



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.10.3

SEPTEMBER 28, 2022

EFFECTIVE DATE

(09-28-2022)

PURPOSE

- (1) This transmits revised IRM 5.10.3 Seizure and Sale, Conducting the Seizure.

MATERIAL CHANGES

- (1) IRM 5.10.3.9.2(1) & (4), document delivery method updated to eApproval.
- (2) IRM 5.10.3.23, added subsection to provide guidance on virtual currency.
- (3) IRM 5.10.3.25(5), updated Western area to Northwest.
- (4) IRM 5.10.3.25(5), revised Personal Residence seizure abbreviation from PR to PER.
- (5) IRM 5.10.3.25(5), added licenses to property types.
- (6) IRM 5.10.3.27(1), document delivery method updated to eApproval.
- (7) Throughout this IRM section: made editorial and IRM reference corrections.

EFFECT ON OTHER DOCUMENTS

This supersedes IRM 5.10.3 dated April 21, 2020.

AUDIENCE

Small Business/Self-Employed Compliance Employees

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5.10.3

Conducting the Seizure

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5.10.3.1
(04-21-2020)
Program Scope and Objectives

- (1) **Purpose:** This section provides revenue officers guidance relating to the seizure of assets to collect upon delinquent tax liabilities.
- (2) **Audience:** This section is for Collection employees involved in the seizure of assets.
- (3) **Policy Owner:** Director, Collection Policy.
- (4) **Program Owner:** Collection Policy, Enforcement.
- (5) **Primary Stakeholders:** The primary stakeholders are revenue officers, advisors and Property Appraisal and Liquidation Specialists (PALS).
- (6) **Program Goals:** Provide guidance and procedures on seizure of assets.

5.10.3.1.1
(08-29-2017)
Background

- (1) IRM 5.10.3, Seizure and Sale, Conducting the Seizure, contains procedural guidance for seizing assets for the non-payment of tax. The procedures contained in this section relate to forms, equipment, and actions necessary to carry out the seizure, payment to vendors for seizure related services, and asset specific considerations.

5.10.3.1.2
(08-29-2017)
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: <http://mysbse.web.irs.gov/opsupport/hc/facilitiesorganizationalsupport/orgsupportteam/imd/delorders/functional/ecs/30661.aspx>
 - P-5-1 Enforcement is a necessary component of a voluntary assessment system
 - P-5-28 Successive seizures — Timing to avoid undue hardship
 - P-5-34 Collection enforced through seizure and sale of the assets occurs only after thorough consideration of all factors and of alternative collection methods
 - P-5-35 Establishment of minimum price in distraint sales
 - P-5-38 Seizure of Assets Located on Private Premises
 - P-5-40 Welfare of livestock and domestic animals to be considered before or during course of seizure

5.10.3.1.3
(08-29-2017)
Responsibilities

- (1) The Director of Collection Policy is responsible for overseeing the policy and procedures regarding seizure of assets.
- (2) Revenue officers are responsible for developing and conducting seizures as appropriate. Advisors are responsible for reviewing the file as outlined in IRM 5.10.2.2(10), Securing Managerial Approval of Seizure Actions, IRM 5.10.3.23(6), Contacting Advisory for Seizure Numbers, and IRM 5.10.6.11, Advisory Review of Seizure Files. The Property Appraisal and Liquidation Specialists (PALS) are responsible for conducting or coordinating all the auction sale activities.

5.10.3.1.4
(08-29-2017)
**Program Management
and Review**

- (1) **Program Reports:** 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) **Program Effectiveness:** Collection Policy completes an annual seizure and sale review to identify trends and opportunities for improvement.

5.10.3.1.5
(08-29-2017)
Terms and Acronyms

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

Acronym	Definition
PALS	Property Appraisal and Liquidation Specialist
TAS	Taxpayer Advocate Service
CAP	Collection Appeal Program
PII	Personally Identifiable Information
PPS	Procurement for Public Sector
VIN	Vehicle Identification Number

5.10.3.2
(04-03-2013)
Overview

- (1) This IRM section describes the procedures for completing seizures of property. The section includes direction that applies to all seizures as well as special instructions for particular types of property. The procedures for delivery of seizure forms are provided by IRC 6335 and must be followed carefully.

5.10.3.3
(05-23-2016)
General

- (1) After approval has been secured, pre-seizure preparation should be completed and the revenue officer should conduct the seizure. For personal property, coordination with the PALS before, during, and after the seizure is essential to ensure an orderly custody transfer.
- (2) The revenue officer must check IDRS prior to conducting the seizure to confirm that there have been no changes to the status of the taxpayer's account, such as bankruptcy filings, adjustments, or credits that would cause the seizure action to no longer be allowable or warranted.
- (3) The revenue officer and assisting employee(s) should enter the public portion of the premises, identify themselves by presenting their credentials, and speak with the rightful occupant. The revenue officer should explain that the purpose of the visit is to seize the taxpayer's assets located on the premises. The revenue officer should take the time to address any questions the taxpayer has regarding his or her rights (see IRM 5.10.3.10, Management Review Process and Taxpayer Appeal Rights for additional information on taxpayer rights during the seizure process).
- (4) See IRM 5.10.1.2(3), Overview, regarding the step by step seizure and sale procedure listing on Form 13360, Seizure and Sale Checklist, for use by revenue officers and PALS.

5.10.3.4
(05-23-2016)
**Post-Approval
Pre-Seizure Preparation**

- (1) After securing approval for the seizure, the revenue officer must determine when the seizure will be conducted. Coordination with the PALS is required at this point to facilitate personal property custody transfer. The revenue officer must determine how many assisting employees will be needed, how the property will be inventoried, what equipment will be necessary, whether all necessary forms have been prepared, the need for a consent or writ, arrangements required for the transportation and storage of the assets, and whether an armed escort will be required. After receiving approval for the seizure, attempt to contact the PALS to let them know the scheduled seizure date.
- (2) Having the appropriate number of employees present for a seizure is critical. Two employees (at least one of whom must be a revenue officer) are required for all seizures. Additional employees may be required depending on many factors, such as the type and quantity of assets, complexity of inventory, degree of cooperation from the taxpayer, landlord/vendor/utility issues, and need for removal and storage of assets
- (3) In outlying offices where only one revenue officer is stationed, a revenue agent from the same location may assist with the seizure if approval is secured from the revenue agent's manager.
- (4) If the use of an assisting IRS employee is not feasible, the territory manager can approve the use of a local, state, or federal law enforcement officer. The non-IRS employee has no authority to assist in the seizure and is used only as an observer. The case history must be documented with the circumstances leading to the use of a non-IRS witness. The revenue officer must record the name, title, badge number, and other identifying information of the law enforcement officer.
- (5) The assisting IRS employees should be briefed on the background of the case, inventory issues, transportation and storage plans for the assets, potential for conflict, and any other factors relevant to the seizure.
- (6) The PALS may also provide assistance at the seizure for issues related to organizing, moving and securing the property, but not for the actual seizure action.
- (7) If tenant-occupied property is involved in the seizure, the revenue officer will take whatever steps are necessary to ensure that innocent third parties are not financially injured by the seizure action. Also consider the safety and welfare of innocent third parties, livestock, and domestic animals.

5.10.3.4.1
(05-23-2016)
Necessary Equipment

- (1) Ensure the availability of all equipment necessary to make the seizure.
- (2) Prior to a seizure that will involve an extensive inventory, inspect the property location to determine the:
 - Availability of water, electricity, or other needed utilities
 - Heat or air conditioning needs
 - Potential health hazards
 - Presence of an alarm system
 - Need for any other items or services unique to the location
- (3) Depending on the circumstances, the following equipment may be useful:
 - Hand tools, such as hammer, screwdrivers, pliers, and bolt cutters

- Chains and locks to secure gates and storage units
- Scissors, tape, markers, paper, warning tags
- Flashlights
- Mobile or cellular phones

5.10.3.4.2
(05-23-2016)

Necessary Forms

- (1) Ensure that all necessary forms are completed or available, potentially including:
 - Approved Form 668–B, Levy
 - Consent or Writ of Entry (if already secured)
 - Form 2433, Notice of Seizure
 - Form 911, Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance order) (if not previously provided)
 - Pub 1660, Collection Appeal Rights
 - Form 668–A, Notice of Levy, if the property is in the possession of a third party
 - Seizure warning tags (Form 12911, Form 12912, Form 12913)
 - Government BankCard

5.10.3.4.3
(04-11-2013)

Armed Escorts

- (1) Revenue officers are not authorized to carry or use firearms or other weapons, such as mace or pepper spray, and must be alert to situations that may call for the use of an armed escort. Employee safety is the first priority. A revenue officer should request an armed escort if there is any fear or concern for personal safety or if threatening circumstances develop. If an armed escort is requested, notify the PALS group manager.
- (2) For procedures on requesting an armed escort, see IRM 5.1.3.5, Armed Escort to Contact a Taxpayer.

5.10.3.5
(05-23-2016)

Conducting the Seizure — Securing Consent

- (1) If the property to be seized is located on private premises, either the written consent of the rightful occupant or a Writ of Entry is required to enter the premises. The request for consent should be explained to the rightful occupant. Use Form 10404, Consent to Enter Private Premises, to secure the appropriate written consent. The revenue officer should explain that:
 - a. Written consent is not required for the revenue officer to conduct the seizure.
 - b. The consent is only permission to enter the private area of the property — the public area can be entered and property seized without consent.
 - c. The rightful occupant can refuse consent, but should be informed that a Writ of Entry is the next probable step.
 - d. If consent is given and the rightful occupant allows the property to be stored and sold on the premises, there is usually a reduction in expenses and an increase in net sale proceeds.
- (2) The revenue officer may accompany the rightful occupant onto the private premises to discuss the matter. This cannot be considered a consent to enter a private area for the purpose of conducting the seizure.
- (3) A written consent from the rightful occupant is required. The rightful occupant can be defined as the party with a legal right to be in possession of the premises. The taxpayer is usually, but not always, the rightful occupant. In addition to the taxpayer, two examples of rightful occupants who may have authority to sign a consent are:

- Landlords who have advised the taxpayer that their lease is in default and have the right to lock the taxpayer out
- Shop owners who have the taxpayer's goods on consignment for sale at their place of business

Note: Local law may affect the landlord's rights in defaulted lease situations. Contact Area Counsel if there are questions regarding the landlord's right to enter the premises.

- (4) When it is not possible to request consent in person, the revenue officer should contact the rightful occupant by mail or telephone, and request that the rightful occupant appear before the revenue officer to give consent. The consent must be signed by the rightful occupant or their authorized representative to be valid.
- (5) 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.
- (6) Distribute copies/original of the consent as follows:
 - Send the original consent to Advisory through the group manager within five days of the seizure
 - Send a copy to the person who signed it
 - Retain a copy in the case file
 - Send a copy to the PALS when custody of the property is transferred (see IRM 5.10.3.26, Transfer of Custody to PALS)
- (7) In no case is a signed consent to be maintained as guarantee of performance on an installment agreement, timely filing, or other action.

5.10.3.5.1 (05-23-2016) **Conducting the Seizure — Consent Denied**

- (1) Consent may be refused in person, by mail, or by telephone. Consents are voluntary and may be revoked at any time by the person giving consent.
- (2) If consent to enter is denied, the revenue officer will explain that a Writ of Entry to seize the assets is the next probable step.
- (3) If consent is denied, within 5 business days of the denial the revenue officer will initiate the process to secure a writ (IRM 5.10.3.7, Writ Procedures). If the revenue officer decides not to pursue a writ or is unable to meet the 5 business day time frame, he or she will document the reason in the case history.

5.10.3.5.2 (05-23-2016) **Seizure of Both Public and Private Premises**

- (1) If the assets located in the public area are not sufficient to satisfy the tax liability, and consent to enter to seize the assets on the private premises has been refused, the revenue officer must decide whether to seize the assets in the public area, or to wait until a writ is received permitting entry to both the public and private areas.
- (2) Generally, the revenue officer will wait until the writ is secured; however, if a valid reason exists for the revenue officer to proceed with the seizure of the assets on the public portion, the revenue officer will advise the taxpayer or person in control that assets in the public area are being seized. The revenue officer will further advise the taxpayer that although the IRS has seized the assets in the public area neither seizure, entry, nor inventory will be made in

the private portion of the premises until a writ is obtained. The assets that are seized should be removed to a location where they can be protected.

5.10.3.6
(05-23-2016)

Exigent Circumstances

- (1) If the revenue officer observes situations that can be described as “exigent circumstances,” the private portion of the premises can be entered without a Writ of Entry.
- (2) A seizure under exigent circumstances is defined as a seizure that must be made immediately because there is insufficient time to secure the necessary Writ of Entry to prevent the taxpayer from putting property beyond the reach of the IRS. Removal of property from the taxpayer’s premises in the ordinary course of business, such as delivery of merchandise sold to customers, is not an exigent circumstance.
- (3) Extreme caution must be exercised when determining exigent circumstances. The revenue officer should obtain direction from his or her manager, and extensive documentation in the case history is required.
- (4) In cases where exigent circumstances exist, the revenue officer:
 - Must be certain that the taxpayer is attempting to put property beyond the reach of the IRS.
 - Will secure written approval from the level of management above the group manager.
 - Will secure and document the advice of area counsel.
 - May immediately enter private premises, from which property is being removed, without waiting for the Writ of Entry in order to protect the interests of the government.
 - Will document the case file with the facts that led to a determination that “exigent circumstances” existed — this documentation must include the efforts to explain to the taxpayer his/her rights prior to seizure.

5.10.3.7
(08-29-2017)

Writ Procedures

- (1) When a Writ of Entry is required, the revenue officer will prepare:
 - Form 14742, Writ of Entry Revenue Officer Declaration.
 - Form 14743, Writ of Entry Data Sheet.
- (2) Since declarations are testimony under oath, the revenue officer must ensure that the information presented is accurate and factual. Extraneous information and subjective opinions should not be included in the declaration. Declarations do not require the signature of a notary public. The data sheet may be used to answer any questions from the judge or magistrate.
- (3) If the revenue officer has reason to believe that property of the taxpayer is on the premises that he or she wishes to enter, but is unsure of precisely what property is located on the premises, contact area counsel to discuss how to describe the property to be seized.
- (4) Forward the completed declaration and data sheet through the group manager and Advisory to area counsel as soon as possible. After review, area counsel will refer the matter to the U.S. Attorney. Area counsel will advise the revenue officer or group manager of the place and time of the appointment with the District Court Judge or Magistrate. The revenue officer or group manager may need to appear in order to answer questions from the judge or magistrate.

