



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.10.6

MAY 18, 2021

EFFECTIVE DATE

(05-18-2021)

PURPOSE

- (1) This transmits revised IRM 5.10.6, Seizure and Sale, Post Sale Actions and Responsibilities of Advisory.

MATERIAL CHANGES

- (1) IRM 5.10.6.9(2), editorial update to fix broken link to Delegation Order 1-23-2.
- (2) IRM 5.10.6.10(4), editorial update to fix broken link to Delegation Order 1-23-2.
- (3) Editorial updates were made throughout to correct citations, broken links, etc.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 5.10.6 dated September 16, 2020.

AUDIENCE

Small Business/Self-Employed Compliance Employees

Kareem Williams
Acting Director, Collection Policy

5.10.6

Post Sale Actions and Responsibilities of Advisory

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5.10.6.1
(09-16-2020)
Program Scope and Objectives

- (1) **Purpose:** This section provides procedural guidance for Collection staff in completing post sale actions for seized property.
- (2) **Audience:** This section is for Collection employees completing post sale actions for seized property.
- (3) **Policy Owner:** Director, Collection Policy, SBSE.
- (4) **Program Owner:** Collection Policy, SBSE, Enforcement.
- (5) **Primary Stakeholders:** Advisors, Revenue Officers and Property Appraisal and Liquidation Specialists (PALS).
- (6) **Program Goals:** At the conclusion of a sale of property seized by the IRS, certain actions are required in order to complete the sale process. By following the procedures in this IRM, employees will be able to appropriately process sale proceeds, create the official record of the sale, address the taxpayer's right of redemption (when applicable), and take other necessary actions to complete the post sale process.

5.10.6.1.1
(04-27-2018)
Background

- (1) Internal Revenue Manual 5.10.6, Post Sale Actions and Responsibilities of Advisory, contains procedural guidance for completing post sale actions for seized property. The procedures contained in this section relate to application of monies realized from the sale, the Advisory post sale review, and the permanent record of sale creation, disposition, and retention.

5.10.6.1.2
(04-27-2018)
Authority

- (1) IRC 6335, Sale of Seized Property
- (2) IRC 6337, Redemption of Property
- (3) IRC 6338, Certificate of Sale; Deed of Real Property
- (4) IRC 6339, Legal Effect of Certificate of Sale of Personal Property and Deed of Real Property
- (5) IRC 6340, Records of Sale
- (6) IRC 6341, Expenses of Levy and Sale
- (7) IRC 6342, Application of Proceeds of Levy
- (8) IRC 6343, Authority to Release Levy and Return Property

5.10.6.1.3
(04-27-2018)
Responsibilities

- (1) The Director, Collection Policy is the executive responsible for the policies and procedures in this IRM.
- (2) The advisors are responsible for completing the post sale or post disposition actions of seized property.
- (3) The revenue officers and PALS are responsible for coordinating any post sale or post disposition actions with the advisors.

5.10.6.1.4
(04-27-2018)
Program Management and Review

- (1) **Program Reports:** Per IRM 1.4.53, Advisory and Property Appraisal and Liquidation Specialist Group Manager Operational Aid, the Advisory Group Managers are required to review Seizure Controls, RACS 135 Reports, and ICS to ensure advisor cases are being effectively worked.

- (2) **Program Effectiveness:** Collection Policy completes an annual Advisory Post Seizure and Sale review to identify trends and opportunities for improvement. Civil Enforcement Advice and Support Operations (CEASO) will conduct operational and performance reviews.

5.10.6.1.5
(04-27-2018)

Program Controls

- (1) CEASO Advisory Group Managers will consistently review:
- Seizure Controls
 - RACS 135 Reports
 - ICS Current Inventory Report
- (2) Certain processes in this IRM require managerial approval.
- (3) Advisors must complete the following, as applicable:
- Form 13464, 90-Day Open Seizure and Semi-Annual Verification Report
 - Form 6670, Seizure Disposition Report
- (4) Advisors must also maintain a permanent record file of all seizures.

5.10.6.1.6
(04-27-2018)

Acronyms and Definitions

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

Acronym	Definition
IRC	Internal Revenue Code
TC	Transaction Code
OTCnet	Over the Counter Network
PALS	Property Appraisal and Liquidation Specialist
NFTL	Notice of Federal Tax Lien
ICS	Integrated Collection System

5.10.6.2
(11-15-2019)

Application of Proceeds of Levy

- (1) IRC 6342 provides instructions for the application of any money realized:
- Under levy and sale proceedings, whether by seizure (including release or redemption), by surrender of property under IRC 6332, or by sale of seized property
 - By the sale of property redeemed by the United States, if the interest of the United States in such property was a lien arising under the provisions of this title
- (2) Any proceeds realized under these circumstances will be applied in the following order:
1. Expenses of the seizure and sale
 2. Unpaid federal taxes due on the specific property sold (i.e., excise taxes); take the appropriate action to assess the tax if it was not previously assessed
 3. The liability shown on Form 668-B, Levy

4. Intervening liens in the order of their priority when there are several outstanding liens
5. To the taxpayer, unless another person establishes a superior claim to any surplus proceeds

Date	Encumbrance	Amount of Encumbrance
10/10/2018	Proceeds of Sale	\$60,000
3/2/2005	First Mortgage	\$100,000
5/3/2017	Federal Tax Lien	\$50,000 (includes accrued interest)
8/10/2017	Second Mortgage	\$30,000
9/7/2017	Federal Tax Lien	\$20,000
10/10/2017	Expenses of Sale	\$1,500

Note: Based on the facts shown in this example, the proceeds of the sale should be applied first to the cost of sale and then to the 5/3/2017 tax lien (total \$51,500). The balance of \$8,500 should be applied to the 8/10/2017 encumbrance. There would be no funds remaining for application to the 9/7/2017 tax lien. No proceeds are allocated to the 3/2/2005 first mortgage since the sale would have been made subject to the primary encumbrance.

5.10.6.2.1
(02-27-2017)
Payment of Expenses

- (1) It is essential that all expenses of sale be debited against the account so that these expenses are satisfied from the proceeds of the seizure or the sale. See IRM 5.10.6.2.1(2) through (4) , Payment of Expenses, for the procedures to follow for input of the TC 694 to credit the proceeds against the expenses. Expenses from the seizure can be accounted for in several ways, using the Form 2436, Seized Property Sale Report, or Form 2436-R, Seized Property Release/Redemption Report:
 - a. If there were expenses and the taxpayer paid the cost(s) directly to the vendor(s), no input of TC 360 is required for those expenses. A copy of the receipt should be secured to confirm that the expense was paid.
 - b. If there was no sale and no proceeds are received for the release of the seizure but there were expenses where the taxpayer did not pay the cost(s) directly to the vendor(s), request input of the TC 360 on Form 2436-R, Seized Property Release/Redemption Report. See IRM 5.10.4.17, Form 2436-R, Seized Property Release/Redemption Report, for instructions on preparing Form 2436-R. Retain a copy of Form 2436-R in the case file and submit to the Ogden Submission Processing Center via secure email (preferred method) or fax. Electronic versions of Forms 2436 and 2436-R will be transmitted via secure email to: *W&I Seizures. The form number and originating area number should be included in the subject line to ensure proper routing. This is a dedicated email address to be used only for this purpose. In the event it is not possible to transmit the aforementioned by email, transmit the Forms 2436 and 2436-R to Submission Processing via the following fax numbers: (801) 620-6856 or (801) 620-6866.

- c. If there was no sale but proceeds for release or redemption were received and there were expenses where the taxpayer did not pay the cost(s) directly to the vendor(s), input the TC 360 and the TC 694 to offset the proceeds against the expenses on the same Form 2436-R used to transmit the proceeds to the Ogden Submission Processing Center at the following address:
 IRS - Ogden Submission Processing Center
 Attn: Payment Perfection
 Mail Stop 2003 (for remittances over \$100,000)
 Mail Stop 1999 (for remittances \$100,000 or less)
 1973 N. Rulon White Blvd.
 Ogden, UT 84404
- d. If there was a sale and there were expenses in which the taxpayer did not pay the cost(s) directly to the vendor(s), input the TC 360 and related TC 694 on Form 2436.

Note: The employee who incurred the expense should take the appropriate action to ensure that the expenses are debited to the account, including re-submitting any applicable documents if the expense has not been debited within a reasonable time period. The revenue officer and PALS should coordinate with each other to ensure all expenses have been debited to the account.

