM 5.10.4.3, Establishment of the Minimum Bid. For example, the revenue officer should have determined in the pre-approval stage whether the property will have to be removed from its location and stored at another facility. After the seizure has been approved, the revenue officer may begin contracting for seizure related expenses.
- (2) For a single vendor service less than \$2500, see IRM 5.10.2.7.1, Contracting for Services \$2500 and Under
- (3) For a single vendor service more than \$2500 see IRM 5.10.2.7.2, Contracting for Services over \$2500
- (4) Revenue officers and PALS can contract for seizure services where the total of the single service expenses exceeds \$2,500 as long as the cost of a single service does not exceed that figure. For example, separate government purchase card purchases can be used to contract for a \$500 locksmith service, \$2,000 storage, and a \$200 towing charge, as long as all services are billed separately.

**Note:** Do not split a single service into multiple billings to avoid the \$2,500 threshold.

5.10.2.7.1  
(05-24-2016)

**Contracting for Services  
\$2500 and Under**

- (1) Once the vendor is identified, for expenses under \$2500 there are multiple ways to coordinate vendor payment for a seizure expense:
- RO coordinates vendor payment through a blank purchase agreement (BPA). The vendor bills the service through the procurement office. It is **relatively** easy for the RO to use a BPA approved vendor. See IRM 5.10.2.7.1.1.
  - RO coordinates vendor payment through an RO held Government purchase card. See IRM 5.10.2.7.1.2. This method requires an RO to obtain a government purchase card and keep it active.
  - RO coordinates vendor payment through the Territory Manager (TM) secretary. If the RO does not have a government purchase card the RO may coordinate payment through the TM secretary. The TM secretary should have maintained enforcement purchase authority on the TM secretary small purchase card. See IRM 5.10.2.7.1.3.
  - RO coordinates vendor payment through the PALS. The RO may coordinate with the PALS for the PALS to be present at the seizure and for the PALS to pay for the service through the PALS purchase card or convenience check. See IRM 5.10.2.7.1.4. This method is entirely at the discretion of the PALS.
  - RO coordinates vendor payment through PPS, procurement. See IRM 5.10.2.7.1.5. This method may be the most involved as it requires more steps than the four processes above.

5.10.2.7.1.1  
(05-24-2016)

**Vendor payment through  
a blanket purchase  
agreement (BPA)**

- (1) In some areas there are blanket purchase agreements (BPAs), obtained by procurement, negotiated with the contractor for a set price. Whenever possible, revenue officers and PALS should use BPAs or other contracts arranged by the procurement officer to obtain seizure-related services (e.g., towing, storage, and locksmith services). BPAs are contracts negotiated by a procurement officer. The advantages of a BPA are:
- a. There is a set price, usually at the lowest rate available.
  - b. The vendor bills the IRS through the contracting office.

**Note:** The BPA does not lock the revenue officer into a specific vendor for purchases under \$2500 if the RO uses a government purchase card, coordinates with the TM secretary, or coordinates with the PALS.

5.10.2.7.1.2  
(05-24-2016)

**Vendor payment through  
an RO held government  
purchase card**

- (1) Revenue Officers, GS-09 and above, and PALS are authorized (Delegation Order No. 1-14, contained in IRM 1.2.2.2, Delegations of Authority for Organization, Finance and Management Activities) to procure seizure related services with the following restrictions:
- a. Procurement authority is limited to \$2,500 per service.
  - b. The government purchase card must be used for such purchases (PALS may also use convenience checks ).
  - c. There must be sufficient funds reserved to cover the cost of the service(s); management must establish a system to ensure that funds are available prior to the revenue officer or PALS contracting for a service.