Note: Ensure the PALS manager is aware of the pending application for writ of entry so timely transfer of the property can take place.

- (5) When the Writ of Entry is received, the revenue officer will notify the PALS manager and proceed with the seizure. The revenue officer should check IDRS after the writ has been secured, in order to confirm that there have been no changes to the status of the taxpayer's account, such as bankruptcy filings, adjustments, or credits that would cause the seizure action to no longer be allowable or warranted.
- (6) If the premises to be entered may be locked, the revenue officer should take the following actions:
 1. Attempt to schedule the seizure at a time when the premises are expected to be open.
 2. If there are no known times when the premises are expected to be open, contact the taxpayer to advise that the writ has been received and to make arrangements to meet at the premises to gain entry.
 3. If the taxpayer refuses or does not respond, take the necessary action, such as securing the services of a locksmith, to enter the premises.
- (7) Generally, writs are in effect for ten days, but a judge or magistrate may limit or increase the time parameters.
- (8) For certain cases, it may be advisable to request that the writ allow for multiple entries of the same premises over a period of time. For example, if cash register contents are the only asset to be seized, successive levies on several days may be more efficient than requesting a new writ for each levy. Consult Counsel through Advisory to determine the language required on the affidavit in this context.

5.10.3.7.1 (05-23-2016) **Writ Denied**

- (1) If the Writ of Entry is denied and it is determined that seizure of property located in a public access area is appropriate, consult with area counsel to determine whether such action will conflict with the basis for the denial of the Writ of Entry for the private premises. If area counsel concurs with the seizure, the property will be seized and stored as appropriate.

5.10.3.8 (04-21-2020) **Seizing the Property (Form 668-B — Delivery)**

- (1) To conduct the seizure the revenue officer should proceed to the property location to take possession of the property unless the exception below applies. When a consent or Writ of Entry is required see IRM 5.10.3.8(6). If the taxpayer is present serve Form 668-B, read the statement on the form to the taxpayer or permit the taxpayer to read it. The revenue officer should answer any questions the taxpayer may have regarding the seizure. If the taxpayer is not present see IRM 5.10.3.8(7) regarding contacting the taxpayer. When personal property belonging to the taxpayer is in the custody of a third party see IRM 5.10.3.8(4). For real property in possession of a third party, see IRM 5.10.3.9(6). When unoccupied improved real estate is seized, Form 668-B and Form 2433 delivery to the taxpayer is sufficient to effect the seizure, however warning notices should be attached to the property per IRM 5.10.3.11.1.

Exception: When occupied or unimproved real estate is seized, delivery of Form 668-B and Form 2433 is sufficient to effect the seizure and warning

notices should not be attached to the property. In these cases, the revenue officer may not need to proceed to the property location on the day of the seizure.

- (2) Regardless of whether the taxpayer or a third party has custody of the property, Part 3 of Form 668–B must be:

- Personally provided to the taxpayer,

Note: The revenue officer should read the statement on the form to the taxpayer or permit him or her to read it. The revenue officer should answer any questions the taxpayer may have regarding the seizure.

- Left at his or her residence or business, if he or she has such within the territory where the seizure was made, or
- If the taxpayer cannot be readily located, or has no dwelling or place of business within the territory where the seizure was conducted, mailed to the taxpayer's last known address (even if it's a P.O. Box) within two business days of the seizure.

Note: If the taxpayer's address is known and is located in the territory where the seizure was made, the documents must be left at the place of abode or business if the taxpayer is not available for personal delivery. The revenue officer may mail the documents in addition to leaving them at the place of abode or business, but they cannot only be mailed in these situations.

- (3) For a business taxpayer (e.g., corporation, LLC) not including a sole proprietor:

- a. Deliver the notice personally to a principal of the business, or leave it at the place of business in a sealed envelope addressed to the business, with an employee or by affixing the notice to the door of the business.
- b. If the taxpayer has no place of business in the territory where the seizure was made and the taxpayer cannot be readily located, send the notices by both certified mail, return receipt requested, and regular mail to the taxpayer's last known address.

Note: Affixing the notice at the business principal's place of residence without personal delivery to the principal does not meet legal sufficiency for service of seizure and sale paperwork.

Example: You secure a Writ of Entry and seize both the real and personal property of a corporation in your territory. The following day, you and the PALS complete a thorough inventory for use on the supplemental *Notice of Seizure*. The business principal lives in town and as a courtesy you attempt to personally deliver the notice to the principal's residence (place of abode). The principal is not home so you affix a copy of the notice in a sealed envelope at the residence. As the taxpayer now no longer has a "usual place of business", and you were unable to personally serve a principal of the business, you must mail the seizure documents to the last known address of the business by both certified and regular mail.

- (4) When personal property belonging to the taxpayer is in the custody of a third party, provide Part 4 of Form 668–B to the third party in possession of the property. Form 668–A, Notice of Levy, must also be used since the property is

in the possession of a third party. Examples include automobiles on a private parking lot or a safe deposit box at a bank.

Note: If the Taxpayer Identification Number (TIN) is not needed by the third party to identify the asset, redact the TIN from Part 4 of Form 668-B and on Form 668-A. Do not redact the TIN on Parts 1, 2, or 3 of Form 668-B.

- (5) If a vehicle is located in a “park and lock” facility, and the attendant is not in possession of the keys to the vehicle, provide the person having custody of the vehicle with Part 4 of Form 668–B. If the attendant is in possession of the key to the vehicle, serve Forms 668–B and 668–A on the attendant and ask for the keys. If the attendant fails to surrender the keys, and/or denies access to the vehicle, follow the procedures in IRM 5.11.2.2.9, Refusing to Comply with a Levy. If the attendant provides the keys, they should be protected in accordance with the guidance outlined in IRM 10.2.15, Minimum Protection Standards (MPS). Storing keys in a safe or locked filing cabinet in a local office will generally provide sufficient protection.
- (6) When a consent or Writ of Entry is required, the revenue officer will proceed with the seizure once the consent is signed or the court order is received. If a Writ of Entry was secured, the taxpayer will be given a copy of the writ at the seizure site. If the taxpayer is not present, the Writ of Entry will be provided to the taxpayer as soon as possible. If a third party is in possession of the property, the revenue officer should give a copy of the Writ of Entry to the third party with Form 668-A at the time of the seizure. Distribute copies of the writ to:
 - Advisory (through the group manager) within 5 workdays after the seizure
 - The RO case file
 - Area counsel
 - The PALS upon transfer of custody of the seized assets

Note: See IRM 5.10.3.5(6) for distribution of copies of consent.

- (7) If the revenue officer arrives at the seizure site and a taxpayer’s employee is in control of the property to be seized, the revenue officer should advise him/her to call the taxpayer. If the taxpayer is not available and a Writ of Entry was secured, the revenue officer should conduct the seizure, and the seizure documents should be delivered as required in IRM 5.10.3.9, Notice of Seizure Form 2433 - Delivery.
- (8) The seizing revenue officer should consider employee and customer impact when determining when to conduct the seizure. Sometimes a seizure is made and the taxpayer’s employees and customers are present. In this situation the revenue officer should:
 - a. Ask the taxpayer or the taxpayer’s employee in control of the property to advise the employees and customers to leave the premises.
 - b. Ask everyone to leave if the taxpayer or the taxpayer’s employee in control of the property will not.
 - c. Secure the site and proceed with the seizure.
- (9) The seizure should be discontinued if the taxpayer makes:
 - Full payment of the assessment plus all additions, or

- Some other satisfactory arrangement regarding the tax liability
- (10) During or after the seizure, if the taxpayer states that a bankruptcy petition was filed, secure the appropriate bankruptcy petition information and contact Insolvency for additional instructions.
 - (11) If the taxpayer claims an economic hardship situation, the revenue officer should determine, based on the particular circumstances whether the seizure action should be discontinued. See IRM 5.10.3.10, Management Review Process and Taxpayer Appeal Rights, for procedures if the taxpayer claims a hardship and the revenue officer will not or cannot provide the relief requested. Any further enforcement action must be withheld during the Taxpayer Advocate Service (TAS) review (see IRM 13.1.7, Taxpayer Advocate Service (TAS) Case Criteria, for other situations that qualify for TAS referral).
 - (12) A revenue officer is not authorized to use force in the seizure of property. If the taxpayer or any other person bars the path of the revenue officer and clearly indicates that he or she will use force in attempting to prevent the seizure, the revenue officer should withdraw and report the matter to the group manager.
 - (13) If the revenue officer is in the process of actually seizing the property and is physically attacked, he or she may use such force as is necessary for self-protection and to stop the attack. Discontinue seizure and report the assault to TIGTA (see IRM 5.17.3.6.4.1, Criminal Acts).

5.10.3.9
(05-23-2016)
**Notice of Seizure (Form
2433 — Delivery)**

- (1) The owner is entitled to Notice of Seizure at the earliest possible time after the seizure. See Exhibit 5.10.3-1 for information on the appropriate distribution of the parts.
- (2) For an individual taxpayer (including sole proprietor):
 - a. If the owner has his/her usual place of abode or place of business in the territory where the seizure was made, the Notice of Seizure is required to be delivered personally or left at that individual's usual place of abode or business by affixing the notice, enclosed in an envelope, on the door if that individual is not available
 - b. If the owner has no dwelling or place of business within the territory where the seizure was conducted and cannot be readily located, send the notices by both certified mail, return receipt requested, and regular mail to the owner's last known address.

Note: Delivery to the POA alone does not constitute proper service since attempted personal delivery to the owner is required under IRC 6335(a). For example, you seize a vehicle from an individual taxpayer in the parking lot of a mall where the taxpayer is at work and manages a store. You personally deliver the Notice of Seizure to the taxpayer at the place of business. This meets legal sufficiency for delivery of the seizure paperwork.

- (3) If property is owned by and seized from joint owners (e.g., husband and wife), each owner should be served separately. Service may or may not be simultaneous, but each owner should receive a separate Form 668-B, 2433, etc.
- (4) If a seizure is made based on a joint liability but there is only one owner, do not provide notice to the non-owner taxpayer.

- (5) For a business taxpayer (e.g., corporation, LLC) but not sole proprietor:
 - a. Deliver the notice personally to a principal of the business, or leave it at the place of business in a sealed envelope addressed to the business, with an employee or by affixing the notice to the door of the business.
 - b. If the owner of the seized property has no place of business in the territory where the seizure was made and the owner cannot be readily located, send the notices by both certified mail, return receipt requested, and regular mail to the owner's last known address.

Note: Affixing the notice at the business principal's place of residence without personal delivery to the principal does not meet legal sufficiency for service of seizure and sale paperwork.

Example: You secure a Writ of Entry and seize both the real and personal property of a corporation in your territory. The following day, you and the PALS complete a thorough inventory for use on the supplemental *Notice of Seizure*. The business principal lives in town and as a courtesy you attempt to personally deliver the notice to the principal's residence (place of abode). The principal is not home so you affix a copy of the notice in a sealed envelope at the residence. As the taxpayer now no longer has a "usual place of business", and you were unable to personally serve a principal of the business, you must mail the seizure documents to the last known address of the business by both certified and regular mail.

- (6) When a third party owns or possesses seized property, the Notice of Seizure is required to be delivered as described in (2) and (5) above depending on whether the entity is an individual or a business. The statutory requirements for delivery of the Notice apply to the owner or possessor, not the taxpayer.

Note: A third party is deemed to have possession if they exercise physical control over an item. The fact that an entity retains some authority over transfer of the asset (e.g., state or local liquor license issuers) does not imply possession.

- (7) The terms "place of abode" and "place of business" are usually apparent, but circumstances may arise where this is unclear. If the taxpayer or owner is incarcerated, for example, they may not maintain a residence outside the prison. If personal service is not possible and the facts are unclear as to whether the prisoner maintains a residence, check with area counsel through your local Advisory office for guidance. If a business taxpayer is no longer operating (possibly as a result of the seizure), they no longer have a "place of business" in the territory. Do not rely solely on the last known postal address to identify the usual "place of business" for delivery of seizure and sale documents. If a location appears to be vacant or unoccupied and a principal of the business cannot be served personally, use the exception in IRM 5.10.3.9(5)(b) above to mail the documents to the last known address of the taxpayer.
- (8) The revenue officer must provide Pub 1660, Collection Appeal Rights, to the taxpayer with Form 2433 to ensure the taxpayer is aware of the 10 business day limitation on appealing the seizure action. Document how the taxpayer received Pub 1660 and Form 2433.
- (9) A copy of Form 2433 must be provided to all senior lienholders who were identified during the public records search.

Note: This includes governmental third parties such as local taxing authorities, States with sales or employment tax liens, etc.

- (10) Deliver supplemental seizure notices in the same manner as the original.
- (11) Although IRC 6335 does not require delivery of seizure notices to an authorized representative, the RO will send a courtesy copy to representatives holding a valid power of attorney.
- (12) If personal service is possible but places the revenue officer in a hazardous situation (e.g., taxpayer identified as potentially dangerous), attempt to serve the taxpayer in an IRS office where there is sufficient security or secure an armed escort. If neither of these options are available, consult area counsel through Advisory.