- (2) IRC 6342 requires that funds realized under levy and sale proceedings be applied first to the expenses of levy and sale. Transaction Code 694, Designated Payment of Fees and Collection Costs, will be used to offset any unsatisfied expenses of levy and sale (TC 360), when any of the following payments are received:
 - Sale proceeds
 - Voluntary payment upon release or redemption of seized property
 - Payment from a Notice of Levy
- (3) The TC 694 credit input must be equal to or greater than the TC 360 debit on the module. Application of payments using TC 694 will go unpostable if there is no TC 360 amount present.
- (4) When seizure expenses have been paid by the Service and there is no sale, include a copy of the invoice with the closing documents and note how it was paid.

5.10.6.3
 (02-27-2017)
**Submitting Bank Deposit
 Information or Certified
 Funds from Sale of
 Seized Property**

- (1) Form 3210, Document Transmittal, is used to submit Part 7B of Form 2433 along with the proceeds or bank deposit information from the sale of seized property. The Form 3210 should include the taxpayer's name, taxpayer identification number, seizure number, and amount of payment or deposit, and it should state "Proceeds from Sale of Seized Property."

Note: Telephone Submission Processing when forwarding proceeds in excess of \$100,000.

- (2) Proceeds from the sale of seized property:
 - Must be deposited or remitted the same day as they are received or no later than the next business day

- If certified funds are remitted in lieu of deposit, they must be remitted via overnight traceable mail to:
IRS Ogden Submission Processing Center
1973 N. Rulon White Blvd.
Mail Stop 1999 (for proceeds of \$100,000 or less)
Mail Stop 2003 (for proceeds in excess of \$100,000)
Ogden, UT 84404
- (3) When proceeds are deposited using OTCnet, the following documents should be submitted with Form 3210 to the Ogden Submission Processing Center via overnight traceable mail the same day of deposit or no later than the next morning:
 - Part 7B of Form 2433
 - Form 1963, Collection Register
 - OTCnet deposit ticket signed by bank employee
- (4) These documents should be sent to:
IRS Ogden Submission Processing Center
1973 N. Rulon White Blvd
Mail Stop 6261 BANK DEPOSITS
Ogden, UT 84404
- (5) Do not post sale proceeds to the balance due accounts on ICS. The module balances will be automatically updated after the Form 2436 is processed. When the proceeds from the sale of seized property, or the minimum bid of property bid in for the United States, will satisfy the total liability for a balance due module, the PALS will notify the revenue officer by sending Part 4 of Form 2436 (see IRM 5.10.6.5(8), Form 2436, Seized Property Sale Report below). The revenue officer will then input TC 470, cc 93 to remove the balance due module from inventory.

5.10.6.4
(10-27-2014)
Form 2433, Notice of Seizure — After Sale

- (1) As soon as possible after the sale, the PALS will complete Parts 5 and 7B of Form 2433. The PALS will enter the amount of gross proceeds and will check the appropriate disposition block. Part 7B of Form 2433 along with the gross proceeds from the sale (or the applicable cash deposit information) will be submitted promptly to Submission Processing following the procedures in IRM 5.10.6.3, Submitting Bank Deposit Information or Certified Funds from Sale of Seized Property.
- (2) If the property is bid in for the United States, the PALS will check the “Declared purchased for U.S.” block in Part 7B of Form 2433. Part 7B will be submitted through Advisory to Accounting Control/Services. No entries will be made on the balance due accounts involved.
- (3) The PALS will also update the ICS seizure and sale application with the appropriate sale information once the sale has been completed.

5.10.6.5
(09-16-2020)
Form 2436, Seized Property Sale Report

- (1) When property is sold or is declared purchased for the United States, the PALS will complete Form 2436, Seized Property Sale Report (Exhibit 5.10.6-1, Seized Property Sale Report).

Note: If some of the property was sold and some of the property was bid in for the same seizure, separate Forms 2436 must be prepared for the two disposition types.

- (2) Complete Form 2436 after all receipts and vouchers for expenses have been received. The PALS should ensure that all expenses of the seizure and sale have been debited against the balance due accounts through a TC 360, as they will be the first items paid from the sale proceeds. If the expense has not been debited, then the PALS should take the appropriate action to have the expense debited to the account.
- (3) Submit Form 2436, Form 2434-B, Notice of Encumbrances Against or Interests in Property Offered for Sale, and Record 21, Record of Seizure and Sale, (including any attachments to describe personal property) through the group manager, to Advisory with the other closing documents per IRM 5.10.6.5(7) no later than fourteen (14) calendar days after receipt in the group of the full purchase price and all vendor expenses.
- (4) Expense information should be included as follows:
 - a. If an expense was not previously debited as a TC 360, the expense will be entered in item 5. A schedule of the expenses incurred will be entered in item 7.
 - b. All expenses will be charged to the first tax period listed on Form 2436.
 - c. Expenses that were paid directly by the taxpayer should not be included.
 - d. Expenses attributable to mailing out Notices of Sale performed by Service personnel (IRM 5.10.4.10, Methods of Advertising and Posting the Notice of Sale) will be included in item 5 on Form 2436, and will be identified as a non-payee expense of sale in item 7.
- (5) The PALS should then verify the balances due on IDRS to ensure the proper posting of the sale proceeds prior to completing item 5, Application of Proceeds.
- (6) The seizure serial number of the related Form 2433, Notice of Seizure, should be entered in the upper right portion of Form 2436.
- (7) The PALS should then sign Form 2436. Part 4 of Form 2436 will be forwarded to the revenue officer for retention with the ICS paper file, and Parts 1, 2, 3, and 5 will be forwarded to Advisory along with the following closing documents, when applicable:
 - Parts 7B of Form 2433 (if not already submitted)
 - Part 3 of each Form 2435, Certificate of Sale (or entire certificate if property is bid in)
 - Copies of any invoices/vouchers for payment of expenses
 - A copy of the vendor's bill for each service rendered and paid for services procured by Government Bankcard or convenience check
 - Form 2222, Sealed Bid for Purchase of Seized Property
 - Form 4425, Public Sale Bid Tabulation
 - Record 21, Record of Seizure and Sale (IRM 5.10.6.10, Record 21, Record of Seizure and Sale)
 - Final Form 2434-B, Notice of Encumbrances Against or Interests in Property Offered for Sale (if not previously provided)
 - Form 13360, Section II, Property Appraisal & Liquidation Specialist (PALS) Actions
- (8) Advisory will review Form 2436 upon receipt (generally within 10 days of receipt), and will enter the appropriate information on Form 6670, Seizure Disposition Report. If no corrections are needed, Parts 2 and 3 will be transmitted

immediately via secure email or fax to Accounting Control/Services for application of the proceeds. Part 1 will be maintained in the seizure file. Part 5 will be transmitted to the taxpayer according to the instructions in IRM 5.10.6.11, Advisory Review of Seizure Files. Advisory will be responsible for following up on the application of the proceeds from the Form 2436 and should contact the RACS unit to resolve any misapplied funds. It is extremely important that all expenses be debited with a TC 360 and the applicable TC 694 credit be posted to the account so that all proceeds from the seizure or sale are applied according to IRC 6342(a).

5.10.6.5.1
(04-19-2013)
**Form 2436, Seized
Property Sale Report —
Deferred Payments**

- (1) If conditions of the sale permit part of the purchase price to be deferred, Form 2436 will not be prepared until the full amount of the bid price is paid or until the period for payment elapses. When applying the bidder's payment to the taxpayer's liability, accrued penalties and interest are to be computed to the date of the bidder's payment. For sales allowing deferred payment, two or more bidder payment dates may be involved. When more than one date is applicable, more than one computation may be required.
- (2) If the deferred portion is not paid within the prescribed period, the following procedures are to be used:
 - a. If the sale is declared null and void (IRM 5.10.5.17, Default on Payment - Deferred Payment Sales), on Form 2436 designate in item 6c "Purchaser bid for property but failed to fulfill agreement to pay full bid price. Sale—Null and Void," and enter the actual amount paid by the purchaser in item 8b. Any expenses of sale are debited to the taxpayer's account. The deposit amount is forfeited without any credit to the expenses of sale or the taxpayer's liability.

Note: When the asset is resold, separate Forms 2436 should be prepared for each sale date.

 - b. If a suit against the purchaser to secure the full bid price (IRM 5.10.5.17, Default on Payment - Deferred Payment Sales) is appropriate, Form 2436 is completed as in IRM 5.10.6.5.1(2)(a) above except "Suit against purchaser" is substituted for "Sale—Null and Void" in item 6c. The taxpayer receives credit for the amount paid by the purchaser (IRC 6335(e)(3)).

Note: IRM 3.17.63, Redesigned Revenue Accounting Control System, gives accounting instructions on the disbursement of forfeited bid-in amounts.