5.10.2.7.1.3  
(05-24-2016)

**Vendor payment through the Territory Manager (TM) secretary.**

- (1) Enforcement purchase authority has been added to the existing small purchase cards held by Field Collection territory secretaries. Territory secretaries will receive enforcement purchase card training and will be responsible for all requirements associated with the automated purchase card module. If the RO has no government purchase card for use in paying seizure expenses, the territory secretary will assist with payment.
- (2) The RO will conduct a preliminary discussion with the vendor regarding the projected seizure date and secure an estimated cost. The RO will verify and confirm that the expense will not exceed \$2,500 per transaction. The RO will provide all necessary information so that the territory secretary can directly contact the vendor to procure the required services. This information will include the vendor's name, telephone number, date of service, estimated cost, and a description of the activity being funded.

**Note:** If cost will exceed \$2,500, do not order the services and do not contact a small purchase cardholder for purchase card assistance, as it is above their designated procurement authority. Instead, follow local procedures to complete a request for Procurement to issue a formal contract.

- (3) In order to guarantee timely assistance and payment, the RO will make every effort to provide sufficient lead time to secure the territory secretary's assistance. The RO will generally secure payment assistance for a seizure expense from the territory secretary. However, as work schedule needs dictate, any territory secretary within the area may be contacted for assistance, following local procedures.
- (4) As soon as possible after receipt of the services, the RO, via e-mail or fax, will provide the assisting territory secretary with verification the services were received. This can be done by annotating the invoice with the comment "Services Received and date (xx-xx-xxxx)". The following are some examples of seizure-related expenses that territory secretaries are authorized to pay:
  - Seizure-related towing and/or storage
  - Seizure-related locksmith services
  - Advertising (e.g. for bidders or for sales of perishable goods)

**Note:** This payment option cannot be used to procure title searches because other restrictions apply.

- (5) If an indemnification clause is required based on the type of service being requested (e.g., towing, locksmith), the RO must scan and send by secure email a copy of the signed clause to the territory secretary. The RO will maintain the original signed clause with the case file.

5.10.2.7.1.4  
(05-24-2016)

**Vendor payment through the PALS.**

- (1) RO coordinates vendor payment through the PALS. The RO may coordinate with the PALS for the PALS to be present at the seizure and for the PALS to pay for the vendor service through the PALS purchase card or a PALS convenience check. This method is entirely at the discretion of the PALS.

5.10.2.7.1.5  
(05-24-2016)

**RO coordinates vendor payment through PPS, procurement.**

- (1) Once the vendor is identified, for expenses over \$2500 there is one way for the RO to pay the vendor for a seizure expense. The RO coordinates vendor payment through Procurement for Public Sector (PPS) procurement the same as contracting for Services over \$2500 per IRM 5.10.2.7.2.

5.10.2.7.2  
(05-24-2016)

**Contracting for Services over \$2500**

- (1) Once the vendor is identified and the expenses are over \$2500, payment to the vendor must be made through PPS, procurement..
- (2) The government purchase card and convenience checks **cannot** be used when the cost exceeds \$2,500 for a single service. If the seizure related service will cost more than \$2,500, compile the information necessary to justify the expense and submit the request through PPS so the contracting officer can contract for the service through normal procurement channels. If a BPA is possible for a service exceeding \$2,500, immediately contact the contracting officer to get the necessary competition or sole-source justification.
- (3) Normally three estimates for service should be secured before submitting an PPS requisition. Some situations require a sole source justification if only one vendor is available. Some examples where sole source justification should be considered are:
  - When there is only one vendor for a particular service in a rural area
  - Assets are being stored where the property was seized and the rightful occupant has agreed to a rental amount
  - A special situation exists for a service that only a particular vendor can provide
- (4) If, after contracting for a service, emergency situations are encountered or un-anticipated costs or delays in the sale would raise the cost above \$2,500, a requisition must be submitted to the contracting officer for procurement action. The requisition to the contracting officer must have the following information:
  - A full description of the items or services required
  - The cost of the items and services
  - The vendor's name, address, and telephone number
  - A signed narrative, explaining the circumstances which precluded the revenue officer from obtaining prior contracting officer approval
- (5) Emergency contracting situations should be extremely rare since ratification of procurements in such situations must be approved by the appropriate Procurement Official, as stated in AWSS' Procurement Policy & Procedure 1.6a, Ratification Procedures. Ratifications could subject the person making an un-authorized procurement to disciplinary action.