5.10.3.9.1
(05-23-2016)

**Form 2433 — Additional
Documentation and
Distribution**

- (1) After delivering parts 1 and 2 of Form 2433, the revenue officer will make the following additional entries on Parts 5, 6, and 7 as shown in Exhibit 5.10.3-1:
 - Enter the assigned seizure serial number in the appropriate spaces (Item 10)
 - Enter the total of all estimated expenses of the seizure and sale in the space provided (Item 11) on parts 5 through 7
 - Enter the inventory value opposite each unit (item or group) of seized property and total (Item 12) on parts 5 through 7
 - Enter the taxpayer's estimated equity (Item 13) on Parts 5 through 7 - The estimated equity should reflect the FMV less any senior encumbrances. If the estimated equity exceeds the taxpayer's liability plus expenses of seizure and sale, the liability should be shown as the estimated equity.
- (2) When multiple property types are listed on one or more Forms 2433, the revenue officer must determine the estimated value and taxpayer equity for each property type. This must be done whether the property types are encumbered individually or together. Determine which of the designated property types best describes the seized asset(s) and assign a value to each property type. Subtract any known encumbrances from the total estimated value of that type of property whether it is one or multiple items of that particular type of property. See IRM 5.10.3.2, Form 2433 - Estimated Equity Reference 5.10.3.9.1. If the property types are encumbered together, the encumbrance must be allocated for each property type. The property types should be listed as follows:

Description	Property Type
PRI	Principal Residence IRM Exhibit 5.10.2-1
PR	Personal Residence IRM Exhibit 5.10.2-1
OR	Other Real Property (any other real property, individual or business, that is not a personal residence)
VE	Vehicles
LI	Licenses
CR	Cash Register Contents
OE	Office Equipment/Furniture
ME	Machinery and Equipment
IN	Inventory
SD	Safe Deposit Box
OB	Other Business Property
OP	Other Personal Property

- (3) The purpose of establishing the value of seized property is to comply with the United States Code, which requires a monetary accounting control of seized property by all government agencies and to set a base for establishing the minimum bid.
- (4) When Form 2433 is issued before a full inventory is completed, the inventory value of the items specifically described will be shown. The inventory value for the property described as “general” will be shown as “unknown”. The actual inventory values must be included on the “Supplemental” Form 2433.
- (5) When safe deposit boxes or cash registers are seized and sealed for contents only and will not be opened until a later date, enter “Unknown” on Form 2433 opposite the description of the safe deposit box or cash register. A second Form 2433 should be completed at the time the box or register is opened, and marked supplemental. The serial number of the original Form 2433 should be used for the supplemental form. See IRM 5.10.3.15, Cash Register Contents, and IRM 5.10.3.16, Safe Deposit Boxes, for additional instructions.
- (6) Enter the location of the property in the space provided on Form 2433, Parts 5 and 6. For real property, show the complete street address with city, state, and zip code if available. For personal property, show the address where property is stored, including a company/vendor name, contact name, and telephone number. See IRM 5.10.3.11.2, Controlling Seized Property Stored in IRS Offices, for additional information regarding completion of part 6 for this situation.
- (7) The revenue officer conducting the seizure, as well as the accompanying IRS employee, will sign Form 2433.

5.10.3.9.2
(09-28-2022)

Disposition of Notice of Seizure and Opening Documents for the Seizure

- (1) After taking the above actions, the revenue officer will:
- Retain Parts 3, 4, 5, and 7B, pending disposition of the property (these parts will be transmitted to the PALS group manager via eApproval if custody is transferred)
 - Retain Part 6 if assets are stored in an IRS office.
 - Transmit the opening documents through the group manager to Advisory via eApproval within 5 workdays after the seizure

- (2) The opening seizure documents include:
- Form 13719, Pre-Seizure Checklist and Approval Request
 - Form 668-B (and 668-A if applicable)
 - Parts 6, and 7A, of Form 2433
 - Copy of the Writ or original consent as appropriate
 - Copy of the current deed for real property
 - Preliminary copy of Form 2434-B
 - Form 13360, Seizure and Sale Checklist
 - Form 13857, Indemnification Clause Certification Form, when appropriate
 - Copies of deeds and/or conveyance documents, when appropriate

Note: Send only a copy of Part 6 if property is stored in an IRS office.

- (3) Advisory will retain Part 6 in the "Open Seizure" file and will forward part 7A to Accounting Control/Services for establishment of the necessary accounting controls.
- (4) Send the following documents, if applicable, via eApproval to the PALS Group Manager:
- a. Writ of Entry or Consent
 - b. Forms 668-B and 668-A as applicable
 - c. Undistributed parts of Form 2433
 - d. Form 2434-B should be prepared in Word and emailed to the PALS manager to facilitate updating by PALS
 - e. Verification of encumbrances
 - f. Copy of deed if real property seized
 - g. Copies of all expense documents incurred in the seizure including storage information
 - h. Copy of Notice of Federal Tax Lien (Automated Lien System (ALS) copies are acceptable)

Note: The revenue officer will complete the *Property is Stored* section of parts 5 and 6 of Form 2433 to include the vendor's point of contact name and phone number. For property stored in an IRS office, complete parts 5 & 6 of Form 2433.

- (5) In addition, any items the revenue officer may have secured that will be relevant to the sale should be forwarded to the PALS Group Manager. Items may include copies of state tax liens, UCCs, deeds, plat or tax maps, etc.

5.10.3.10
(05-23-2016)
**Management Review
Process and Taxpayer
Appeal Rights**

- (1) Taxpayers whose business assets have been seized are entitled to an expedited case review by management upon request. The seized assets must consist of tangible personal property essential in carrying on the trade or business of the taxpayer. The purpose of the management review is to determine whether the levy meets the release requirements of IRC 6343 and whether the levy has created an economic hardship by preventing the taxpayer from carrying on such trade or business.
- (2) The management review will consist of one level only and will be conducted at the territory level. In those cases where the levy action is sustained (levy is not released), the taxpayer will be advised of the Taxpayer Advocate Service (TAS) and the Collection Appeal Program (CAP).
- (3) Seizures involving perishable goods require immediate management attention. Local management will provide for an accelerated review process based on the merits of each case.
- (4) Once a seizure action is taken, the taxpayer has ten business days from the date the Notice of Seizure is provided to the taxpayer, or left at his or her usual abode or place of business, to appeal the seizure action through the CAP process (IRM 5.10.1.6.2, Collection Appeal Rights). The taxpayer will use Form 9423, Collection Appeals Request, to request a CAP hearing.
- (5) TAS cases may be initiated because of seizure actions. If the taxpayer claims a hardship as a result of a seizure or proposed seizure action, determine whether the seizure action should continue (see IRM 13.1.7, Taxpayer Advocate Service (TAS) Case Criteria, for other situations that qualify for TAS referral).
- (6) If the revenue officer cannot or will not initiate action to resolve the taxpayer's inquiry or to provide the relief requested by the taxpayer, the revenue officer must assist the taxpayer in preparing Form 911, Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order. Form 911 must state the hardship and/or problem, and it must document the relief requested. The revenue officer must document the reason why the requested action was not taken. Send Form 911 to TAS within one workday of identifying that the contact potentially meets TAS criteria (unless the taxpayer prefers to send it to TAS personally).
- (7) Further collection actions are generally suspended until the hardship is resolved by the TAS Office. See IRM 13.1.7, Taxpayer Advocate Service (TAS) Case Criteria, for TAS criteria and procedures.

5.10.3.11
(04-21-2020)
**Protecting the Property
After Seizure**

- (1) Prior contact with vendors should have been made so that the vendor is available on the day of the seizure. The revenue officer should coordinate the timing of the vendor's arrival to prevent unnecessary expenses if the seizure sale is delayed or cancelled. If available, a cell phone should be used to coordinate the timing of the vendor's arrival so the revenue officer does not have to leave the seizure site. (See IRM 5.10.2.7, for instructions regarding payments to vendors.)
- (2) When only real estate is seized, neither padlocking the premises, changing the locks nor accepting keys from the taxpayer or other party is appropriate. Possession of the real property depends on state law, see IRM 5.17.3.7.4.1(3), Delivery of Possession.

- (3) The taxpayer's employees are allowed to remove their personal property and the taxpayer may remove business books and records without revenue officer inspection. If examination of the books and records is necessary in a particular case, the revenue officer should consult area counsel to determine whether the issuance of an administrative summons is desirable.
- (4) If a taxpayer seeks personal items while seizing a vehicle or business premises **before** Form 2433 is delivered, advise the taxpayer that entering the seized property to recover the personal items during the seizure is not permitted. During the seizure process, at the revenue officer's discretion, the revenue officer and witnessing employee may personally remove the items and give them to the taxpayer. Do not include these items on the Form 2433 as they are not seized property and do not use Form 668-E, *Release of Levy*, as the items are not seized property. The ICS history may be documented outlining the items given to the taxpayer.
- (5) If a taxpayer seeks personal items in a seized vehicle or business premises **after** Form 2433 is delivered, advise the taxpayer that re-entering the seized property to recover the personal items is not permitted. The revenue officer and witnessing employee should personally remove the items and return them to the taxpayer after the taxpayer signs Form 668-E, *Release of Levy*. Follow the provisions in IRM 5.10.4.16, *Actions to Release and Return Property*, when the taxpayer refuses to sign Form 668-E.

Note: If the taxpayer requests to reset navigation, garage door opener or other similar personalized electronic systems to factory settings of a seized vehicle, the taxpayer may hire an appropriately trained third party to complete the actions. The taxpayer should coordinate with the revenue officer for completion of the actions between the date of seizure and date of issuance of Notice of Sale. The taxpayer is responsible for any associated costs.

- (6) When guards have been hired they should be apprised of the possibility of harassment or violence. In most cases satisfactory protection can be ensured by notifying the local police of the seizure and requesting their cooperation in protecting the property. Revenue officers and PALS may also conduct periodic visits to the seizure location to ensure the security of the assets.
- (7) Ask the taxpayer to take all necessary precautions (e.g., turn off water pumps, non-essential equipment, motors, etc.) to secure the property. If the premises must be checked periodically to protect the property, the revenue officer or PALS should make such arrangements.

Note: Employees should **not** accept keys to the property from the taxpayer or other party at any time **prior** to the seizure. If keys are received **after** the seizure, they should be protected in accordance with the guidance outlined in IRM 10.2.15, *Minimum Protection Standards (MPS)*. Storing keys received **after** the seizure in a safe or locked filing cabinet in a local office will generally provide sufficient protection

5.10.3.11.1
(05-23-2016)

Posting Warning Notices

- (1) After Form 668-B has been served, the revenue officer and/or PALS should sign the appropriate warning notices (Forms 12911, 12912, or 12913) and attach them to the property being seized. If the seizure involves unimproved real estate or the real estate is currently occupied or in use, do not post a warning notices. The name and phone number of the PALS who will conduct the sale and the revenue officer who conducted the seizure should both be included on the warning notices. If a PALS has not yet been assigned, include the name and telephone number of the PALS group manager.
- (2) Unless the real estate housing the seized assets has also been seized, neither padlocking nor placing seizure warning tags on the premises is appropriate. See IRM 5.10.1.5.3.4(8)-(9), Equity Determination - Expenses of Seizure and Sale, for procedures in these situations.
- (3) If the taxpayer's entire business including both real and personal property is seized, warning notices should be attached to clearly identify the property under seizure.
- (4) While the procedures above apply in typical situations involving seizure of business property, there is no need to post a warning notice on any seizure when it would increase the prospects of violence or otherwise be imprudent. Not posting the warning notice has no effect on the legitimacy of the seizure action. Document the reasons for not posting in the case file.
- (5) After attaching the warning notices, the revenue officer should begin to inventory the property under seizure. The PALS may assist with the inventory of the property, but not the actual seizure.

5.10.3.11.2
(05-23-2016)

Controlling Seized Property Stored in IRS Offices

- (1) Parts 5 and 6 of Form 2433 and the ICS history are used for control purposes when seized items are stored in an IRS office. The revenue officer or PALS will ensure the property description is complete and document the value of the property on the appropriate section of parts 5 & 6. Reference to an attachment is appropriate if the complete description will not fit on Form 2433 or a supplemental Notice of Seizure is prepared.
- (2) The revenue officer or PALS will document in the ICS history the location of the safe, cabinet or other location with the name and number of the person controlling access.
- (3) Upon transfer of custody of the property to the PALS, the PALS will sign part 5 and 6 of Form 2433 and forward a copy of part 6 to Advisory and the PALS group manager.
- (4) Seized property must be safeguarded in facilities commensurate with the standards in IRM 10.2.15, Minimum Protection Standards (MPS). Local procedures for safeguarding such property will include periodic verification checks of the property in the container by a designated official.

5.10.3.11.3
(04-03-2013)

Service and Repair Establishments

- (1) Some businesses (e.g., dry cleaners, laundries, and repair shops) may possess property belonging to customers. Revenue officers conducting such seizures must make arrangements for customers to claim their property.

- (2) A notice should be posted on the front door of the business indicating the hours the premises will be open for customers to claim their property. The establishment should be opened for sufficient periods so that third parties are not overly inconvenienced.
- (3) The revenue officer, with group manager concurrence, will determine the hours the business will be open based on such factors as amount of property to be claimed, location of the business and the usual hours the business was open to the public. If the taxpayer's business hours extended beyond normal IRS work hours, the establishment should be opened some portions of the non-IRS work hours. For example, if Saturday operation was customary, consider providing at least some Saturday hours.
- (4) Make reasonable attempts to contact customers regarding any item with customer identifying information if the item is not claimed. In no event should items clearly identified as a customer's property be sold.
- (5) The revenue officer and the PALS should coordinate the transfer of custody of the assets so customers have adequate time to claim their property.

5.10.3.11.4
(05-23-2016)
**Records of Attorneys,
Physicians, and
Accountants**

- (1) Records maintained by attorneys, physicians, and accountants concerning professional services performed are usually of little or no sale value.
- (2) Questions of confidential or privileged information contained in these records may cause complications if the records are seized. Additionally, the case files of the professional person are frequently the property of the client, and are not subject to seizure.
- (3) Therefore, do not seize case files or records. When office facilities or office equipment of attorneys, physicians, or public accountants are seized for payment of taxes, do not examine case files and related files and ask the taxpayer to promptly remove all files.
- (4) If it is believed that the storage facilities, such as file cabinets, contain valuable property in addition to case files, the contents may also be seized but the case files should be released to the taxpayer as soon as possible. The revenue officer should be present when the taxpayer retrieves the files so that other property of value is not removed.
- (5) A supplemental notice of seizure should be issued describing the contents that remain under seizure. Issue Form 668-E for any seized property released back to the taxpayer. After the contents have been removed, the storage facilities (cabinets, etc.) may be sold.
- (6) If the taxpayer does not remove the files as requested, the case files will be removed intact by the revenue officer. Another IRS employee should also be present at the time of removal. Under no circumstances will case files be examined. Place the files in boxes and securely bind them. Label each box with the name of the taxpayer and the date it was removed. If the premises are not also under seizure, leave the boxes at the business premises. If the business premises are under seizure, remove the boxes for storage at the local IRS Office.
- (7) When files are removed for storage, ensure the security of the case files, and, if possible, store them in locked containers. The revenue officer will document the fact that the case files were not examined and this statement will also be

signed by the other employee who was present at the time the files were removed. If case file boxes are removed for storage, notify the taxpayer within 48 hours, by certified mail, return receipt requested, that the files must be claimed within 30 days from date of notice. If not claimed within the prescribed period, ask area counsel for guidance.