5.10.6.5.2
(02-27-2017)
**Form 2436, Seized
Property Sale Report -
Court Ordered Payments**

- (1) Take the following actions in situations in which the Service is directed by a court order to pay a third party a portion of the sale proceeds:
 - Submit the proceeds following normal procedures so the funds can be deposited into a 4720 account
 - List the third party on the Form 2436 as an Intervening Claim
 - Contact the Lead in the RACS unit at (801) 620-7867 and provide the seizure serial number and dollar amounts involved
 - Attach to Form 2436 a copy of the court order and a cover letter or memorandum explaining the circumstances
 - Submit Form 2436 as expeditiously as possible, via secure email or fax, particularly if the Service must also pay interest to the third party

5.10.6.6
(04-19-2013)
Intervening Liens

- (1) Intervening liens are liens that are junior to the first NFTL, but are senior to at least one other NFTL.
- (2) Advisory will ensure that the intervening lien is prior to subsequent federal liens and verify the current outstanding balance of the intervening claim. If Advisory cannot determine who is entitled to the funds, the case will be referred to area counsel for a legal opinion prior to disbursing the sale proceeds.
- (3) Upon receipt of area counsel's reply and if no objections to paying the intervening claimant are noted, the Advisory group manager should prepare a memorandum in triplicate indicating:
 - The taxpayer's name
 - Date of the related Form 2436, Seized Property Sale Report
 - The amount of the intervening claim
 - The name of the intervening claimant to whom the check is to be made payable
 - Instructions that the check be forwarded to Advisory for payment
- (4) Two copies of the memorandum will be forwarded to Accounting Control/ Services and a copy will be retained by Advisory and filed with the related seizure case file.

5.10.6.7
(09-16-2020)
Surplus Sale Proceeds

- (1) If the amount of sale proceeds exceeds the current balance of the taxpayer's liability from the Notice of Levy plus the amount of any seizure and sale related expenses, surplus sale proceeds remain.
- (2) Immediately after confirming that all seizure expenses have posted and the sale proceeds have been applied to the taxpayer's account in accordance with Form 2436, Advisory will prepare Letter 1762, Notification of Surplus Proceeds, and mail it with Part 5 of Form 2436 to the taxpayer using certified mail with a return receipt. Advisory will retain a copy of the letter with the case file; open an ICS control under Surplus Proceeds, time code 164, document the history and schedule the case for follow-up.
 - a. If the letter is returned as unclaimed or refused, Advisory will resend the letter using regular mail.
 - b. If the letter is returned as undeliverable, Advisory will contact the RO assigned the taxpayer's case for assistance. For cases no longer assigned, Advisory will send a postal tracer to obtain the taxpayer's new address and resend Letter 1762 with Part 5 of Form 2436.
- (3) Although not required to do so, it is recommended that Advisory notify junior encumbrances listed on Form 2434-B of the existence of surplus proceeds. Choosing not to notify junior encumbrances may impact the ability of Advisory to make a determination on the disposition of the surplus proceeds.

Note: Senior encumbrance holders (those senior to the Notice of Federal Tax Lien) are not entitled to surplus proceeds. See IRM 5.17.3.7.5(2), Application of Proceeds and IRM 5.17.3.7.5.3(1) Note, Surplus.

- (4) The taxpayer is the person entitled to the surplus proceeds, unless another person establishes a superior claim. It is not necessary for the taxpayer to submit an administrative claim for the Service to consider disbursing the surplus proceeds to the taxpayer; however, the Service may require such

claim. All third party claimants will be required to submit an application to be considered in the distribution of the surplus proceeds. The application will include the claimant's name, address, amount of surplus proceeds claimed and proof of rights to the claim.

Note: If the taxpayer has other tax liabilities that were not included on the original Notice of Levy or were assessed after the seizure was made, those liabilities may be treated as claims against the surplus proceeds and should compete against other claims in accordance with IRC 6323.

- (5) After allowing a reasonable number of days for claims to be submitted, Advisory will review all claims and determine the parties entitled to the money. It is not necessary to consult area counsel; however, if Advisory cannot determine who is entitled to the funds, the case will be referred to area counsel for a legal opinion prior to making disposition of the surplus proceeds.
- (6) The Advisory group manager will notify the taxpayer of the determination regarding the surplus proceeds. If the Service does not refund the money to the taxpayer, the taxpayer may file a claim to recover the surplus proceeds and to protect his/her right to bring a civil action for a refund under IRC 7422.
- (7) When a third party claim for surplus proceeds is disallowed, the Advisory group manager will notify the claimant and inform him/her of the right to bring suit against the government within the period of time prescribed in IRC 7426. Suit must be brought within two years from the date of the levy. (See IRC 6532(c)). The notice of disallowance should be sent by registered or certified mail. It is not necessary for a third party to file an administrative claim before instituting an action under IRC 7426.
- (8) Immediately upon determining the person(s) deemed to be legally entitled to the surplus proceeds, actions should be taken to disburse the money. It is not required to wait two years for the expiration of the time frame in IRC 6532(c) to disburse the funds. If the taxpayer or a third party is entitled to the surplus proceeds, the Service has no obligation to pay interest.
- (9) When a determination has been made regarding the surplus proceeds, the Advisory group manager will prepare a memorandum report in triplicate indicating the taxpayer's name, seizure serial number, date of the related Form 2436, and amount of surplus proceeds and the disposition to be made thereof. Two copies of the memorandum will be forwarded to Accounting Control/Services and a copy will be retained by Advisory and filed with the related case file. Advisory will monitor the disbursement of the proceeds.
- (10) If two years after the proceeds were received no claims have been received, Advisory will resend the Letter 1762 with Part 5 of the Form 2436 to the taxpayer's last known address via regular mail. If the letter is returned undeliverable, Advisory will research internal sources for an updated address. All action taken to notify the taxpayer will be documented in the ICS history.
- (11) If, after the expiration of two years and three months from when the proceeds were received, no claim has been filed, and the location of the taxpayer is unknown or it has been determined that the proceeds should not be refunded to the taxpayer, Advisory will prepare a memorandum to the accounting branch requesting the surplus be transferred from the deposit fund account to the Treasury General Fund for Revenue Receipts. The case history **must** be documented as to why the surplus proceeds were not refunded to the taxpayer.

5.10.6.8
(05-03-2018)
**Redemption of Real
Property After Sale**

- (1) When seized real property is sold under IRC 6335, IRC 6337 gives the following individuals the right to redeem the property (see IRM 5.17.3.6.5, Redemption) at any time within 180 days after the date the successful bid is accepted by IRS:
 - The owners
 - The heirs, executors, or administrators of the owners
 - Any person having any interest in the property
 - Any person having a lien interest in the property
 - Any person on the behalf of those listed above
- (2) The redemption period begins on the date the successful bid is accepted and the applicable required payment is received by the Government, regardless of whether the sale was a deferred payment sale or full payment was received on the date of sale.
- (3) The property or tract of property may be redeemed upon payment to the purchaser of the amount paid by the purchaser plus interest at the rate of 20 percent per annum, compounded daily as required by IRC 6622 . For appropriate calculation figures refer to Table 45 of Rev. Proc. 95-17 .
- (4) When real and personal property (or several tracts of real property) are purchased in the aggregate, the redemption price of the real property (or of each of the several tracts) should be determined on the basis of the ratio, as of the time of sale, of the value of the real property (or tract) to the value of the total property purchased. For this purpose, the minimum price or the highest bid price, whichever is higher, offered for the property separately or in groups will be treated as the value.
- (5) In deferred payment agreements, the redemption arrangement must provide for satisfying the purchaser's deferred obligation to the Service and the amount previously paid by the purchaser to the Service, plus interest at the rate of 20 percent per annum, compounded daily.
- (6) If the purchaser made multiple payments, the interest should be calculated based on the actual payment dates. In these situations, there will be multiple dates to calculate from, which include the first day of payment and the deferred date of payment. Count the number of days from the payment date to the date the redemption payment is received by the successful bidder (or the IRS if the purchaser cannot be located or is taking actions to prevent redemption). Advisory may be asked by the redeeming party to provide assistance in calculating the redemption amount - use Table 45 of Rev. Proc. 95-17 to determine the interest due based on the number of days between the payment received date(s) and the redemption date.

Example: A purchaser bids \$80,000 for the property and pays \$40,000 on 06/15/2017, \$20,000 on 06/30/2017, and the balance of \$20,000 on 07/14/2017. If the taxpayer wants to redeem the property on 08/15/2017, the interest would be calculated as follows:

Payment Date	Number of Days (from payment date to redemption date)	Payment Amount	Factor	Interest
06/15/2017	61	40,000	.033980072	\$1,359.20
06/30/2017	46	20,000	.025518744	\$510.37
07/14/2017	32	20,000	.017683987	\$353.68
			TOTAL	\$2,223.25

- (7) The property may be redeemed prior to the Service receiving the full amount of the purchase price. Such arrangements require a well-coordinated effort to ensure that the Service receives full payment of the purchase price prior to, or simultaneous with, redemption of the property.