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# Securing Approval for Seizure Actions and Post-Approval Actions 5.10.2

Exhibit 5.10.2-1 (08-24-2022)

Asset Type and Approving Official: IRM Reference 5.10.2.1

Asset Type	Approval Authority JA- Judicial AD-Area Director TM-Territory Mgr. GM-Group Mgr (Note: highest level of approval required is checked)			
	JA	AD	TM	GM
<b>REAL PROPERTY:</b>				
Principal Residence – Primary dwelling of the taxpayer, the taxpayer’s spouse, former spouse and/or the taxpayer’s minor children. IRM 5.10.2.3 & IRC 6334(e)(1)	X			
Personal Residence – A primary residence of someone other than the taxpayer, the taxpayer’s spouse, former spouse and/or minor children. IRM 5.10.2.4				X
Real property used in the trade or business of an individual taxpayer. IRM 5.10.2.5 & IRC 6334(e)(2)		X		
Mobile Home determined to be real property: IRM 5.10.1.13.1	If used as principal residence, see principal residence approval level. If used as personal residence, see personal residence approval level. If used as a business asset, see real property used in the trade or business for approval level. If not in any of the categories mentioned, follow real property not listed in the exceptions above.			
Real Property not listed in the exceptions above				X
<b>PERSONAL PROPERTY:</b>				
Contents of a principal residence. A principal residence is the primary dwelling of the taxpayer, the taxpayer’s spouse, former spouse and/or the taxpayer’s minor children.		X		
Contents of a personal residence. A personal residence is the primary residence of someone other than the taxpayer, the taxpayer’s spouse, former spouse and/or minor children.				X
Tangible personal property used in the trade of business of an individual taxpayer. IRM 5.10.2.5 & IRC 6334(e)(2)		X		

**Exhibit 5.10.2-1 (Cont. 1) (08-24-2022)****Asset Type and Approving Official: IRM Reference 5.10.2.1**

Perishable goods – Seizure and expedited sale of property under IRC 6336. IRM 5.10.1.7	Director of Field Collection			
Firearms of substantial value may be seized if they are included as a business asset (sports equipment outlet, hardware store, gun shop, etc). Prior to the seizure the revenue officer must contact PALS who will contact Area Counsel and ATF. IRM 5.10.1.13.4			X	
Controlled substances or drug paraphernalia. IRM 5.10.1.13.5			X	
Material considered obscene or pornographic – Area Counsel must be contacted before such material is seized. IRM 5.10.1.13.6			X	
Criminal Enterprises (assets of narcotics related taxpayers in connection with jeopardy/termination assessments). IRM 5.10.1.13.7			X	
Property with environmental considerations. IRM 5.10.1.13.8			X	
Cleared Contractor Facility. IRM 5.10.1.13.9			X	
Mobile Home determined to be personal property: IRM 5.10.1.13.1	If used as principal residence, see principal residence approval level. If used as personal residence, see personal residence approval level. If used as a business asset, see real property used in the trade or business for approval level. If not in any of the categories mentioned, follow personal property not listed in the exceptions above.			
Vehicles: IRM 5.10.2.5 & IRC 6334(e)(2)	Group manager unless the vehicle is used in the trade or business of an individual taxpayer, see tangible personal property used in the trade or business of an individual taxpayer.			
Personal Property not listed in the exceptions above				X



Exhibit 5.10.2-3 (10-21-2016)

Order to Show Cause Reference: IRM 5.10.2.3

1 United States Attorney

2  
3 Trial Attorneys, Tax Division  
4 U.S. Department of Justice  
5 P.O. Box 683  
6 Ben Franklin Station  
7 Washington, D.C. 20044-0683  
8 Telephone:  
9 Facsimile:

10 Attorneys for United States of America

11 UNITED STATES DISTRICT COURT  
12 FOR THE DISTRICT OF \_\_\_\_\_

13 UNITED STATES OF AMERICA ) Case No.  
14 )  
15 Petitioner, )  
16 vs ) **NOTICE OF HEARING**  
17 ) **AND ORDER TO SHOW CAUSE**  
18 )  
19 Respondent. )  
20 )

21 Respondent \_\_\_\_\_ is hereby notified that the United  
22 States has petitioned this Court for an Order allowing the Internal  
23 Revenue Service to levy upon the real property located at  
24 \_\_\_\_\_ (the "Property") in  
25 order to sell Respondent's interest to satisfy part or all of his  
26 unpaid federal income taxes, penalties, interest, and other statutory  
27 additions for the income tax years \_\_\_\_\_, as  
28 set forth in paragraphs \_\_\_ and \_\_\_ in the government's petition.

29 This Court has examined the Petition of the United States and  
30 accompanying Declaration of Revenue Officer \_\_\_\_\_, and it is  
31 hereby ORDERED that Respondent has \_\_\_ days from the date of this  
32 Order to file with the Clerk of the Court a written Objection to

Notice of Hearing and Order to Show Cause

-1-

Exhibit 5.10.2-3 (Cont. 1) (10-21-2016)  
Order to Show Cause Reference: IRM 5.10.2.3

1 Petition. Any written Objection to Petition should demonstrate  
2 either that:

- 3 A. The liability has been satisfied; or
- 4 B. Respondent has other assets from which the unpaid tax  
liabilities can be satisfied; or
- 5 C. Applicable laws and administrative procedures relevant  
to the levy were not followed by the Internal Revenue  
6 Service.

7 It is FURTHER ORDERED that if Respondent files a written  
8 Objection to Petition with the Clerk of Court, then the Court will  
9 hold a hearing, at which the parties must appear, on \_\_\_\_\_  
10 \_\_\_\_\_, at \_\_\_\_\_, at the United States Courthouse,  
11 \_\_\_\_\_, in the courtroom of the  
12 undersigned, to consider Respondent's objections.

13 It is FURTHER ORDERED that, in addition to filing any Objection  
14 to the Petition with the Clerk of the Court, Respondent must also  
15 mail a copy of any Objection to the Petition to the attorneys for the  
16 United States, at the following addresses, on or before the filing  
17 date:

18  
19 Trial Attorney, Tax Division,  
U.S. Department of Justice,  
20 Post Office Box 683,  
Ben Franklin Station  
21 Washington, D.C. 20044

22 If Respondent does not file an Objection to Petition within \_\_\_\_  
23 days of service of this order, or if he files an Objection to  
24 Petition but fails to appear before the Court as instructed, the  
25 Court will enter an Order Approving an Internal Revenue Service Levy  
26 on the Real Property Located at \_\_\_\_\_  
27 \_\_\_\_\_.

28 It is FURTHER ORDERED that a copy of this ORDER TO SHOW CAUSE,  
together with the Petition and Declaration, shall be served upon  
Notice of Hearing and Order to Show Cause -2-

Exhibit 5.10.2-3 (Cont. 2) (10-21-2016)  
Order to Show Cause Reference: IRM 5.10.2.3

1 Respondent \_\_\_\_\_ within 5 days of the date of this  
2 Order, by the United States Marshal or any deputy U.S. Marshal, or  
3 any Revenue Officer of the Internal Revenue Service, by delivering a  
4 copy to Respondent at the following address:

5 \_\_\_\_\_  
6 \_\_\_\_\_

7  
8 Service may also be completed by any other manner of service  
9 described in Rule 4(e)(1) of the Federal Rules of Civil Procedure.  
10 Proof of service shall be filed as soon as practicable.  
11 The Clerk shall forward copies of this Order to the attorneys for the  
12 United States at the address indicated on its pleadings.

13  
14  
15 IT IS SO ORDERED.

16 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

17  
18 \_\_\_\_\_  
19 UNITED STATES MAGISTRATE JUDGE

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