5.10.3.11.5
(05-23-2016)
**Seizures Involving
Computer Equipment**

- (1) IRM 5.10.1.5.3.8, Equity Determination - Computer Equipment, contains pre-seizure guidelines when determining whether to seize computer equipment. All taxpayer data on the hard drive must be removed prior to sale.
- (2) Once the property is seized, the taxpayer must be given an opportunity to download the data from the hard drive before it is eliminated by the PALS prior to sale. Advise the taxpayer that the IRS will remove all of the information from the hard drive, even if the taxpayer does not download the data.
- (3) Document the case history when you advise the taxpayer of the need to download the information. The revenue officer or PALS may make this request. Form 14740, Acknowledgement of Opportunity to Download Computer Information, should be used to document that the taxpayer was given the opportunity to download the information. Retain a copy of this document in the seizure file.
- (4) The PALS should:
 - Ensure that the taxpayer has been given the opportunity to download the information.
 - Take the appropriate action to eliminate all of the information from the hard drive as close to the scheduled sale date as possible.

Note: This should allow the taxpayer to receive the equipment back in its original condition if the property is released or redeemed prior to sale.
- (5) Only the PALS are authorized to use the WipeDisk software to remove all of the material from the hard drive. Licensed software that can be sold with the computer should be reloaded to the hard drive whenever possible so that the value of the equipment is preserved. Consult area counsel on any software licensing questions.
- (6) Information on computer equipment cannot be used for collection purposes unless the data on the computer is specifically identified on a Writ of Entry. Contact counsel to determine if and when data on the computer may be used for collection purposes.

5.10.3.11.6
(08-04-2014)
**Disposition of
Abandoned Personally
Identifiable Information
(PII)**

- (1) Safeguarding Personally Identifiable Information (PII) in the government's possession is essential to maintaining the public's trust. As part of IRS' commitment to protect privacy rights, revenue officers should pro-actively address the safeguarding of PII located on or in seized property.
- (2) Whenever possible prior to seizure, revenue officers should make arrangements for the taxpayer or owner of the seized property to remove PII (on paper or removable electronic media, such as flash drives) that is not being seized. The removal may occur before, during, or after the seizure.
- (3) In certain cases, the coordination of the removal of PII by the taxpayer or owner of the seizure property is unsuccessful. This may occur before, during,

or after the seizure is completed. For example, the taxpayer may be unable to contact/locate, or the presence of PII may be unknown prior to the seizure, but discovered during or after the seizure is executed. PII contained within seized property should not be abandoned.

- (4) When the coordination of the removal of PII from seized property is unsuccessful, the revenue officer should temporarily take possession of the PII.
- (5) If the PALS discovers the PII after taking possession of the property, the PALS should notify the seizing revenue officer to remove and dispose of the PII. The responsibility of addressing the PII remains with the seizing revenue officer.
- (6) Once the revenue officer takes possession of the PII, the revenue officer should ensure it is protected from unauthorized access or use. After taking possession of the PII, if possible, the revenue officer should make arrangements for pick-up or delivery of the PII to the taxpayer or owner of the seized property. PII should be sent via private carrier (UPS), following PII shipping procedures in IRM 10.5.1.6.7.3, to the:
 - taxpayer's last known address when there is reasonable certainty the taxpayer is receiving mail at that location. **Do not send PII to the taxpayer's last known address without reasonable certainty the taxpayer is receiving mail at that location.**
 - valid Power of Attorney (POA).
 - officer/owner/general partner of a Corporation/LLC/Partnership when the corporation/LLC/Partnership is the taxpayer.
- (7) In very rare situations involving seized property, the address of the taxpayer is unknown or IRS cannot contact the taxpayer. If the taxpayer is unable to locate/contact, and there is no business reason to keep the PII, then it may be destroyed. Every effort to contact, locate, and confirm the taxpayer's address should be made before destroying the PII. The case should meet criteria for an unable to contact/locate closure per IRM 5.1.11.4, Unable to Locate, and/or IRM 5.1.18, Locating Taxpayers and their Assets. The revenue officer must secure approval from the Area Director before destroying PII.
- (8) Refer to IRM 10.5.1.6.10, Disposition and Destruction, for guidance on PII destruction. For removable electronic media, contact *IT Media Destruction.

5.10.3.12
(05-23-2016)

Payment to Vendors

- (1) For services less than or equal to \$2,500 see IRM 5.10.2.7.1.
Note: Procurement for Public Sector (PPS) must be used to pay the costs of a pre-seizure commercial title search. See IRM 5.10.1.5.3.3(4), Equity Determination - Verify Ownership and Identify Encumbrances.
- (2) Federal procurement regulations require written confirmation of the cost of a service.
- (3) For services that exceed \$2,500 see IRM 5.10.2.7.2
- (4) Prior to incurring any expense, the revenue officer or PALS must ensure that there are sufficient funds available to satisfy the expected expenses.

5.10.3.13
(05-23-2016)
**Notice of Seizure Form
2433 — Preparation**

- (1) As soon as possible the revenue officer will prepare Form 2433, Notice of Seizure, in all cases in which property has been seized as shown in Exhibit 5.10.3-1. Form 2433 is a multi-part form with copies for:
 - The taxpayer, owner, Advisory, and Accounting Control/Services
 - Releasing property in appropriate cases
 - Reporting sale proceeds and the disposition of the property
- (2) The items seized should be described and identified with reasonable certainty in an inventory listed on the form or in an attachment to it. Request the assistance of the PALS with the inventory after the seizure is made for cases with a large number of lots. IRM 5.10.3 sections 14 through 22 include additional instructions when any of the following assets are seized:
 - Alcoholic Beverages
 - Cash Register Contents
 - Checks and Money Orders
 - Safe Deposit Boxes
 - U.S. Savings Bonds
 - U.S. Marketable Securities
 - Patents and Pending Applications for Patents
 - Controlled Substances
 - Firearms
 - Property Housing a United States Postal Facility
- (3) For real property, the full legal description need not be used. The address (or street location if available), type of structure, approximate size of building, intended usage, and a description of the file location of the most recent deed generally describes the property in sufficient detail.
- (4) For personal property the description should include, to the extent possible:
 - Type of property
 - Brand name
 - Model description
 - Serial number
 - Quantities (where applicable)
 - Intended usage
 - Any other relevant information, such as the condition of the asset
- (5) When a motor vehicle is seized, in addition to the description of the vehicle (make, type, model, year, odometer reading, VIN, etc.), the inventory should include a listing of optional equipment such as radio, tape player, or air conditioner, etc. Any damage such as dents or missing hubcaps, should be noted on Parts 5, 6, and 7 of Form 2433. The trunk and glove compartment should be opened and examined. Any contents should be described in the inventory. However, if the vehicle contains an item that demonstrates an expectation of privacy, such as a locked briefcase or locked luggage, the item may be seized but not opened without a Consent or Writ authorizing entry into that particular article or item. See IRM 5.10.3.21, Firearms, for the procedures to follow when firearms are found in a seized vehicle.
- (6) Parts 5, 6, and 7 of Form 2433 should reflect the most accurate fair market value possible. Do not include the fair market value on the parts of Form 2433 provided to the taxpayer or third parties, as this information is used for internal accounting purposes.

Note: If information becomes available after the seizure that indicates sale will not generate proceeds to apply to the tax liability, immediately contact the PALS and RO group manager to determine whether release of the seizure is appropriate

- (7) For inventory purposes the detailed description of individual items may be waived for groups of like items reasonably described.
- (8) Check the box indicating whether the taxpayer was present at inventory of the seized property. If the taxpayer was not present, provide the reason.

5.10.3.13.1
(04-03-2013)

Notice of Seizure Form 2433 — Multiple Forms

- (1) Revenue officers may encounter situations where multiple Forms 2433 may be needed. This is usually the result of the seizure of multiple assets from a single taxpayer. In these cases, a determination should be made regarding when to consider the seizures as separate actions requiring separate seizure numbers and when to consider them subsets (using alpha suffixes) of a single seizure.
- (2) In general, if assets are seized on the same day from the same taxpayer, use alpha suffixes for different groups of property if doing so would be beneficial (e.g., different types of dispositions, separate sales, redemption periods, separate parcels of real estate, possible litigation on some assets, etc.).
- (3) If any of the following conditions apply, separate seizure numbers must be used:
 - Assets are in the custody of different parties
 - Assets are seized on different days
 - Assets are seized from a different taxpayer (e.g., jointly held asset seized after individual asset)

Note: A separate Form 668-B and complete set of seizure paperwork is required for each seizure number issued.

5.10.3.13.2
(05-23-2016)

Notice of Seizure Form 2433 — Supplemental

- (1) In some instances it may be desirable to issue a Notice of Seizure before a detailed inventory is taken. This procedure should only be used when :
 - The work involved in taking the detailed inventory would be unwarranted because of the probability of prompt redemption or release
 - The delay may jeopardize the Government's claim for adequate protection due to impending bankruptcy or other insolvency proceeding, or
 - Many assets have been seized and there is insufficient time to prepare a detailed inventory at the time the Notice of Seizure is issued.
- (2) Under these conditions, issue the Notice of Seizure describing the property to the extent practicable:
 - a. List the most valuable and readily identifiable items.
 - b. Identify the rest of the property generally and describe its specific location.
- (3) An acceptable general description is "and all other property of (name of taxpayer) seized on the premises of (complete address) on (date and time). A supplemental Notice of Seizure providing a detailed itemization of this property will be provided as soon as a detailed inventory is completed."

- (4) The revenue officer should prepare the supplemental notice as soon as possible, identifying only the items of property not previously identified. This notice should be marked “supplemental” and should not be referred to as a “revised” or “amended” notice, since it might imply that the original notice was improper or legally inadequate.

Note: This complies with the requirement in Treas. Reg. 301.6335-1(a) that, after seizing personal property, the IRS provide a Notice of Seizure containing a “list sufficient to identify the property seized.”

Note: The supplemental Form 2433 (as well as the original) should be delivered as described in IRM 5.10.3.9, Notice of Seizure Form 2433 - Delivery.

5.10.3.14 (05-23-2016) Alcoholic Beverages

- (1) If personal property is being seized that includes an inventory of beer, wine or distilled spirits, exclude any opened bottle or containers from the seizure and advise the taxpayer that these items are left for his/her disposal. A bottle is considered opened if the seal has been broken.
- (2) If it is necessary to move the alcoholic beverages, the revenue officer or PALS will:
 - a. Arrange for transportation and storage.
 - b. Ensure that responsibility for theft and breakage is assumed by the carrier during transportation.
 - c. Secure a receipt and evidence of acceptance for responsibility from the transportation and/or storage vendor.
- (3) If the beverage was acquired by the taxpayer through a state, county or municipal store:
 - a. Contact the liquor control authorities and arrange for an inventory.
 - b. Furnish a copy of Form 668-B to the liquor control representative.
 - c. Jointly take an inventory on a form provided by the representative.
 - d. Retain a copy of the inventory in the case file.
- (4) In areas restricting the sale of liquor to a state, county, or municipal store system, contact area counsel for advice in conducting the sale. In some situations, state law restricts the sale of liquor to the public, but sale may be made to anyone holding a liquor license.
- (5) As soon as possible, determine the potential for redemption or release of any alcoholic beverages. The revenue officer should advise the taxpayer that the taxpayer may make preliminary arrangements for returning the inventory to the wholesalers for a payment in an amount equal to the wholesale value. The arrangement should provide that the proceeds will be paid directly to the revenue officer for credit to the tax liability. Ask the taxpayer to advise when arrangements are made.

Note: In some states the wholesaler may be the state, county or municipality.

- (6) If the alcoholic beverages are redeemed, prepare Form 668-E and ask the taxpayer to sign the release on the reverse. In jurisdictions with a state, county, or municipal store system, a copy of Form 668-E will also be supplied to the proper authorities with a memorandum explaining the action. Arrange-

ments for transportation of the inventory from the place of storage to the licensed premises should be left to the taxpayer.

- (7) If the seizure is not in an area that has a state, county, or municipal store system, or if the state or county stores are prohibited from accepting returned product, a public sale will be held under regular sale procedures. The PALS should check with local authorities regarding the method of sale to identify any special restrictions.

5.10.3.15
(05-23-2016)

Cash Register Contents

- (1) Seizures of cash registers or their contents require either the taxpayer's written consent or a Writ of Entry.
- (2) The term "cash register," includes cash register, safe, vault, cash box or any other type of cash receptacle. The contents of a cash register are subject to levy. Since levy action may result in the seizure of assets other than cash or in the seizure of the cash register itself, file an NFTL prior to seizure.
- (3) Prior to seizing a cash register consider notifying local law enforcement authorities.
- (4) After securing a signed consent or a writ and providing the taxpayer with the Form 668-B, the revenue officer will apply the appropriate warning notice to the cash register:
 - a. Form 12913 will be used when the contents are to be immediately removed.
 - b. Form 12912 will be used if removal of the contents is to be delayed — it should be affixed so that the cash register cannot be opened without removing, tearing or destroying the seal.
- (5) Ask the taxpayer or the person in possession of the property to open the cash register in the presence of the revenue officer and the assisting employee.
- (6) If the request is refused, open the cash register provided it can be opened without using force. In most instances this may be done by pressing the "No Sale" key. If it can be opened by the revenue officer without using force, the seal should not be removed, but should be loosened sufficiently to permit opening of the register and access to the contents.
- (7) Ask the taxpayer, or person in possession of the register to observe the counting of any money removed from the register.
- (8) Issue a Form 809 receipt for the amount of cash seized from the cash register, see IRM 5.1.2.7.2, Cash Payments. Write "Contents of cash register seized" across the top of Form 809.
- (9) Only sufficient cash should be removed from the register to satisfy the amount of the levy. The remaining contents of the cash register should not be disturbed, and items in the cash register other than cash should not be seized unless there is insufficient cash to satisfy the levy.
- (10) Dispose of any seized credit card drafts (e.g., Visa, MasterCard,) by presenting them for payment to the issuing financial institution with an attached Form 668-A, Notice of Levy. When the drafts have been itemized on Form 2433 and are later converted to cash through the use of Form 668-A, they must be accounted for by removing them from the seizure inventory through a release of levy (Form 668-E).