Example: The Service sold real estate for \$50,000 and received an initial payment of \$10,000 from the purchaser with the deferred balance of \$40,000 due in 30 days. Before the 30-day period expires, the taxpayer seeks to redeem the property. The arrangement may allow for the taxpayer to tender two (2) checks—one made out to the United States Treasury for \$40,000 and one made out to the purchaser for \$10,000, plus interest thereon. Other similar arrangements may be appropriate. Area counsel may be consulted as necessary.

- (8) If the purchaser cannot be found in the county in which the property to be redeemed is situated, or if the purchaser is evading contact with the redeeming party in order to prevent redemption, the payment may be made to the area director for the Internal Revenue area in which the property is situated for the use of the purchaser, his or her heirs, or assigns. In this instance, payment will generally be received by the advisor who handled the seizure processing. If this occurs, the payment needs to be made out to the United States Treasury and deposited into the Deposit Fund Account as outlined in (9) below.
- (9) If one of two instances described in (8) above is present and a redemption payment, which is timely and for the correct amount, is received by the Service, it should be so identified and submitted to Submission Processing for deposit in the Deposit Fund Account. Expeditious action must be taken to locate the purchaser and make appropriate payment to him/her. A memorandum posting document will be prepared, in duplicate, indicating:
- The taxpayer's name and address
 - Date of the related Form 2436
 - Purchaser's name and last-known address
 - Amount of the payment with interest indicated separately
 - Any other pertinent facts
- (10) If a redeeming party makes the payment directly to the purchaser, regulations require the redeeming party to notify the area director of the Internal Revenue area in which the property is situated. Usually, the redeeming party will notify the revenue officer who conducted the seizure or the PALS who conducted the

sale since they had prior contact with these individuals. If contacted by a party who has already redeemed the property, the revenue officer or PALS should refer the redeeming party to the advisor assigned to the seizure or should secure the following information and provide it to the advisor assigned the seizure:

- Name and address of taxpayer from whom property was seized and sold
- Name and address of person who redeemed property if someone other than the taxpayer
- Date of redemption and of the transfer of the Certificate of Sale
- The amount paid to redeem property (list breakdown of sale price plus interest)
- Name and address of person from whom property was redeemed

- (11) When real property is redeemed, entries will be made in item 37 of Record 21 and these entries will be evidence of the redemption. The entry in item 37(c) should state the type of interest or rights under which redemption is made. If property is redeemed under IRC 6337, a deed will not be issued and no entry will be made in item 38.

5.10.6.8.1

(04-19-2013)

Redemption of Real Property Bid-In for the Government

- (1) If real property is acquired as a result of being declared purchased for the United States, it cannot be sold as acquired property until 180 days after the day of the sale as seized property to allow for the appropriate redemption period (IRM 5.10.6.8, Redemption of Real Property After Sale).
- (2) Under IRC 7506(d), if real estate has been purchased by the United States under IRC 6335, and the debt for which the levy was made, together with interest (at the rate of one percent per month) is paid to the United States within two years from the date the real estate was declared purchased for the United States, the property may be released by deed or otherwise conveyed to the debtor from whom it was taken, or to his/her heirs or other legal representatives. The term "debt" includes the entire tax liability including penalties and interest; this amount would also include any credit given to the taxpayer for the minimum bid since the credit would be reversed if the property was returned to the taxpayer.

Note: This provision of law does not require the United States to hold the property for the two-year period, but merely provides that the property, if still held by the United States, may be released upon payment of the debt, plus interest at the rate of one percent per month, within two years from the date the property was declared purchased for the United States.

- (3) Whenever real property is redeemed from the United States, whether under IRC 6337 or IRC 7506(d), the payment should be so identified and submitted for deposit as Internal Revenue Receipts. The payments will be accompanied by a memorandum posting document, in duplicate, indicating the taxpayer's name and address, date of the related Form 2436, the seizure number, and the amount of the payment with interest indicated separately.

5.10.6.9

(09-16-2020)

Deed to Real Property

- (1) IRC 6338(b) provides that whenever real property is not redeemed within the 180 day period, the purchaser, or his/her assigns, will be issued a deed upon surrender of the Certificate of Sale.

Note: In some cases it may be necessary to contact the purchaser to secure the Certificate of Sale in order to prepare and issue the deed timely.

- (2) The deed will be in accordance with the laws of the state in which the real property is situated pertaining to sales of real property under execution. The deed should be prepared in duplicate by Advisory and forwarded to area counsel for approval in states with an attorney approval requirement. In states with no attorney approval requirement, Advisory may prepare the deed for the appropriate signature without referral to area counsel. A standard format for such deeds can be pre-arranged with area counsel. The authority to sign the deed is contained in Delegation Order 1-23-2 [formerly SB/SE Delegation Order 5.1 (Rev 2)]. See IRM 1.2.65.3.1 and IRM 1.2.65-2, SBSE 1-23-2 (Rev. 2), Authority to Sign and Issue Levy and Related Documents.
- (3) After approval, the original will be given to the purchaser upon surrender of the Certificate of Sale. The duplicate copy, noted as to the date and the name of the individual by whom executed, will be retained by Advisory. If the original Certificate of Sale was recorded in the local recording office, surrender of a certified copy will suffice.

Note: If the Certificate of Sale has been lost or stolen, the purchaser will need to execute an affidavit of lost certificate and the IRS can issue a deed from that affidavit. The affidavit should be drafted by local counsel and titled Affidavit of Loss of Certificate of Sale.

- (4) If real property is declared purchased by the United States, the “grantor” in these cases, will be the area director and the “grantee” will be the United States. The deed should be recorded without delay in the property registry of deeds and then retained by Advisory. Appropriate entries will be made in items 39 and 40 of Record 21 (see IRM 5.10.6.10, Record 21, Record of Seizure and Sale).

Note: A copy of the deed may also be provided to the appropriate taxing authority or assessor in the county of record to avoid potential problems with unpaid property taxes.

5.10.6.10
(09-16-2020)
**Record 21, Record of
Seizure and Sale**

- (1) Whenever any type of property is sold to the highest bidder or declared purchased for the United States, the employee conducting the sale will prepare Record 21, Record of Seizure and Sale.
- (2) Record 21 should be prepared after Form 2436 has been completed. When preparing Record 21, check the appropriate block to indicate whether the sale was for real property or personal property. Complete all applicable items according to the following instructions (use a continuation sheet if additional space is required):

Item Number	Description of Information to Enter
1	Taxpayer's name and address
2	Seizure number
3	Leave blank - to be entered by Advisory

Item Number	Description of Information to Enter
4	Area and Territory office information
5 -10	Only list periods included on Form 668-B 5 - Tax form number 6 - Tax period 7- Assessment date(s) 8 - Taxpayer identification number (Redacted on Part II, Public Record Copy) 9a - 1st notice date - generally the same as the assessment date 9b - Date of <i>Notice of Intent to Levy and Notice of Your Right to a Hearing</i> 10 - Balance due for each tax period. The amount must include accruals and match the amount on Form 668-B, Notice of Levy, for each tax period.
11 - 12	Include all Notices of Federal Tax Lien, not just those to which payments were applied
13	Date property was seized
14 - 15	Date of proper delivery of Notice of Seizure and Notice of Sale to the owner. Check: <ul style="list-style-type: none"> • “Given” if the forms were either personally provided to the owner or left at their usual place of abode or business • “Certified” only if the usual place of abode or business was located outside of the territory where the seizure was made or if the address was not known or could not be located and the forms had to be mailed certified (IRM 5.10.3.9, Notice of Seizure Form 2433 - Delivery, and IRM 5.10.4.9, Delivery of Notice of Sale)
16 -17	Applicable information on advertising and posting of the Notice of Sale