- (11) Cash should be inventoried by coin and bill denomination. Checks should be listed individually, specifying the check number, bank name, date of check, and the amount. See IRM 5.10.3.15.1, Cash, Checks, and Money Orders, for additional information regarding checks and money orders.
- (12) United States securities and any other assets removed from the cash register should be described in detail on the Form 2433, Notice of Seizure. See IRM 5.10.3.17.1, United States Savings Bonds, and IRM 5.10.3.18, United States Marketable Securities, for disposition of savings bonds and securities.
- (13) Before leaving the premises, the revenue officer will remove the warning notices and seizure tags and prepare the Form 2433.
- (14) If the cash register is not voluntarily opened or cannot be opened without using force:
 - a. Prepare a notice of seizure describing the property as “cash register (description by number and trade name) and contents thereof”.
 - b. If the cash register is movable, it should be removed from the premises, placed in storage, and arrangements made to have it opened.
 - c. If the cash register cannot be removed from the premises, advise the taxpayer of the penalties for forcible rescue, dispossession, or attempt to rescue or dispossess any property that has been seized. (U.S. Code, Title 18, Chapter 109, Section 2233 provides for a fine or imprisonment of not more than 5 years or both).
 - d. Obtain the services of a locksmith to open the cash register to avoid damage.
- (15) The cash register should be opened in the presence of two IRS employees. Notify the taxpayer in advance so that he/she may decide whether to be present. The contents of the cash register should be removed and the cash counted. If there is not sufficient cash in the register to liquidate the account, the cash register and any other assets seized that are of sufficient value to warrant sale may be advertised and sold. If any of the seized property is returned, issue a release of levy.

5.10.3.15.1
(05-23-2016)
**Cash, Checks, and
Money Orders**

- (1) If checks or money orders payable to the taxpayer are seized, use the following endorsement: “This check (money order) and the proceeds thereof have been seized under authority of Title 26, United States Code, Section 6331, for application on the unpaid tax liability of (name of the taxpayer), and is herewith deposited to the credit of the Treasurer of the United States, (name of the area director), Area Director of Internal Revenue Service (Area Number).”
- (2) This endorsement may be typed or rubber-stamped on the reverse of the check. If a seized check is returned because a personal endorsement is missing, even though the check is endorsed as above, telephone the bank, alert them to the IRS’s authority, and re-deposit the check.
- (3) These checks and money orders will be applied directly to the account. If the check fails to clear the depository, it will be returned with a debit advice to the Advisory Territory Manager for the area specified in the endorsement. Advisory will forward the returned check to the appropriate revenue officer for release (Form 668-E) back to the taxpayer. No returned check penalty will be asserted.

- (4) Issue a Form 809 receipt for the amount of cash seized that is **not** found in a **cash register**, (includes cash register, safe, vault, cash box or any other type of cash receptacle). Write **Seized Cash** across the top of Form 809. See IRM 5.1.2.7.2, Cash Payments.

5.10.3.16
(05-23-2016)
Safe Deposit Boxes

- (1) Serve a Form 668–A, Notice of Levy, with a copy of the NFTL attached on an officer of the bank or trust company and request surrender of the contents of the box. The revenue officer will also provide part 4 of Form 668-B to the official as authority to seize the taxpayer's assets. The bank or trust company should then be advised not to permit the box to be opened except in the presence of a revenue officer.
- (2) Ordinarily two keys are used to open a safe deposit box: a master key held by the company which owns the box and an individual key in the possession of the person who rents the box. A bank or trust company will not open a safe deposit box without the consent of the lessee of the box unless protected by a court order. Under these circumstances the government must prevent the taxpayer from having access to the box, or it must obtain a court order directing that the box be opened, usually by a locksmith.
- (3) At the time that a safe deposit box is secured, Form 12912, Seal for Securing Safe Deposit Boxes, will be signed by the revenue officer and affixed over the locks for security while the box remains under seizure.
- (4) Form 2433, Notice of Seizure, will be prepared while the revenue officer is still on the premises, or as soon as possible after leaving the premises. The notice, addressed to the bank or trust company, should specify the amount demanded and describe the property as "contents of safe deposit box." The box should be identified as accurately as possible (usually by box number and name of the institution).
- (5) Personally deliver Part 2 of Form 2433 to an official of the bank or trust company. Deliver Part 1 to the taxpayer according to the procedures in IRM 5.10.3.9, Notice of Seizure (Form 2433 - Delivery).
- (6) When the rental period of the safe deposit box expires and is not renewed, a bank or trust company usually has the right to open the box. The revenue officer should attempt to determine if this is the situation in any given case, and if the right exists, use this opportunity to seize the contents of the box.
- (7) If the revenue officer is unsuccessful in securing the taxpayer's consent or cooperation in opening the box, a Writ of Entry may then be sought or a suit requested to authorize entry into the safe deposit box (IRM 5.10.3.16.1, Court Order to Open a Safe Deposit Box). Securing the taxpayer's consent or cooperation is preferable as it gives the taxpayer every opportunity to comply before resorting to a court order.
- (8) When the deposit box is opened at a later date, either voluntarily or involuntarily, and the deposit box contains assets which are seized, a Supplemental Notice of Seizure (see IRM 5.10.3.13.2, Notice of Seizure Form 2433 - Supplemental) will be prepared describing the assets.
- (9) When the box is opened, all residue from the seal should be removed by the revenue officer, or the bank official in the revenue officer's presence.

5.10.3.16.1
(05-23-2016)
**Court Order to Open a
Safe Deposit Box**

- (1) Occasionally, the procedures outlined in IRM 5.10.3.16, Safe Deposit Boxes, will not be satisfactory and immediate action to open the safe deposit box may be necessary. For instance, the statute of limitations may be about to expire, the taxpayer may have disappeared or be in concealment, or the taxpayer or bank officials may refuse cooperation and deny access.
- (2) Under these circumstances Form 2039, Summons, should be prepared and served on the taxpayer/box-holder in an attempt to secure information as to the contents of the box. If this action does not accomplish the desired results, a Writ of Entry should be sought or a suit requested to open the safe deposit box (see IRM 5.17.4, Suits by the United States, and IRM 5.17.12, Investigations and Reports).
- (3) Writ of entry procedures may be used, in many situations, to obtain access to the contents of a safe deposit box. (See IRM 5.10.3.7, Writ Procedures). Contact area counsel through Advisory for advice on whether a writ or suit is appropriate.
- (4) When a writ is requested the revenue officer's declaration should state the need to enter the safe deposit box for the purpose of seizing the contents belonging to the taxpayer. After the writ is issued, a copy will be given to both the taxpayer and a representative of the financial institution where the safe deposit box is located.
- (5) The following information and documents should be provided in triplicate when a suit is requested:
 - Copies of each notice and demand issued to the taxpayer — if a copy of a notice and demand is unavailable, prepare a statement stating the evidence that exists to prove notice and demand was prepared and issued
 - Copies of all notices of tax lien filed, showing the date, time, and place of filing
 - Copies of Form 668–A, Notice of Levy; Form 668-B, Levy; and Form 2433, Notice of Seizure
 - Copies of the summons issued and a statement, if known, as to why the summons did not produce desired results
 - A statement as to what is believed will be accomplished by gaining access to the contents of the box.
- (6) Jurisdiction and authority of the district court to grant an order to open a safe deposit box is in IRC 7402(a). If a safe deposit box is opened as the result of a court order, the revenue officer will then follow the procedures in IRM 5.10.3.16, Safe Deposit Boxes.

5.10.3.17
(05-23-2016)
**United States Treasury
Securities**

- (1) The United States Department of the Treasury issues (i.e. creates) a variety of marketable and non-marketable securities, most of which are now issued (i.e. created) in uncertificated, electronic form. Many prior issuances remain outstanding in certificated (paper) form. The form in which the security was issued must be considered. See <https://www.treasurydirect.gov/instit/marketable/marketable.htm> for more additional details.

5.10.3.17.1
(05-23-2016)
**United States Savings
Bonds**

- (1) United States Savings Bonds are nonmarketable (nonnegotiable) securities which are nonnegotiable and are payable only to, and may not be transferred by, registered owners during their lifetimes. Savings bonds are generally redeemable at any time after being held for one year. As of January 1, 2012, Series EE and Series I bonds (except for Series I bonds purchased through the Tax Time Program) are no longer sold in certificated form. Series HH bonds (not issued after September 1, 2004) were issued in certificated form. The following instructions are applicable to certificated nonmarketable Treasury Securities.

Note: In addition to savings bonds, Treasury-issued certificates of indebtedness are also nonmarketable.

- (2) If certificated savings bonds are levied upon, they should be transmitted to the Advisory Territory Manager, together with a copy of the related levy or notice of levy for subsequent transmittal, over the signature of the territory manager or, at his/her option, the Advisory Territory Manager's signature, to the Bureau of the Public Debt as provided in Letter 5743, Redemption of Non-Marketable Securities.
- (3) The Bureau of the Public Debt will forward a check payable to the area director. Balance due accounts should not be credited until the check is received.
- (4) If a registered owner or a co-owner wishes to redeem savings bonds and turn over the proceeds to the area director, he/she should sign the request for payment in the presence of an authorized certifying officer and direct that the check be sent to the area director. The revenue officer should request the owner to sign an authorizing power of attorney to the area director in order that the redemption check may be deposited. Standard Form 231, Power of Attorney by Individual for the Collection of Checks Drawn on the Treasurer of the United States, should be used for this purpose. The bonds may be submitted to any Federal Reserve Bank or branch thereof or to the Bureau of the Public Debt in Parkersburg, West Virginia.
- (5) Savings bonds held electronically may be levied using Form 668-A.

5.10.3.18
(05-23-2016)
**United States Marketable
Securities**

- (1) Marketable United States securities are issued in the form of:
 - Treasury bonds
 - Treasury notes
 - Treasury certificates of indebtedness
 - Treasury bills
 - Treasury Inflation-Protected Securities (TIPS)

Note: U.S. marketable securities are now issued in electronic form. The following instructions apply to seizures of these securities that were issued in certificated form.

- (2) A key difference in the securities is the length of time before maturity. Bonds are long-term issues, notes are medium-term issues, TIPS are mid-long term issues, and certificates and bills are short-term issues.
- (3) Certificated Treasury bonds were issued in either coupon (bearer) or registered form. Coupon bonds are payable to bearer, and title passes by delivery,

without endorsement and without notice to the Department of the Treasury. Interest on this type of bond is payable semiannually upon presentation of the coupon, which is attached to the bond, to any recognized bank.

- (4) A registered bond is payable to the registered owner, whose name is inscribed on the bond, or to his/her registered assigns, and may be transferred only by an assignment executed by the registered owner or his/her authorized representative. Interest is paid semiannually by a check issued by the Treasury to the owner of record. Certificated notes and bills were issued in coupon (or bearer) form only. Since securities of the coupon (or bearer) form are freely transferable and may be disposed of by any person who comes into possession of the securities, appropriate safeguards are necessary.
- (5) The disposition of United States securities, either in coupon or registered form, will depend upon whether the securities are matured (or called) or unmatured. The maturity date is shown on the face of the security and, if callable before maturity, that date is also shown immediately before the maturity date.

5.10.3.18.1 (05-23-2016) **Unmatured Securities**

- (1) Unmatured coupon type securities will normally be offered for sale as soon as possible under the law, in the same manner as any other seized property. The minimum bid price will be established as prescribed in IRM 5.10.4.3, Establishment of the Minimum Bid. However, if the securities will mature within a relatively short period (e.g. 30 days), they may be held to maturity and disposed of as provided by IRM 5.10.3.18.2, Matured Securities. If securities are declared purchased for the United States as a result of the sale, the procedures in IRM 5.10.7.10, Disposition of Acquired Securities, will be followed. Unmatured registered securities will not be offered for sale but a request should be made to the Director, Collection Policy for advice as to the action that may be taken. The request should identify the security, including the maturity date.

5.10.3.18.2 (05-23-2016) **Matured Securities**

- (1) Matured (or called) securities, or those which will mature within a reasonably short period after seizure, may be reached by Form 668-A, Notice of Levy, and will not be offered for sale since they are or will shortly become the equivalent of cash redeemable at par value. Thus, if the securities were offered for sale, they could not be expected to sell for an amount in excess of the par value.
- (2) Unredeemed matured or called Treasury securities are subject to levy via Form 668-A.
- (3) Matured securities in coupon (or bearer) form should be personally delivered or transmitted by registered mail to the nearest Federal Reserve Bank for redemption. A letter (in duplicate) such as Letter 5744, Redemption of Marketable Securities, should be used to transmit these securities.
- (4) Matured or called Treasury bonds in registered form will be transmitted to the Advisory Territory Manager, together with a copy of the related levy and/or notice of levy for subsequent transmittal to the Bureau of the Public Debt. The letter of transmittal (in duplicate) to the Bureau of the Public Debt such as Letter 5743 should be prepared.

5.10.3.18.3
(08-29-2017)
**Stocks subject to
seizure and sale
procedures**

- (1) Taxpayers' **publicly-traded** securities, whether or not represented by certificates, may be levied using Form 668-A, Notice of Levy, and a request made that the brokerage or bank liquidate the securities and send a cash payment. The levy proceeds may be reduced by the broker commission or transaction fee the broker is entitled to under the agreement with the taxpayer. The brokerage or bank may ask that the request for liquidation be made in writing. Letter 5764, Request to Liquidate Levied Property, should be used for this purpose. Generally, the IRS will levy on these securities rather than seizing and selling them. For information on levying on securities, see IRM 5.11.6.9, Securities - Stocks, Bonds, Mutual Funds, etc. If the bank or brokerage refuses to liquidate the account, consideration should be given to whether the next step should be a request for production of certificates followed by an administrative sale (as described in paragraphs 2-5 below) or referring a suit for failure to honor a levy.
- (2) Taxpayers may also have accounts or own stock that is **not publicly-traded**. These non publicly-traded securities are subject to administrative seizure and sale procedures or a suit to foreclose on the Federal Tax Lien. Consult Local Area Counsel to determine the appropriate action to take.

Note: Personal service of required seizure forms may require a courtesy investigation. See IRM 5.10.3.9 for delivery requirements.

- (3) Campus Compliance Services sometimes receives stock certificates in response to levies. Since they are unable to properly dispose of these negotiable certificates, the negotiable certificates will be transmitted to the appropriate collection area for disposition.
- (4) Within thirty (30) days of notification of a hold placed on certificates or receipt of certificates from a third party or Campus Compliance Services, the revenue officer who receives the certificates must decide whether to release the levy and return the certificates, if applicable, or return the certificates for redemption or liquidation. See IRM 5.11.6.9, Securities - Stocks, Bonds, Mutual Funds, etc. The case file will be documented to reflect the background levy action. Exceptions to this 30 day time frame include situations when the current value of the stock cannot be ascertained and the time frame would then start once the value of the stock is known. The reason for any delay must be documented in the case history.

Note: The certificates should be secured with the same precautions as seized property (IRM 5.10.3.11.2, Controlling Seized Property Stored in IRS Offices).

- (5) If seizure is required, it will be treated as a third party in possession of the asset. The following table describes when Form 668-A, Notice of Levy, Form 668-B, Levy, and Form 2433 Notice of Seizure, should be prepared and issued for stock certificate seizures:

If	Then
The taxpayer owns non publicly-traded stock,	The Form 668-B, Levy, must be prepared and issued to both the taxpayer and the broker or other third-party agent. The Form 2433, Notice of Seizure, must be prepared and issued to both the taxpayer and the broker or other third-party agent.
The taxpayer owns publicly-traded stock,	The Form 668-A, Notice of Levy, should be prepared and issued to the broker or other third-party agent.

5.10.3.18.4
(10-01-2004)
**Securities and
Negotiable Instruments
Seized Directly From the
Taxpayer**

- (1) When certificated securities are received directly from the taxpayer, the issuing agent is not aware that the securities have been seized. In order to prevent the taxpayer from contacting the issuing agent to have the stocks re-issued so they can be sold by the taxpayer, send Part 2 of Form 2433 to the issuing agent.
- (2) A letter should accompany Form 2433 advising that the stocks have been seized and should not be re-issued until the seizure and sale is resolved.
- (3) A copy of the Notice of Sale may be sent to the issuing agent as well.

5.10.3.18.5
(11-22-2013)
**“Letter” Stock and
“Restricted” Securities**

- (1) Securities offered through the mail or through interstate commerce, according to the Securities Act of 1933, unless exempted by that Act, must be registered with the Securities Exchange Commission (SEC). A registration statement requires an issuer of securities to disclose certain information to protect the public.
- (2) Restricted stocks may or may not be identified by a statement stamped somewhere on the certificate to the effect that the stock has not been registered under the Securities Act.
- (3) On September 3, 1997 the SEC issued a No-Action Letter that allows the IRS to sell seized restricted securities at IRC 6335 sales. In the past the IRS was unable to sell seized restricted securities because of the constraints imposed on the resale of such securities by the Securities Act of 1933.
- (4) Prior to seizure of these securities, revenue officers should consult with the PALS and Advisory for further guidance on the appropriateness of the sale. If appropriate, counsel advice can be obtained for specific procedures. The IRS may sell restricted securities by public sale under the provisions of IRC 6335, subject to the restrictions outlined below.
- (5) The restricted securities of any one issuer may be sold to only one purchaser as a block.

- (6) All publicly available financial and other information concerning any issuer that the IRS may by law provide to the purchaser, other than returns or return information made confidential under IRC section 6103, will be made available to any prospective purchaser.
- (7) Sales will be made only to purchasers who are financially sophisticated and can afford the risk of investment.
- (8) Each purchaser of restricted securities will be required to represent that the restricted securities are being acquired for the purchaser's own account and not with a view to the sale or distribution thereof, and that the restricted securities will not be resold unless pursuant to an effective registration statement under the Act or under a valid exemption from such registration.
- (9) The purchaser of the restricted securities at the tax sale would be required to acknowledge and represent to the IRS (or the IRS shall certify it if it is the purchaser) in writing to the effect that:
 - a. The purchaser (either alone or with such purchaser's attorneys, accountants, or other advisors) possesses the requisite business and investment knowledge and experience to effectively evaluate the potential risks and merits of the investment.
 - b. The purchaser has sufficient financial ability and net worth to bear the economic risk of the investment.
 - c. The purchaser is aware of the fact that the restricted securities have not been registered under the Act or applicable state securities law.
 - d. The restricted securities are being acquired as an investment for the purchaser's own account and not with a view to the sale or distribution thereof.
 - e. The restricted securities will not be resold unless they are registered under the Act and applicable state securities laws or there exist valid exemptions from such registration requirements.
 - f. Certificates evidencing the restricted securities to be received by the purchaser will bear a legend to the effect that such securities represented thereby are not registered under the Act or under any state securities laws and may not be resold or transferred without registration under the Act and applicable state securities laws or the availability of valid exemptions from such registration requirements.

5.10.3.19
(05-23-2016)

**Patents and Pending
Applications for Patents**

- (1) A patent is a grant made by the government to an inventor, his or her assignee, or heirs, conveying and securing to the person the right to exclude others from making, using, or selling the invention for a term of, generally, 20 years. Because of the exclusive nature, the patent may have value.
- (2) The law provides for the recordation of applications and issued patents in the Patent Office. Certain non-tax liens against patents may be filed with that office. However, NFTLs cannot be filed for recordation with the Patent Office because they are ex parte legal documents. Part 2, Form 2433, Notice of Seizure, should be sent to the Patent Office to be placed in the taxpayer's file so that the IRS can be notified of any action to be taken on the patent.
- (3) A letter (in duplicate) similar to Letter 5745, United States Patent Office Form 2433 Recordation Request, should be used to transmit Part 2 of Form 2433 to the Patent Office. In addition, a recording fee should be enclosed in the transmittal letter. Since the recording fee is subject to change, contact the

Recording Officer at the Patent Office by phone for information regarding the appropriate recording amount, to whom the money order should be made payable, and to request any necessary documents, such as the Recordation Form Cover Sheet. Secure a money order for the appropriate recording amount, mail it with the transmittal letter and Part 2 of Form 2433, and debit the recording fee to the taxpayer's account through a TC 360.

- (4) Issued patents are subject to normal seizure and sale procedures, including delivery of Part 1 of Form 2433 and Part 3 of Form 668-B to the taxpayer, except as stated in this subsection. Since title to the patent can be passed without possession of such documents, actual physical seizure of the letters of patent is not essential if they are not readily available. However, the Notice of Seizure and the Notice of Sale should clearly identify the patent, including identifying the patent by number. The certificate may be presented by the purchaser to the Patent Office for recordation. Do not serve Form 668-A or Form 668-B on the Patent Office.

Note: If the taxpayer has conveyed his or her patent (to which a filed federal tax lien was attached) to a third party, and the IRS contacts that third party to serve a notice of levy, this contact is a third-party contact, which must be preceded by advance notice of potential third party contacts, consistent with IRC 7602(c).

- (5) A pending application for patent should not be seized because the application may be rejected by the Patent Office or may be abandoned by the applicant. However, suit may be recommended to institute a lien foreclosure and to request the appointment of a receiver. A court appointed receiver will be entitled to prosecute a pending application or seek to have an abandoned application reinstated.
- (6) Information concerning the ownership and identification of issued patents may be secured by writing to the Commissioner of Patents, Attention: Solicitor of Patents, Washington, D.C. 20231. Information on pending applications for patents may also be obtained from that office. However, since details of pending applications for patents are not of public record, the request, on official area director letterhead, must specify that information necessary to file a lien foreclosure is sought for official business purposes in connection with the collection of a named taxpayer's assessed tax liability. The Patent Office should be requested to furnish the following information with respect to a pending application:
 - The patent application number
 - Date of the application
 - Name and address of any party other than the taxpayer who has an interest in the application

5.10.3.20 (08-04-2014) Controlled Substances

- (1) As soon as possible after seizure and inventory, all controlled substances (i.e., narcotics, stimulants, depressants, tranquilizers, and hallucinogenic drugs) should be separated from the other assets and placed in a location to ensure proper safeguarding and reduce the possibility of theft or commingling the controlled substances with other drugs, or selling them to an unauthorized person. Most commercial containers of controlled substances can be identified by the letter "C" and a Roman numeral (I, II, III, IV, V) imprinted in the upper right corner of the label. Older commercial containers may have, in lieu of the "C"

and the Roman numeral, one of the following symbols printed on the label: "A", "B", "X", or "M" (all narcotics) or "CRx" (non-narcotics).

- (2) The taxpayer, the revenue officer making the seizure, or the PALS must also request the Regional Director of Drug Enforcement Administration (DEA) in the region in which the taxpayer is located for authority and instructions to dispose of such substance. The request should be made as follows:
 - a. If the taxpayer is a registrant required to make reports pursuant to 21 CFR Part 1304, he/she shall list the controlled substance or substances which he/she desires to dispose of on the "b" subpart of the report normally filed by him/her, and submit three copies of that subpart to the Regional Director of DEA in his/her region.
 - b. If the taxpayer is a registrant not required to make reports pursuant to 21 CFR Part 1304, he/she shall list the controlled substance or substances which he/she desires to dispose of on DEA Form 41, and submit three copies of that form to the appropriate Regional Director.
 - c. If the taxpayer is not a registrant, he/she shall submit to the Regional Director a letter stating: The name and address of the taxpayer; the name and quantity of each controlled substance to be disposed of; how the taxpayer obtained the substance, if known; and the name, address, and registration number, if known, of the person who possessed the controlled substances prior to the taxpayer, if known.
- (3) Once the request is received by DEA, the Regional Director shall authorize the disposition of the controlled substances in one of the following ways:
 - By transfer to person registered under the Federal Controlled Substances Act and authorized to possess such substance
 - By delivery to an agent of DEA or to the nearest office of DEA
 - By destruction in the presence of an agent of DEA or other authorized person
 - By such other means as the Regional Director may determine to assure that the substance does not become available to unauthorized persons
- (4) The controlled substances must be disposed of in accordance with the instruction of the Regional Director of the DEA. It is possible in certain cases that the regional director will not permit sale to another person.
- (5) Ask the taxpayer to notify the revenue officer or PALS if preliminary arrangements to sell the controlled substances are made. The arrangements should provide that the proceeds will be paid directly to the revenue officer or PALS for credit to the tax liability. If the revenue officer or PALS approves the arrangements, he or she will release the property involved and ask the taxpayer to sign a completed Form 668-E, Release of Levy, covering these items.

5.10.3.21
(05-23-2016)
Firearms

- (1) If firearms for personal use are unexpectedly encountered during a seizure, contact Criminal Investigation (CI) or TIGTA immediately so they can respond to the seizure location to advise the revenue officer of the appropriate action and provide protection for the revenue officer. Do not list these items on Form 2433 unless they are actually being seized.
- (2) If firearms are seized, contact CI for assistance in making a determination as to whether the arms are contraband or subject to forfeiture under the Gun Control Act of 1968 or by virtue of state or local law. This action should be taken prior to any disposition of the seized arms. See IRM 5.10.4.16, Actions

to Release and Return Property, for the procedures to release property when another government agency becomes involved. If the taxpayer is a convicted felon, do not release the firearms to the taxpayer. Contact area counsel, CI, and ATF for guidance on the appropriate disposition of the property.

- (3) After all the required actions pertaining to the seizure of firearms have been taken and the seizure is executed, transfer custody of the property to the PALS. The PALS may either conduct the sale or outsource the sale to an ATF-licensed auctioneer. If the PALS conducts the sale, he or she must use an authorized dealer to conduct any required background checks and prepare sale paperwork required by law. The PALS will issue a Form 2435, Certificate of Sale of Seized Property, once the authorized dealer has completed the required actions and verified the purchaser meets the legal requirements to purchase, own, or possess a firearm.

Exception: Firearms that are primarily collector's items, as described in IRC 5845, may be sold by the PALS at public auction or sealed bid sale. Consult ATF if there are any questions about whether a specific firearm meets this definition.

5.10.3.22
(05-23-2016)
**Seizing Property
Housing a United States
Postal Service Facility**

- (1) Before seizing property housing a United States Postal Service facility:
 - a. Advise the nearest postal inspector of the contemplated action.
 - b. Discuss the effect of the seizure with the postal inspector.
 - c. Make every effort to avoid interfering with continued postal service to the public during the seizure and sale of the property.

5.10.3.23
(09-28-2022)
Virtual Currency

- (1) The IRS must seize virtual currency when levies are unsuccessful.
- (2) Once the private key information is secured by the revenue officer and the revenue officer serves the taxpayer Form 668-B, the third-party vendor needs to complete the sweep as soon as possible so that the virtual currency is no longer accessible to the taxpayer. If the taxpayer refuses to provide the private key or it cannot be obtained, the RO cannot complete the seizure. Without the private key, the IRS cannot take possession of the virtual currency.
- (3) If the revenue officer comes across virtual currency while completing the seizure of another asset, the revenue officer should ask the taxpayer to provide the private key information. Once that information is received, the revenue officer should contact PALS immediately to let them know they found virtual currency while conducting another seizure. The revenue officer would then take the steps described in IRM 5.10.1.5.3.11, Equity Determination - Virtual Currency, and IRM 5.10.1.13.10, Virtual Currency, (i.e. contact third-party vendor, estimate expenses, etc.). If there are net proceeds, and seizure of the virtual currency wouldn't otherwise be prohibited, the revenue officer will add the virtual currency to Form 2433, Notice of Seizure, for the current seizure or provide a supplemental Form 2433, if applicable.