Item Number	Description of Information to Enter
18	<ul style="list-style-type: none"> For real property, include the legal description of the property, which should be the same as Form 2433 and Form 2435; additional information may be required based on local requirements - contact Advisory if there are any questions as to the required information for a specific location. For personal property, if the description of the property that was sold is reasonably concise, enter the appropriate property description in this section. For sales consisting of multiple lots that will include a lengthy description that cannot easily be included on the Record 21, Form(s) 2433, 2434, 2434-A, or PALS inventory listing or clerking report can be attached rather than describing the property on the Record 21. Ensure that only property that was seized and sold (and not released) is included in the description or attachment. If an attachment is being provided, enter the following statement: "See attachment for detailed property description".
19	Name of owner of property; for real property this should be the same as recorded on the deed where the taxpayer received his interest
20	Prior liens (excluding the NFTL) should equal the amount shown on Form 2434-B
21	Enter in the appropriate block the amount of the minimum bid regardless of whether the property was sold to the highest bidder or declared purchased for the United States.
22	Check appropriate sale type
23	Date property was sold
24	Location of sale
25	Dates(s) of any adjournments or postponements
26	Complete list of expenses of seizure and sale
27	Item 27(a) Gross Proceeds- enter the gross proceeds from sale; item 27(b) Expenses- enter the total amount of expenses for the seizure and sale; item 27(c) Total amount of intervening creditors- enter the amount of any intervening creditors; item 27(d) Net Proceeds- subtract items 27(b) & 27(c) from item 27(a);

Item Number	Description of Information to Enter
28	Amount applied to tax liability should be the same as lines 27(d) unless funds are paid to intervening creditors or there are surplus proceeds
29	Surplus proceeds should be the same as item 6f of Form 2436
30	Date of certificate of sale
31	Name of person to whom certificate was issued (Redacted on Part III, Taxpayer Copy)
32	Include a statement if real property is declared purchased for the United States
33 - 34	Date and signature of PALS
35 -36	Date and signature of manager
37 - 39	To be completed by Advisory for real property sales only
40 - 41	Signature and date of Advisory Territory Manager

- (3) Submit Record 21 (and any attachments to describe the personal property) with Form 2436 and Form 2434-B through the PALS group manager to Advisory with the other closing documents (IRM 5.10.6.5(7), Form 2436, Seized Property Sale Report). These documents must be submitted no later than 14 calendar days after receipt in the group of the full purchase price and all vendor expenses. The PALS file should be complete and maintained in an organized manner.
- (4) Advisory will review the form for accuracy and will assign the Record 21 number in item number 3. After the redemption period expires for real property sales, Advisory will enter the appropriate information in items 37, 38, and 39 (IRM 5.10.6.8(9), Redemption of Real Property After Sale). The appropriate approving official will sign and date Record 21 for both real and personal property sales. Delegation authority to sign Record 21 is contained in Delegation Order 1-23-2 [formerly SB/SE Delegation Order 5.1 (Rev 2)]. See IRM 1.2.65.3.1 and IRM 1.2.65-2, SBSE 1-23-2 (Rev. 2), Authority to Sign and Issue Levy and Related Documents.. A copy of part 1 or 2 of Record 21, certified by the appropriate individual in the area where the property is situated, will be evidence of true facts, in any court.
- (5) Record 21 will be distributed as follows:
 - Part 1 of Record 21 will be maintained as part of the permanent record for real or personal property sales (IRM 5.10.6.12, Permanent Record of Sale); since there is no recording requirement for real property for Record 21, Part 1 shall be made available for inspection to the taxpayer or to a purchaser or title insurer if required to accomplish the sale of seized property.
 - For real property sales, Part 2 is maintained in the public inspection file with a copy of Form 2434–B attached; for personal property sales, Part 2 may be destroyed. The Taxpayer Identification Number must be redacted on Part 2.

- Part 3 will be provided to the taxpayer as part of the permanent record (IRM 5.10.6.12, Permanent Record of Sale) for both real and personal property sales. The purchaser's name must be redacted from Part 3 issued to the taxpayer.

Note: For personal property sales, any attachment describing the seized property will be attached to both Part 3 provided to the taxpayer and Part 1 maintained in the permanent record.

5.10.6.11
(10-27-2014)
**Advisory Review of
Seizure Files**

- (1) Advisory is responsible for the following actions on a seizure and sale case:
 - Assigning seizure serial numbers
 - Maintaining a Seizure Log for all seizures conducted within the area
 - Receiving the documents that comprise the seizure and sale file and maintaining the file according to standard guidelines
 - Conducting a post-review of the forms and documents to verify whether the actions conformed with statutes, regulations and the procedural guidelines of the IRM (IRM 5.10.6.11(2) and (6), Advisory Review of Seizure Files)
 - Completing the Form 6670, Seizure Disposition Report, for each closed seizure
 - Maintaining the permanent record of the seizure file (IRM 5.10.6.12, Permanent Record of Sales)
 - Providing the taxpayer with copies of the permanent record (IRM 5.10.6.12, Permanent Record of Sale) and providing the total balance remaining on the taxpayer's account after application of the sale proceeds (IRM 5.10.6.11(7), Advisory Review of Seizure Files)
 - Updating the ICS seizure and sale application with applicable closing information, including deed issuance, intervening liens, surplus proceeds, etc.
 - Preparing the semiannual summarization of the 6670 forms
 - Ensuring that all TC 360, TC 694, and TC 670 entries on Form 2436 and Form 2436-R are posted correctly and contacting the RACS unit to resolve any discrepancies
- (2) Each seizure document should be reviewed upon receipt (generally within 10 days of receipt). In addition to reviewing the specific document that was submitted, the reviewer should also review the ICS history to identify any other potential issues or areas of concern at the earliest possible time. Timely receipt and processing of all documents should be monitored by Advisory personnel. The seizure file should be reviewed upon receipt of Form 2436, Seized Property Sale Report, or when the file is otherwise closed. Local management should provide for a follow-up system to ensure timeliness and completeness of all seizure documents. Form 13361, Post-Seizure Review Checklist, **must** be updated during the post seizure review in order to ensure that all required actions were taken. The completed form will be maintained as part of the seizure file in Advisory.
- (3) For courtesy seizures, the receiving office's Advisory will process the original seizure and sale documents through their Accounting Control/Services in the same manner it transmits the documents for its own seizures. After reviewing and approving the documents, the receiving Advisory office will send copies of all documents related to the seizure to the initiating revenue officer for inclusion in their case file.

- (4) The revenue officer or the PALS will generally close their seizure case after submitting the appropriate documents to Advisory reflecting that all seized property has been disposed of. Disposition of property is accomplished through:
- Release of levy
 - Sale of the property
 - Combination of the two
- (5) Reviewers in Advisory must verify that all seized property is accounted for by either a Certificate of Sale or a Release of Levy.
- (6) While reviewing the forms, documents, and the ICS history, reviewers may encounter situations where the proper procedures were not followed. Form 5942, Advisory Reviewer's Report, may be used by the Advisory reviewer to make observations to management, to provide positive feedback, to furnish advisory information, to request a corrective action be taken, or to request additional information from the originator. Parts 1 and 2 of Form 5942 are to be used to respond to Advisory when additional or corrected information is required. If the property has not yet been sold, in some situations it may be possible to correct an error identified prior to the sale. In some situations the seizure may need to be released and the error corrected before making a determination on re-seizing the property. Consult area counsel when questions arise as to the appropriate course of action to take if an error is identified prior to or after the sale has been conducted.
- (7) The information contained on Form 5942 can be used for training, correcting case actions, providing positive feedback, conducting trend analysis, and improving the overall quality of the seizure and sale. The errors identified on the following chart will require a mandatory issuance of Form 5942 and a mandatory response from the applicable group manager:

Pre-Seizure	Post Seizure	Interim	Closed Seizure
Incorrect Approval Level	Form 668-B not completed correctly	Form 4585 preparation, delivery and documentation	Form 2436 preparation, accuracy, and timeliness
Ownership/Lien Interest	Form 2433 not completed correctly	Form 2434 preparation, delivery, and documentation	Record 21 preparation, accuracy, and timeliness
Consent/Writ of Entry	Documentation & Delivery of Form 668-B & Form 2433	Incorrect or no advertising order	Form 2436-R preparation, accuracy, and timeliness
Consideration of Exempt Assets	Problems with Consent/Writ of Entry	No approval for change of sale location	Invoices not received from PALS
			Form 2435 preparation

Pre-Seizure	Post Seizure	Interim	Closed Seizure
			Form 2433, Part 7B not received from RO/PALS
			RO/PALS does not submit closed case file

- (8) After confirming that all expenses have posted and the proceeds have been correctly applied, Advisory will prepare Letter 3074, Letter Providing Permanent Record and Final Balance to Taxpayer. This letter is used to comply with IRC 6340 by providing the taxpayer with a copy of the permanent record (IRM 5.10.6.12, Permanent Record of Sales) and the balance remaining on the taxpayer's account after the application of proceeds from the sale of the seized assets. Secure a copy of updated transcripts and enter the total balance and accruals for all modules on the account, even if no proceeds were applied to a specific module. The following documents must be provided to the taxpayer with Letter 3074:

- Part 5 of Form 2436
 - Record 21 (IRM 5.10.6.10, Record 21, Record of Seizure and Sale) with any attachments for the property description for personal property sales
- Note:** If using a pre-March 2008 revision of Record 21, the purchaser's name must be redacted from the taxpayer's copy.
- Form 2434-B, Notice of Encumbrances Against or Interests in Property Offered for Sale

Note: Retain a copy of Letter 3074 for the permanent record file (IRM 5.10.6.12, Permanent Record of Sale).