5.10.3.24
(05-23-2016)
**Contacting Advisory for
Seizure Numbers**

- (1) As soon as possible after seizure, the revenue officer should submit the seizure data to Advisory by fax or by telephone. Do not request a seizure number until after the seizure has been made. Advisory will then assign a seizure number(s) to be used on all documents related to the seizure. A suffix of "CS" will be used to identify courtesy seizures made for another territory or area. One Advisory office in each field collection area should be responsible for

assigning seizure serial numbers and should maintain a permanent Seizure Log for all seizures conducted within the area. The format for the seizure numbers will be as follows: 08–01–01–001A (two digit fiscal year — two digit Field Collection Area number — two digit Advisory group number — three digit sequential number with alpha sequence if needed). The Advisory group number should be the number for the Advisory group that is controlling the seizure file. See IRM 5.10.3.13.1, Notice of Seizure Form 2433 - Multiple Forms, for information on the use of multiple seizure numbers and/or alpha suffixes. After the seizure number has been secured, enter the appropriate seizure information into the ICS seizure and sale application.

Note: Enter the seizure number exactly as it was assigned by Advisory, including the hyphens, into the appropriate field in the ICS seizure and sale application. For cases with no alpha suffix or a single letter suffix, enter one or two hyphens to the right of the seizure number for any unused spaces to completely fill this field.

- (2) Upon request for a seizure serial number or upon receipt in the group of the opening seizure documents, Advisory will open an NFOI on ICS within seven calendar days. The opening date will be the date of the seizure. Form 13361 should be initiated when the opening documents are received.
- (3) Revenue officers must send all seizure and sale related documents to Advisory within 5 workdays after the related action. Because the PALS are usually conducting the sales outside of their local offices, their sale related documents should be sent to Advisory within 10 workdays of the related action. If there will be a delay, the revenue officer or PALS should submit a memorandum through their manager to the Advisory group manager explaining the delay and providing the anticipated date of submission. When a PALS/RO misses a specific deadline, follow-up action should be initiated no later than ten (10) calendar days after the missed deadline.
- (4) Advisory will review each document upon receipt. Form 13361, Post-Seizure Review Checksheet, must be used by Advisory when completing the post-seizure review. The checksheet contains a list of the necessary forms and actions when a seizure has been conducted. The completed review sheet must be included in the seizure case file maintained in Advisory.
- (5) Document 12474, Seizure File Folder Tabs, will be used by Advisory employees when assembling seizure file folders. The employee should assemble the case file in a neat fashion and it should contain all required documents.
- (6) In order to clarify and provide for consistency in the post-seizure review process, Advisory's review of post-seizure items will include the following:
 - Proper approval secured (per IRM 5.10.2-1, Asset Type and Approving Official)
 - IDRS research prior to seizure (per IRM 5.10.1.5.1, Verifying the Liability)
 - Consent/Writ secured when required (per IRM 5.10.1.14, Consent or Writ Determination)
 - Form 668-B delivery to taxpayer meets legal sufficiency (per IRM 5.10.3.8, Seizing the Property Form 668-B - Delivery)
 - Form 2433 delivery to taxpayer/owner meets legal sufficiency (per IRM 5.10.3.9, Notice of Seizure Form 2433 - Delivery)

- Pub 1660 provided with Form 2433
- Not a prohibited seizure (per IRM 5.10.1.3, List of Prohibited Seizures)
- NFTL filed on all modules
- Letter 1058 sent for all modules on Form 668-B
- Form 13360, Seizure and Sale Checklist, per IRM 5.10.1.2(3), Overview

In addition to the above, Advisory will also ensure that all statutory requirements related to the action have been satisfied.

- (7) Upon request for a seizure serial number or upon receipt of the opening seizure documents, Advisory will establish an "Open Seizure" file. The opening date will be the date of the seizure. Form 13361 should be initiated when the opening documents are received.
- (8) For courtesy seizures, the initiating revenue officer will inform the initiating office's Advisory, by memorandum, that the seizure was conducted. This is for information purposes only.

5.10.3.25 (09-28-2022) **Seizure Log**

- (1) The Seizure Log is to provide consistency in the seizure control information.
- (2) Only one "official" Seizure Log will be maintained for each Field Collection Area by the corresponding Advisory Territory.
- (3) A separate Seizure Log will be maintained for each fiscal year.
- (4) Seizure Logs should be accurate and updated timely as actions occur on a seizure.
- (5) Seizure Logs will be maintained in accordance with the instructions listed in the table below.

Header	Content
Seizure Number xx-xx-xx-xxx	Digits 1&2- Last two digits of fiscal year, Digits 3&4- The two digit Field Collection Area 01- North Atlantic 02- Central 03- South Atlantic 05- Gulf States 06- Northwest 07- Southwest , Digits 5&6- Group number of Advisory Group controlling the seizure, Digits 7,8,& 9- Sequential seizure number.
Alpha Suffix (if applicable)	A, B, C,.... Suffix for multiple Forms 2433, Notice of Seizure of a single (IRM 5.10.3.13.1), and/or CS, for courtesy seizure (IRM 5.10.3.23(1))
Taxpayer Name	Taxpayer name on Form 668-B
Taxpayer TIN	Taxpayer Identification Number on Form 668-B
Grade of Bal Due Case	Grade of underlying Bal Due assignment
RO Name	Name of RO conducting the seizure
RO ICS Number	RO ICS (TSIGN) Number
Date of Seizure	Date RO conducts the seizure
Date Seizure Number Issued	Date Advisory issues seizure number and opens the ICS 162 module
Property Type	PRI- Principal Residence, PER- Personal Residence, OR- Other Real Property, VE- Vehicle, LI- Licenses CR- Cash Register Contents, OE- Office Equipment and Furniture, ME- Machinery and Equipment, IN- Inventory, SD- Safe Deposit Box Contents, OB- Other Business Property, OP- Other Personal Property
Perishable Goods	Document if perishable goods sale- Y for Yes and N for No
How Asset Disposed	Document how the asset was disposed- Redeemed prior to sale, Released, Bid-in by the Government, or Sold
Date of Sale (Sealed Bid or Auction)	Record the date the RO/PALS conducted the sale (sealed bid or auction). If there is no sale, then record n/a
Date of Asset Disposition	This date directly coincides with the disposition of the asset. Where there are multiple asset dispositions, use the date of the latest one. The proper date to use should be as follows: <ul style="list-style-type: none"> • Redemption of Property Prior to Sale- Document the date the Form 668-E, Release of Levy, or Form 2433, Notice of Seizure Parts 3&4, Release of Seizure is signed by either the RO or the PALS • Release of Seizure- Document the date the Form 668-E, Release of Levy, or Form 2433, Notice of Seizure, Parts 3&4, Release of Seizure is signed by either the RO or the PALS • Bid-in by the Government- Document the date Form 2435, Certificate of Sale of Seized Property, is signed by the PALS declaring the asset purchased by the United States • Sold- Document the date the Form 2435, Certificate of Sale, is signed by the RO (Perishable Goods Sale only) or the PALS declaring the asset sold and the full purchase price has been received
Date Final Paperwork Received from RO or PALS	Date on which all required closing documents are received from the RO and/or PALS

Header	Content
Date ICS 162 Module Closed	Date the ICS 162 Module used by Advisory is closed

5.10.3.26
(04-03-2013)
**Property that is
Tampered With,
Rescued, or Stolen**

- (1) If seized property is tampered with, rescued, or stolen:
 - Discuss the facts with the territory manager and document the case history
 - Notify Criminal Investigation as soon as possible
 - Prepare a detailed written report of the incident and include a copy in the case file
 - Submit the report through the group manager to the territory manager for transmittal to the Special Agent in Charge
 - Report losses of property under seizure to the director of the compliance center where the accounting control is maintained
- (2) As a general rule, taxpayers are not entitled to receive any credit for the value of their property which has been stolen after the property was seized and prior to its sale by IRS.

5.10.3.27
(09-28-2022)
**Transfer of Custody to
PALS**

- (1) The revenue officer will transfer custody of the property to the PALS group manager via eApproval once the following actions are completed:
 - The seizure is made
 - The assets are secured
 - A detailed inventory is completed
 - Form 2433 is delivered with Pub 1660
- (2) Prior to conducting the seizure, the revenue officer will coordinate the timing of the seizure with the PALS, so that transfer of custody of the seized assets can be made in a timely manner (see IRM 5.10.3.3, General). Transfer custody of seized property as quickly and efficiently as possible to minimize expenses. Upon receipt of the revenue officer's documents listed in IRM 5.10.3.9.2(4), the PALS group manager will create an OI and assign the case to a PALS to complete and/or coordinate all actions pertaining to the sale of seized property. The revenue officer will document the case history with any reasons for delay in transferring custody of seized assets to the PALS per IRM 5.10.3.26(7) & (8).
- (3) The PALS Group Manager (GM) will review the documents listed in IRM 5.10.3.9.2 for completeness and assign the sale to a PALS on ICS. The PALS Group Manager will forward the file to the PALS to sign for transfer of custody on parts 5 and 6 of Form 2433. The following table indicates when the PALS will sign parts 5 and 6 of Form 2433 to acknowledge transfer of custody:

If the seized property is:	Then:
Real Estate	immediately sign for transfer of custody.

If the seized property is:	Then:
Personal property	as soon as possible, but no more than 30 days, for transfer of custody upon verification of the inventory.
Intangible property	verify required actions to notice third parties were completed and as soon as possible, but no more than 30 days, sign for transfer of custody.

Note: To facilitate and expedite the transfer of custody for large lot or business inventory seizures, the revenue officer should coordinate with the PALS for a completion of a thorough inventory. If the PALS is unable to assist with the inventory on the day of seizure, the revenue officer should prepare a short Form 2433 and arrange for the PALS to assist with the completion of a thorough inventory on a Supplemental Form 2433. See IRM 5.10.3.13.2, Notice of Seizure Form 2433-Supplemental.

Exception: Because of the nature and amount of property involved, it may be necessary for both employees to meet at the site where the seized property is located and transfer of property may occur before the PALS group manager creates and assigns an ICS OI to a PALS.

(4) The PALS should sign and date parts 5 and 6 of Form 2433 under the property location block when custody is transferred and send a copy of part 5 of Form 2433 to the revenue officer and seizure advisor. The revenue officer should also retain copies of all documents for the balance due case file. These documents include:

- Form 2433, Part 7B
- Form 668-B
- Form 2434-B
- Writ of Entry or Consent (if applicable)
- Copy of Deed to Real Property
- Any other relevant information, such as title searches, verification of encumbrances, and copies of expense documents

Note: If the RO has secured any documents that would inform the PALS' valuation of the property, these should be sent to the PALS group manager as well. These documents include the following in either electronic or paper format:

- Photos of the property
- Contact information for lienholders
- Any documents obtained that may describe the value of the property (private appraisals, prints of internet information, loan applications, etc.)

(5) Any revenue officer who has taken any collection actions **at any time** against the taxpayer whose assets have been seized may not be involved in any of the aspects of a sale under IRC 6335 including:

- Preparation and delivery of the minimum bid

- Preparation of the notice of sale
- Advertising
- Conducting the sale (IRM 5.10.5.2(3), General)

Note: In some cases the revenue officer may deliver the Notice of Sale to the taxpayer (IRM 5.10.4.9, Delivery of Notice of Sale).

- (6) The PALS Group Manager (GM) will review the file upon receipt for completeness and assign the sale to a PALS on ICS. The PALS Group Manager will forward the file to the PALS to sign for transfer of custody on parts 5 and 6 of Form 2433. The following table indicates when the PALS will sign parts 5 and 6 of Form 2433 to acknowledge transfer of custody:

If the seized property is:	Then:
Real Estate	immediately sign for transfer of custody.
Personal property	as soon as possible, but no more than 30 days, for transfer of custody upon verification of the inventory.
Intangible property	verify required actions to notice third parties were completed and as soon as possible, but no more than 30 days, sign for transfer of custody.

Note: To facilitate and expedite the transfer of custody for large lot or business inventory seizures, the revenue officer should coordinate with the PALS for a completion of a thorough inventory. If the PALS is unable to assist with the inventory on the day of seizure, the revenue officer should prepare a short Form 2433 and arrange for the PALS to assist with the completion of a thorough inventory on a Supplemental Form 2433. See IRM 5.10.3.13.2, Notice of Seizure Form 2433-Supplemental.

- (7) There will be situations when the transfer of custody should be delayed. Delays of transfer may take place if there are challenges to the seizure, such as:
- A request for release and return of seized property
 - A wrongful levy claim
 - Litigation
 - Bankruptcy
- (8) A delay in transfer of custody may also be appropriate if the property consists of evidence held pending a criminal trial.
- (9) If the taxpayer indicates that the property will be redeemed (IRM 5.10.4.13, Redemption of Property Prior to Sale) within a short time period and the revenue officer reasonably believes that the taxpayer will take the action, or if one of the conditions for release is present (IRM 5.10.4.14, Conditions for Release of Seized Property) then custody of the property should not be transferred.

- (10) If the PALS is not located close to the storage site, the revenue officer should also maintain a key to the locked property. If the property is not stored with a commercial vendor, the revenue officer should conduct periodic inspections. Do not enter the property unless there is an emergency or the property is released or redeemed. If the PALS has already taken custody of the assets and the revenue officer will be releasing the property, the revenue officer will initial and date the storage block on part 5 of Form 2433 indicating they are taking custody of the assets. This part should then be sent to the PALS for inclusion in the file. Any entries made into the storage site by either the PALS or the revenue officer should be documented in the case history

Note: Employees should **not** accept keys to the property from the taxpayer or other party at any time **prior** to the seizure. If keys are received **after** the seizure, they should be protected in accordance with the guidance outlined in IRM 10.2.15, Minimum Protection Standards (MPS). Storing keys received **after** the seizure in a safe or locked filing cabinet in a local office will generally provide sufficient protection..

- (11) The revenue officer should remain in contact with the taxpayer in order to resolve the case and determine whether the property should be released. If there are no further anticipated collection actions, consult with the group manager to decide whether to close the bal due case. Consider potential pre-sale activity (e.g., NFTL re-filing, delivery of the Notice of Sale, etc.) that may become necessary prior to disposition of the bal due. In some instances, creation of an OI may become necessary if the bal due case is closed prior to sale. If the RO has closed the balance due case and release of the seizure becomes necessary, the PALS may release the seizure. When the balance due file is closed, the case file must be transmitted to Advisory for association with the seizure file (IRM 5.10.6.13, Revenue Officer Transfer of Closed Case Files to Advisory and Advisory Record Retention). If the case is reported as CNC prior to sale, the RO must ensure that the case closing letter is not sent pending sale.

5.10.3.28
(08-29-2017)

**Transfer of Custody of
Assets Back to the Field**

- (1) After the transfer of custody of assets to the PALS, circumstances may change requiring additional case development before the PALS can bring assets to sale. In these situations, transfer of custody of assets back to the revenue officer may be appropriate.
- (2) When a PALS determines the need to transfer custody of assets back to a revenue officer, discuss the case with and secure concurrence from the PALS GM. Document the total expenses to date in the case history. If the PALS has already paid for seizure expenses, they should prepare the Form 4844, Request for Terminal Action, requesting input of TC 360 to debit the expenses to the taxpayer's account. Forward copies of Form 4844 and invoices to Advisory to associate with the seizure file. The PALS GM should prepare an informational Form 5942, Reviewer's Report - Technical Services Advisory, to describe the necessary actions required before the case can move toward sale and close the PALS OI. The PALS GM should send the Form 5942 and the case file to the Collection group manager (GM) for routing back to the RO. The PALS GM will send a copy of the returned receipt Form 3210, Document Transmittal, and informational Form 5942 to Advisory for association with the seizure and sale file.

- (3) The GM's signature on the Form 3210 acknowledges transfer of custody of the case and assets back to the field. If the field no longer has an open ICS case on the taxpayer, the revenue officer GM will open an OI on ICS for control purposes.

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Exhibit 5.10.3-1 (05-23-2016)

Form 2433, Notice of Seizure Reference: IRM 5.10.3.9

Department of the Treasury
Internal Revenue Service
Form 2433 (Rev. Nov. 2014)



Notice of Seizure

Name and address of owner (real estate) or party in possession (personal property)

(1)

(1) If seizure of: Address to:

Safe Deposit Box - Bank/Trust Company

Personal Property - Taxpayer
From Taxpayer

Personal Property - Possessor
From Possessor

Real Property, T/P - Taxpayer
owner of record

Real Property, T/P - Owner of record
Not owner of record

(2) Taxpayer's Name and address

(3) Total Amount Due from Form 668-B. A difference between the total amount due on Form 2433 and Form 668-B should be documented.

(4) For real property, full legal description is optional, refer to IRM 5.10.3.13(4) for guidance on sufficient description.

(5) For personal Property refer to IRM 5.10.3.13(5)&(6) for guidance on sufficient description.

(6) After completing (4) or (5), rule out unused shown.

(7) If necessary, continue description on additional sheets identified by seizure number and signed by revenue officer.

(8) Indicate whether the taxpayer or representative was present at inventory and, if not, the reason why.

(9) Signature and address of revenue officer and assisting employee; date.

Under the authority in section 6331 of the Internal Revenue Code, and by virtue of a levy from the Area Director of Internal Revenue of the area shown below, I have seized the property below for nonpayment of past due internal revenue taxes.

Due from	Name Address	Amount Due from Form 668B \$	Internal Revenue Area and Territory
	(2)	(3)	

Description of property

(4)

(5)

(6)

(7)

Was the taxpayer or representative present during the seizure of the property? ☐ Yes ☐ No

If no, the reason the taxpayer was not present:

☐ Unavailable ☐ Declined ☐ Other (explain)

(8)

Signature of Revenue Officer making seizure

Address

Date

Signature of accompanying employee

Address

Date

(9)

Part 1—Taxpayer Copy

Cat. No. 21680C www.irs.gov

Form 2433 (Rev. 11-2014)

Exhibit 5.10.3-1 (Cont. 1) (05-23-2016)

Form 2433, Notice of Seizure Reference: IRM 5.10.3.9

Department of the Treasury
Internal Revenue Service
Form 2433 (Rev. Nov. 2014)

Notice of Seizure

Seizure number (10)

Form 2433 (Parts 5 through 7)

Name and address of owner (real estate) or party in possession (personal property)

Estimated expenses of seizure and sale

(11)

(10) Seizure number, see IRM 5.10.3.24

Under the authority in section 6331 of the Internal Revenue Code, and by virtue of a levy from the Area Director of Internal Revenue of the area shown below, I have seized the property below for nonpayment of past due internal revenue taxes.

(11) Estimated expenses of seizure and sale.

Due from	Name Address	Amount Due from Form 668B \$	Internal Revenue Area and Territory
----------	-----------------	------------------------------------	--

(12) Enter the estimated value opposite each item: enter the total in the "Total" block; see IRM 5.10.3.8.1

Description of property

\$

(13) Taxpayer's estimated equity (FMV less senior encumbrances - if the estimated equity exceeds the taxpayer's liability, the liability should be shown as the estimated equity)

(14) Personal Property – enter address at which property is stored including contact name and phone number.

Real Property – show address of the real property.

The PALS will sign and date Part 5 when custody of the asset(s) is transferred. If the asset is stored in an IRS office, select the box designated "yes."

(15) Enter manner of disposition of property, and amount, property is redeemed when full amount of levy (including expenses) is satisfied; property is release if partial payment is received.

Note: Parts 3 and 4, releases of levy, may be addressed to the party from whom the assets were seized, the taxpayer, or the owner, as appropriate.

Property located or stored at (Show name, address and phone number)		Disposition of Property & Date	Amt. Rec'd.	
(14)		Taxpayer's estimated equity	\$	
		Total inventory value	\$	
Is the asset stored in an IRS office? <input type="checkbox"/> Yes <input type="checkbox"/> No Custody transferred to PALS on (date) _____ Signature of PALS _____ Signature of Revenue Officer making seizure _____ Signature of accompanying employee _____		<input type="checkbox"/> Redeemed prior to sale	\$	
		Released prior to sale		
		<input type="checkbox"/> Payment agreement (amount received at time of release)		\$
		<input type="checkbox"/> U.S. received its interest		\$
		<input type="checkbox"/> No interest (no equity in property)		\$
		<input type="checkbox"/> Future collection potential		\$
		<input type="checkbox"/> Bankruptcy		\$
		<input type="checkbox"/> Minimum bid not reached		\$
		<input type="checkbox"/> Other		\$
		Sale		
<input type="checkbox"/> Public auction		\$		
<input type="checkbox"/> Sealed bid		\$		
<input type="checkbox"/> Declared purchased for U.S.		\$		
<input type="checkbox"/> Disposition unnecessary (cash applied directly to account)		\$		

Part 5—Case File

Cat. No. 21680C www.irs.gov

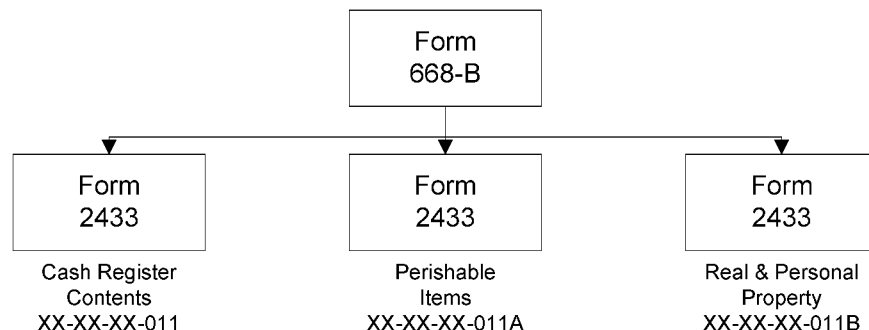
Form 2433 (Rev. 11-2014)

Exhibit 5.10.3-1 (Cont. 2) (05-23-2016)

Form 2433, Notice of Seizure Reference: IRM 5.10.3.9

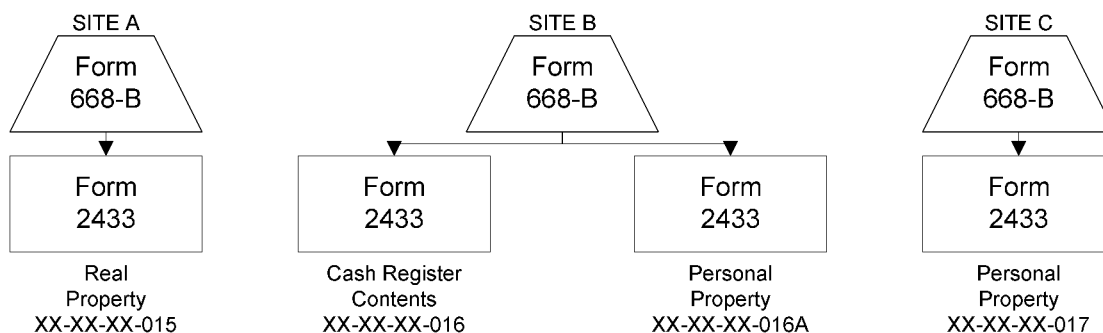
Form 2433

Situation 1 -- Assets seized from taxpayer at one location on the same date



Note: Real and personal property may be seized and sold separately, in which case another Form 2433 would be prepared and numbered XX-XX-XX-011C

Situation 2 -- Taxpayer has assets located at 3 different sites with different parties in custody of the property . Seizure occur simultaneously.



Situation 3 -- Initial seizure of assets on 10/2/YYYY. Additional assets and located and seizure on 10/6/YYYY

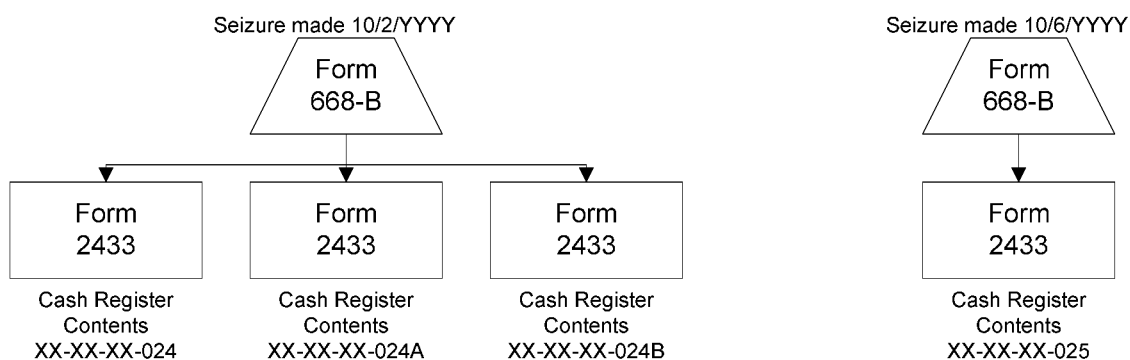


Exhibit 5.10.3-1 (Cont. 3) (05-23-2016)**Form 2433, Notice of Seizure Reference: IRM 5.10.3.9**

Form 2433	Distribution of Form 2433
Part Number	Distribution
1	For taxpayer
2	Personal property — for person in possession of property if property is seized from someone other than the taxpayer
2	Real property — for owner of record (if not the taxpayer)
3	To Advisory for inclusion in seizure file after seizure is closed
4	For person to whom property is released
5	Balance Due file
6	Original to Advisory for control and filing with seizure and sales records unless property is stored in an IRS office. If stored in an IRS office, a copy is sent to Advisory and the original is retained by the employee with custody of the asset until disposition of the asset.
7A	To Advisory for processing to Accounting Control/Services to establish accounting control for inventory value of seized property. Part 7A should be forwarded in every case for control purposes and audit trail. If redemption or release is anticipated within 5 working days, part 7A need not be completed at time of seizure. If <i>not</i> redeemed or released within 5 days, complete and process part 7A.
7B	To Advisory for forwarding to Accounting Control/Services after property disposition.

Special Situations	Form Part
Cash Register Contents	<i>Parts 6 and 7</i> —Annotate with legend “cash register contents” and forward to Advisory.
Safe Deposit Boxes	<i>Part 1</i> —To taxpayer
Safe Deposit Boxes	<i>Part 2</i> —To official of bank or trust company
Safe Deposit Boxes	<i>Parts 6 and 7</i> —Annotate original notice of seizure with the following: “contents of safe deposit box.”
Note:	All other parts should be processed as shown in the beginning of this exhibit.

Exhibit 5.10.3-2 (05-23-2016)

Form 2433 - Estimated Equity Reference IRM 5.10.3.9.1

Description of property			\$
VE 1 -- 1992 Ford Taurus (full description, mileage, condition, etc.)	Estimated Equity $\$3,500 - 720 = \$2,800$		3,500.00
OE 2 -- 4 Drawer Locking Metal File Cabinets			100.00
OE 1 -- Wooden Desk (5 ft)			200.00
OE 3 -- Office Chairs w/rollers	$\$1,950 - 528 = \$1,422$		150.00
OE 1 -- Personal Computer (make, model, serial#)			1,200.00
OE 1 -- Laser Jet Printer (make, model, serial#)			300.00
IN 500 lbs -- Packaged Candy (description)	$\$1,000 - 272 = \$ 728$		1,000.00
Taxpayer's estimated equity			\$ 4,950.00
Total inventory value			\$ 5,450.00

In this example, there is a balance of \$720 remaining on the loan recorded on the vehicle and a balance of \$800 remaining on the financing statement recorded on the inventory and equipment.

The first step is to determine the percentage of the encumbrance that is applicable to each property type. Since the vehicle is encumbered separately, the total encumbrance of \$720 is deducted from the FMV for an estimated equity amount of \$2,800.

Since the other assets are covered by the same encumbrance, you must first determine what percentage each of the two property types contributes toward the combined fair market value of \$2,950 for the two property types:

Office Equipment	$1950/2950$	$= .66$ (66%)
Inventory	$1000/2950$	$= .34$ (34%)

The next step is to multiply these percentages by the total encumbrance to determine the amount of the encumbrance applicable to each property type:

Office Equipment	$800 \times .66$	$= \$528$
Inventory	$800 \times .34$	$= \$272$

The final step is to deduct the encumbrance from the fair market value in order to determine the estimated equity for each property type:

Office Equipment	$1950 - 528$	$= \$1,422$
Inventory	$1000 - 272$	$= \$728$

The estimated equity of all three property types would then be added together for a total taxpayer's estimated equity of \$4,950 (\$2,800 + \$1,422 + \$728).