- (9) Advisory will close the ICS 162 module when all of the following actions are completed:

- All paperwork is received and correct,
- IDRS reflects all payments and expenses are posted correctly,
- RACS issues have been resolved, and
- The taxpayer is sent L3074 with all appropriate attachments.

5.10.6.11.1 (02-27-2017)

Preparation of Seizure Disposition 6670 Report

- (1) Seizure disposition information is contained on a Form 6670, Seizure Disposition Report, for each closed seizure. For each Area, Collection Advisory originates and retains the Forms 6670 using the forms forwarded by the originating revenue officer or PALS (i.e. Forms 668-B, 2433, 2436, 2436-R, 4585 and 2434). Courtesy seizures will be controlled and reported in the receiving Area. If seizure reporting is handled by more than one office for an Area, ensure that all reports from those offices are consolidated into one report for that Area. The Form 6670 report must be for the entire Field Area.

Note: If Advisory is unable to obtain the information needed from the RO or PALS, send Form 5942, Advisory Reviewer's Report, to the group manager of the RO or PALS.

- (2) Once complete, Advisory uses the completed 6670 forms to create the Form 6670 Report. Instructions for completing Form 6670 are on page two of the form.
- (3) The 6670 Reports are generated twice each fiscal year:
 - during the first week of April for the 6 month period of October 1 through March 31
 - during the first week of October for the 6 month period of April 1 through September 30
- (4) There are four parts to the 6670 Report. Each of the first three parts is for one of the three different types of seizures:
 - Business Property Only
 - Individual Property Only
 - Combined Business and Individual Property

The fourth part is a Summary that rolls up the figures from the other three parts.

- (5) Preparing the 6670 Report: A Form 6670 Report Excel spreadsheet is provided to each Advisory Area office by the Advisory Technical Analyst via email, prior to the end of each reporting period. The seizure advisor needs to complete the yellow cells on the spreadsheet.

Note: The blue cells are protected and may contain formulas that will automatically calculate. Do not attempt to overwrite the formulas. Seizures not already closed must not be included in the report. The report is only for seizures that closed (whether they were redeemed prior to sale, released, sold, bid-in or were seized cash) for the period indicated on the spreadsheet, either October 1 - March 31 or April 1 - September 30.

- (6) Create the three 6670 Seizure Disposition Reports, one for each type of seizure.
- (7) Section 7 - Type of Seizure, enter the number of seizures for the specific type being reported. Only complete one box in section 7; either A, B or C. If there were no dispositions for a certain type of seizure, enter zero in the appropriate box. This information will automatically populate in Section 11 - Dispositions.
- (8) Section 8 - Consent/Writ, enter the appropriate numbers in 8B for consents and 8C for writs. 8A will auto-calculate the total.
- (9) Section 9 - Type of Account(s), enter the number of modules for each balance due type. If more than one seizure disposition is being reported for the same balance due module, the balance due information will repeat itself for each seizure disposition reported.
- (10) Section 10 - Type of Property Seized, enter the number in the appropriate box for the type of property seized. The total of boxes (A-L) will be greater than or equal to the data listed in Section 7.

- (11) Section 11 - Final Dispositions, enter the number of seizures in the (#) column and the corresponding total dollars in the amount (round to the nearest dollar) column.
- The amounts in 11A through 11D will equal 11E
 - The amounts in columns 11E minus 11F through 11H will equal 11I
 - If there were multiple dispositions for one seizure, the disposition count and dollar amount will be taken only once for that seizure. The item under which to take the count will be selected using the following priority: Redeemed, Sale, Released, Cash Register Contents.
- (12) Each Advisory territory is responsible for reviewing the report for accuracy prior to submitting. Ensure the report does **not** include:
- Taxpayer's names
 - TINs
 - Addresses
 - Data for seizures that were NOT closed (redeemed prior to sale, released, sold, bid-in, or seized cash) within the reporting period dates
- (13) Forward the 6670 Report no later than the tenth business day following the end of the reporting period to the Advisory Technical Analyst.

Note: Include the name and phone number of the 6670 Report preparer.

5.10.6.12
(04-19-2013)
**Permanent Record of
Sales**

- (1) For all seizures conducted after July 22, 1998, IRC 6340 requires each area director to maintain a permanent record of all sales conducted under IRC 6335 of real and personal property situated within his/her area and of all redemptions of such property. The PALS and the revenue officer will forward all appropriate records to Advisory for the seizure file and for the permanent record.

Note: Permanent record files are not required for any seizure that did not go to sale.

- (2) For any case where property is sold on or after January 1, 2006, the following documents must be maintained as the permanent record:
- Record 21, Record of Seizure and Sale (with any attachments for personal property description)
 - Form 2434-B, Notice of Encumbrances Against or Interests in Property Offered for Sale
 - Letter 3074, Letter Providing Permanent Record and Final Balance to Taxpayer (IRM 5.10.6.11(7), Advisory Review of Seizure Files)
- (3) The permanent record documents should generally be provided to the taxpayer within 30 days of certification of Record 21.
- (4) For any case where the property was sold prior to January 1, 2006, the following forms, when applicable, are to be included in the "Permanent 6340(a) Record:"
- Form 668-B, Levy
 - Form 2433, Notice of Seizure
 - Form 668-E, Release of Levy, to account for any property released prior to sale

- Form 2434 , Notice of Public Auction Sale
- Form 2434–A, Notice of Sealed Bid Sale
- Form 2434–B, Notice of Encumbrances Against or Interests in Property Offered for Sale
- Form 2435, Certificate of Sale of Seized Property
- Form 2222, Sealed Bid for Purchase of Seized Property, from the successful bidder
- Form 4425, Public Sale Bid Tabulation, or comparable form
- Form 4585, Minimum Bid Worksheet
- Form 2436, Seized Property Sale Report
- Transmittal letter to the taxpayer explaining part 5 of Form 2436 and providing the application of proceeds and current balance remaining
- Letter 1762, Notification to Taxpayer of Surplus Proceeds
- Letter 2274(P), Sale of Documented Vessel, IRM Exhibit 5.10.5-3
- Record 21, Record of Seizure and Sale

Note: For these cases, the taxpayer must also be provided with copies of the above documents. Original documents should be maintained in the permanent record file whenever possible. Advisory will provide copies of any documents not previously provided to the taxpayer. For personal property sales, all bidder information should be redacted from Forms 2435, 4425, and 2222; for real property sales only the unsuccessful bidder information must be redacted from Form 4425. Verification of the redacted information should be maintained as part of the case file. Maintain a copy of any transmittal letters for these documents as part of the permanent record file.

5.10.6.13
(07-03-2009)

**Revenue Officer Transfer
of Closed Case Files to
Advisory and Advisory
Records Retention**

- (1) When a balance due case involving a seizure is closed, all related documents will be placed in the corresponding folder and the revenue officer will forward the closed balance due case file to Advisory via Form 3210 noted "CLOSED CASE FILE FOR ASSOCIATION WITH SEIZURE FILE." In the case of Integrated Collection System (ICS) files, the revenue officer will forward the existing paper documents in the case file and a complete ICS case transcript.
- (2) Copies of closed courtesy seizure files, as well as the permanent records for these seizures and the related closed bal due files, will be maintained in the receiving office's Advisory.
- (3) When received, Advisory will associate the closed case file received from the revenue officer with the corresponding Advisory seizure case file and retain the seizure file for two years after the seizure was closed or two years after the redemption period expired. After the two year retention period for the seizure file expires, the closed balance due case file will be forwarded to the Federal Records Center where it will be destroyed three years after the balance due case closure date.
- (4) The permanent records files will be permanently retained in Advisory. The following documents must also be maintained for public inspection:
 - Record 21, Part 2
 - Form 2434–B

5.10.6.14
(04-19-2013)
**Seizures Open Over 90
Days and Semiannual
Verification of Forms
2433**

- (1) At the end of each quarterly period ending March 31, June 30, September 30, and December 31, Advisory must initiate Form 13464, 90-Day Open Seizure and Semi-Annual Verification Report, for any seizure file that has been open beyond 90 days and still has at least one asset that has not been disposed of. Advisory will complete Section I (Seizure Identification) and will then forward Form 13464 to the group manager or manager of the PALS, depending on which employee has custody of the asset. The completed forms must be returned to Advisory within 60 days of the end of the quarterly reporting period.

Note: No report is required if the seizure is still open but all assets have been disposed of.

- (2) For all four quarterly periods, the appropriate manager will ensure that Section II (Status of 90-Day Overage Status) is completed and will send the completed report back to Advisory for review. Advisory will then forward a copy to the Advisory territory manager and Collection territory manager. The report will include the following information:

- Reason the seizure is still open
- Expenses on prior report
- Additional expenses incurred since last report
- Total expenses incurred to date
- Whether or not there are any bankruptcy issues
- Expected closure date

- (3) If expenses, such as storage costs, are continuing to accrue because of a delay in the sale, these expenses should be carefully reviewed to determine if they will exceed the procurement limit. If these expenses are expected to exceed the authorized limit, the procedures in IRM 5.10.2.7, Contracting for Services, should be followed. In addition, if the expenses reach an amount where it appears there will no longer be any expected net proceeds to apply to the liability, the case should be reviewed to determine if the property should be released.

- (4) For the quarterly periods ending March 31 and September 30, Section III (Physical Inventory Verification) must also be completed. Generally, the employee who has custody of the asset(s) will complete the verification of the inventory and return the completed report to Advisory. Because of logistical issues, the employee conducting the verification may require assistance from other employees in order to complete the verification. This review should be conducted to confirm that the property shown on Form 2433 is still under the control of the Service and that no property has been tampered with, rescued, or stolen (IRM 5.10.3.25, Property that is Tampered With, Rescued, or Stolen). After review, Advisory will forward a copy of the report to the Advisory Territory Manager.

Note: Physical asset verification is not required if assets consist solely of unimproved real estate. Advisory can complete the verification if the assets are located in an IRS safe at their location.

- (5) The Ogden Campus will generate Report #135, Seized, Acquired, and Collateral Inventory Detail Report, monthly to the area Advisory under the Revenue Accounting Control System (RACS). Advisory should review the report for accuracy and take any corrective actions necessary.

- a. Each month Advisory will provide a status report on sale proceeds that are unresolved for 90 days or more from the date of the Report #135. This status report will be submitted to Accounting Control/Services within ten (10) days of the receipt of Report # 135.
- b. Each March and September, Advisory will review the Report #135 and provide a response either agreeing with the report or reconciling any discrepancy. This verification must be submitted to Accounting Control/Services within 30 days of receipt of the RACS report.

5.10.6.15
(09-16-2020)

**Wrongful Seizure —
Payment of Claims After
Sale**

- (1) This section provides the instructions to follow when a wrongful seizure claim is made and the property has already been sold. IRM 5.10.4.15, Release of Wrongful Seizures for Property Not Yet Sold, contains the procedures to follow when a person alleges that there has been a wrongful seizure and the property has not yet been sold. If property was declared purchased for the United States and has not been resold, it may be returned to its rightful owner.
- (2) Any person or other entity claiming an interest in or a lien on seized property, other than the person against whom is assessed the tax on which the levy arose, may submit a claim for return of wrongfully seized property. A seizure is considered wrongful in the following situations:
 - The seizure is of property in which the taxpayer had no interest at the time the Federal Tax Lien arose, or thereafter
 - The seized property is owned by a person who is a purchaser against whom the tax lien is invalid under IRC 6323
 - The sale will effectively destroy, or otherwise irreparably injure a third party's interest in the property which is senior to the Federal tax lien
- (3) If there is a question over ownership, the third party should be advised to submit a written request, signed under the penalties of perjury, addressed to the area director and directed to the attention of the Advisory territory manager for the Internal Revenue area office in which the seizure was made.
- (4) In order to be considered an adequate request, the written request must contain:
 - The name and address of the person submitting the request
 - A detailed description of the property levied upon
 - A description of the claimant's basis for claiming an interest in the property levied upon
 - The name and address of the taxpayer
 - The originating IRS area
 - Date of the lien or levy, as shown on the NFTL, Form 668-A, or Form 668-B, or in lieu thereof, a statement of the reasons why such information cannot be furnished
- (5) IRC 6343(b) provides that after property has been seized and sold and it is administratively determined that there was a wrongful seizure, the individual from whom the property was wrongfully seized will be paid either:
 - An amount of money equal to the amount of money levied upon
 - An amount of money equal to that received by the United States from the sale of such property
- (6) The amount to be returned when property that was declared purchased by the United States has been resold will be the greater of:

- The minimum price established under IRC 6335(e)
 - The amount received from the resale of the property
- (7) An amount of money equal to the amount of money levied upon or received from the sale should be returned before the expiration of two years from the date of the levy. If the written request is made within two years from the date of the levy or if the Service makes a determination to return the money within the two year period, the payment may be made within a reasonable period of time after the two year period.
- (8) Requests submitted to revenue officers should be forwarded to Advisory for referral to area counsel for a legal opinion. The revenue officer who conducted the seizure and the PALS who conducted the sale in question will provide a memorandum (through their managers) to Advisory outlining the pertinent details.
- (9) If the property has been sold, the Advisory territory manager should prepare a memorandum (from information provided by the revenue officer who conducted the seizure and the PALS who conducted the sale), in triplicate, for approval by the Field Collection territory manager identifying the sale transaction or, if cash was seized, the date and number of the Form 809 receipt. Sufficient information should be included to establish that a wrongful action was taken and that appropriate restitution should be made.
- (10) Interest payments are to be computed in the following manner:
- a. When returning an amount of money equal to the amount of money levied upon, interest is paid from the date the Service received the money through the refund schedule date—not to exceed 30 days prior to the day when the money is returned to the owner.
 - b. When returning an amount equal to the amount of money received from the sale of the property, the period for the payment of interest begins with the date of sale of the property and ends on the refund schedule date—not to exceed 30 days prior to the day when the payment is made to the former owner of the property.
 - c. The interest rate will be determined by the provisions of IRC 6621.
- (11) The refund process will be initiated by the area director or the Advisory territory manager via communication to the compliance center, as provided in IRM 5.19.4.4.12, Wrongful Levies, except for the following changes:
- The memorandum and supporting documents will replace the ACS screens
 - The approving official (per Delegation Order 5-3, see IRM 1.2.2.6.3(35)) will be the SB/SE Field Collection territory manager or Advisory territory manager instead of the ACS Operations Chief.
- (12) Two memos may be required to make appropriate restitution. One will be addressed to Accounting Control/Services to issue a manual refund to cover that portion of the claim equal to the proceeds from the sale that was credited to the balance due account(s). If this refund amount is not sufficient to full pay the amount of the allowable claim, a second memo will be addressed to Chief, HQ Financial Management (Execution) to issue a check for the remaining portion due on the claim with the necessary supporting documentation. This

latter amount is to be paid from the Collection Operating Appropriation. The amount of the refund, including a statement that interest should be paid, should also be furnished.

- (13) If the request is disallowed, Advisory should notify the claimant in writing as soon as possible of the reason for disallowing the claim and of the right to bring suit against the government. (See IRM 5.17.5.17.1, Wrongful Levy, and IRM 5.17.5.17.3, Recovery of Property). If the claim is disallowed because it was not made within two years from the date of the levy, send the claimant Letter 3973, Wrongful Levy Claim Rejection Letter - Untimely Claim, signed by the appropriate delegated official, via certified mail. If the claim is disallowed because it does not meet one of the requirements detailed in section IRM 5.10.6.15, Wrongful Seizure - Payment of Claims After Sale, send the claimant Letter 3974 via certified mail. Disallowance of the claim may be appealed through the Collection Appeals Program (CAP).
- (14) Ordinarily, suit must be brought within two years from the date of levy. However, when a written request for the return of property is made within the two year period, the time is extended for a period of 12 months from the date of the request or for a period of six months from the date the notice of disallowance is mailed to the claimant by registered or certified mail, whichever is shorter. It is not necessary for a person to file an administrative claim before instituting an action under IRC 7426.
- (15) If the court determines that there was a wrongful levy, under IRC 7426(b)(2) the court may:
 - Order the return of specific property if the United States is still in possession of the property
 - Grant a judgment for the amount of money levied upon
 - Grant a judgment for an amount not exceeding the greater of the amount received by the United States from the sale of such property or the fair market value of the property immediately before the levy if the property was sold
- (16) IRC 7426(g) contains the instructions for the payment of interest under this provision.
- (17) Under IRC 6503(f), the period of limitation on collection is suspended for a period equal to the period from the date property is wrongfully seized or received to the date returned under IRC 6343(b) or the date on which a judgment is secured under IRC 7426, plus an additional 30 days. The suspension is only applicable to an amount equal to the amount of money or the value of the property returned.
- (18) Any amounts paid in excess of the proceeds of sale should not be debited against the taxpayer's account, but rather will be paid out of general appropriations.

5.10.6.15.1
(04-19-2013)
**Return of Property After
Sale for Other than
Wrongful Seizure**

- (1) The government may return the property pursuant to IRC 6343(d) for the following reasons:
 - The seizure of property is premature (for example, the seizure is conducted less than 30 days after the notice of intent to levy was sent to the taxpayer)
 - Administrative procedures were not followed

- The taxpayer has entered into an agreement under IRC 6159 to satisfy such liability by means of installment payments, unless such agreement provides otherwise
 - The return of such property will facilitate the collection of the tax liability
 - The return of the seized property would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the best interests of the United States (as determined by Collection)
- (2) The provisions of IRC 6343(b) as detailed in IRM 5.10.6.15(5),(6), and (7), Wrongful Seizure - Payment of Claims After Sale, shall apply in the same manner as if such property had been wrongfully levied upon, but no interest will be allowed as outlined in IRM 5.10.6.15(10), Wrongful Seizure - Payment of Claims After Sale.

5.10.6.16
(04-19-2013)
**Improper Levy Action
and Claims for Refunds**

- (1) In instances where improper levy action (IRM 5.11.2.4.1, Current Authority for Returning Levied Property to the Taxpayer) is known to have taken place and results in excessive collection, the Service employee handling the balance due account will notify the immediate supervisor to contact the area director who will request the Campus to initiate a manual refund, as provided in IRM 5.1.12.20, Manual Refund. A follow up memorandum, explaining the details, will be sent to the Campus as soon as possible after the original contact.
- (2) In instances where the taxpayer alleges improper levy action, once the tax liability has been paid, the taxpayer has a right to file a claim for refund under IRC 7422, if the assessment or collection is considered to be erroneous or excessive. The claim can be initiated by the preparation of:
- Form 1040X, Amended U.S. Individual Income Tax Return
 - Form 1120X, Amended U.S. Corporation Income Tax Return
 - Form 843, Claim For Refund and Request for Abatement
 - Other forms as are appropriate for the type of refund claimed
- (3) A **separate** form must be filed for each tax year or quarter involved and the supporting information on which the claim is based must be attached. The claim is to be sent to the compliance center where the original return was filed.
- (4) Generally, a claim for refund must be filed within three years from the date the return was filed (returns filed before the due date are considered to have been filed on the due date) or within two years from the date the tax was paid, whichever date is later.
- (5) If the claim is rejected, a statutory notice of disallowance will be sent to the claimant. After receipt of the notice of disallowance, the taxpayer may file suit for refund in a U.S. District Court or in the U.S. Court of Claims. Suit must be filed within two years from the date of the notice of disallowance. Should no determination be made on the claim within six months from the date filed, a suit for refund may be initiated as if the claim had been rejected. If a taxpayer seeks prompt court action, the taxpayer may file a written waiver of the requirement that the Service mail a notice of disallowance. If the taxpayer files a waiver, the two-year period in which the taxpayer may file suit begins on the date that the waiver is filed.

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Exhibit 5.10.6-1 (08-02-2013)**Form 2436 — Seized Property Sale Report Reference: IRM 5.10.6.5**

Form 2436 Instructions: Complete only after all payments and all expense receipts or vouchers are received. If some property from the same seizure number was sold and some was bid-in for the government, prepare separate Forms 2436 for the two disposition types.

Exhibit 5.10.6-1 (Cont. 1) (08-02-2013)**Form 2436 — Seized Property Sale Report Reference: IRM 5.10.6.5**

Item Number	Description
1	Name, address and TIN of taxpayer
2	Area and territory office information
3	Seizure number from Form 2433
4a	Specific location where sale was conducted, only city and state required
4b	Name and title of assisting employee
4c	Date sale was conducted
5. Application of Proceeds	
Also see additional instructions on form - include each period where proceeds were applied; for each period, there is a TC (transaction code) column on the left and a column to enter the related information. The only line items that allow for entries in the TC column are lines "g" and "h" when the account contains manually assessed penalties or restricted interest.	
a	Tax form number for tax periods where proceeds are to be applied; enter tax periods in order of application of proceeds
b	Tax period
c	Date payment was made; will generally be the date of sale except in deferred payment situations where more than one payment date may be applicable; for deferred payment sales, calculate penalties and interest though each payment date (IRM 5.10.6.5.1)
d	List amount of expenses not paid directly by the taxpayer (enter for first module only) and not already posted to the account as a TC 360
e	Enter the proceeds to be applied against the expenses (payments must be offset against all expenses first); amount must be equal to or greater than the total seizure expenses posted to the module
f	Enter the amount to be applied to the tax liability.
g	Designated payment code of "06" will be entered for all seizure payments; no entry required
h	Total amount of proceeds to be applied to each module; sum of lines "e" and "f"; will equal line "f" for all modules except the first module where the TC 694 was input
6. Sale Proceedings	

Exhibit 5.10.6-1 (Cont. 2) (08-02-2013)

Form 2436 — Seized Property Sale Report Reference: IRM 5.10.6.5

Item Number	Description
a	Check applicable blocks for property that was sold to highest bidder; select one block from items 1 through 3, and also select either item 4 or 5
b	Check applicable block for property that was bid in for the government; if item 2 is selected, also enter applicable lot numbers
c	Check the block when IRM 5.10.5.15(1)b applies.
7. Schedule of Expenses	
7	Describe all expenses of sale—give name, type of service rendered; i.e., custodial, appraisal, storage, etc., and amount of invoice
8. Sale Proceeds	
a	Provide taxpayer's total liability from the Form 668-B and taxpayer's total liability including accruals through the date of payment. These amounts will generally be different because the date of preparation of the Form 668-B is different than the date of payment.
b	Gross proceeds of sale (total of all certificates of sale); if purchased by U.S. use the "Minimum Bid Price"
c	Total Expenses (Amount from 5d and, if applicable, TC 360 already charged on the account for seizure related expense).
d	Intervening Claims
e	<p>Net proceeds of sale (amount available for application to taxpayer's account): this amount is determined by subtracting any amounts paid to offset seizure and sale expenses (from line 8c) plus any amount paid to valid encumbrances intervening between Notices of Federal Tax Lien (from line 8d) from the gross proceeds (line 8b).</p> <p>Note: If property is seized and sold to enforce several outstanding tax liens, the proceeds must be applied toward the satisfaction of tax in the order of their priority where other competing liens, whether inferior or superior, have attached to the property sold.</p>

Exhibit 5.10.6-1 (Cont. 3) (08-02-2013)**Form 2436 — Seized Property Sale Report Reference: IRM 5.10.6.5**

Item Number	Description
f	Surplus proceeds: this amount is determined by subtracting the taxpayer's total liability (line 8a "As of final payment") from the net proceeds (line 8e) - enter \$0 if the liability exceeds the net proceeds.
The employee who conducted the sale should complete the information and then sign and date the form. Copies of the bid tabulation, Form 4425, Public Sale Bid Tabulation, should be attached to the form, and for sealed bid sales, Form 2222, Sealed Bid for Purchase of Sealed Property, should also be attached.	

Exhibit 5.10.6-1 (Cont. 4) (08-02-2013)

Form 2436 — Seized Property Sale Report Reference: IRM 5.10.6.5

Seized Property Sale Report—Case Example		
Property seized 10/15/2000; Sold 12/1/2000		
<i>Encumbrance</i>	<i>Date Recorded</i>	<i>Amount (Including Interest)</i>
Security Interest Recorded	1/16/1999	\$10,000.00
U.S. Tax Lien Recorded	4/18/1999	4,000.00
Security Interest Recorded	5/20/1999	2,000.00
U.S. Tax Lien Recorded	7/21/2000	2,000.00
Schedule of Distribution of Proceeds		
Property sold subject to \$10,000 1/16/1999 senior encumbrance		
Proceeds of Sale (\$9,600) Applied in the Following Order:		
Expenses		\$105
NFTL	4/18/1999	\$4,000.00
Intervening Security Interest	5/20/1999	\$2,000.00
NFTL	7/21/2000	\$2,000.00
Surplus Proceeds		\$1,495.00
<i>Documentation on Form 2436</i>		
Item 8a (Taxpayer's total liability)	4/18/1999 NFTL 7/21/2000 NFTL	\$6,000
Item 8b (Gross Proceeds)	Total amount received at sale	\$9,600
Item 8c (Expenses)	Expenses (\$105)	\$105
Item 8d (Intervening claims)	5/20/1999 Security Interest	\$2,000
Item 8e (Net Proceeds)	Gross proceeds (8b) less expenses (8c) and intervening claims (8d)	\$7,495
Item 8f (Surplus Proceeds)	Net proceeds (8e) less total liability (8a)	\$1,495

