



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.19.4

MARCH 25, 2022

EFFECTIVE DATE

(03-25-2022)

PURPOSE

- (1) This transmits revised IRM 5.19.4, Liability Collection, Enforcement Action.

MATERIAL CHANGES

- (1) IRM 5.19.4.1.7(3) TBOR content updated based on guidance from the Division Counsel/Associate Chief Counsel (National Taxpayer Advocate Program) and Branch 3 of the Associate Chief Counsel (Procedure and Administration), IPU 22U0265 issued 02-11-2022.
- (2) IRM 5.19.4.3.1(2) add LT75 to list of letters that meets CDP, IPU 22U0265 issued 02-11-2022.
- (3) IRM 5.19.4.3.1(4) change 52 days to 53 days, IPU 22U0265 issued 02-11-2022.
- (4) IRM 5.19.4.3.1(7) is being updated to provide temporary guidance when the UD Mail indicator is present on an account. Note: It was recently discovered that the programming to update the UD mail indicator on the account was not working as intended. Once corrective programming has been transmitted, this guidance will be updated, IPU 21U0570 issued 04-12-2021.
- (5) IRM 5.19.4.3.1(11) change 52 days to 53 days, IPU 22U0265 issued 02-11-2022.
- (6) IRM 5.19.4.3.4(8) a NOTE added reference to TPC, IPU 22U0265 issued 02-11-2022.
- (7) IRM 5.19.4.3.4(13) is being updated to provide temporary guidance when the UD Mail indicator is present on an account. Note: It was recently discovered that the programming to update the UD mail indicator on the account was not working as intended. Once corrective programming has been transmitted, this guidance will be updated, IPU 21U0570 issued 04-12-2021.
- (8) IRM 5.19.4.3.6 created new (4) to clarify exceptions for adding levy source data to ACS and renumbered the remaining paragraphs, IPU 22U0310 issued 02-28-2022
- (9) IRM 5.19.4.4.3(2) corrected paragraph in the if/then box from (18) to (14), IPU 22U0265 issued 02-11-2022.
- (10) IRM 5.19.4.5.1(3) corrected link to IRM 5.19.1.4.4.1, IPU 22U0265 issued 02-11-2022.
- (11) IRM 5.19.4.6.4 removed paragraph 4 as it was the same information as (1)
- (12) IRM 5.19.4.6.3 added reminder for name/address perfection on decedent accounts and provided link to IRM 5.19.1.5.3, IPU 22U0265 issued 02-11-2022.
- (13) IRM 5.19.4.3.6(3) added clarification regarding the deletion of older levy sources and added reminder to not add secondary levy sources when there is no secondary liability, IPU 22U0310 issued 02-28-2022

EFFECT ON OTHER DOCUMENTS

IRM 5.19.4, dated 12/21/2020 is superseded. This IRM also incorporates IRM procedural updates, IPU 21U0570, 22U0265 and 22U0310.

AUDIENCE

Small Business/Self Employed (SB/SE) and Wage and Investment (W&I)

Kareem Williams
Acting Director, Collection Policy

5.19.4

Enforcement Action

Table of Contents

5.19.4.1 Program Scope and Objectives

5.19.4.1.1 Background

5.19.4.1.2 Authority

5.19.4.1.3 Responsibilities

5.19.4.1.4 Program Management and Review

5.19.4.1.5 Program Controls

5.19.4.1.6 Terms/Definitions/Acronyms

5.19.4.1.7 Related Resources

5.19.4.2 Levy Enforcement Action and Filing of Notices of Federal Tax Lien Overview

5.19.4.2.1 Affordable Care Act (ACA) Provision 1501: Requirement to Maintain Minimum Essential Coverage (Individual Shared Responsibility) IRC 5000A – Excluded from NFTL and Levy

5.19.4.2.2 Affordable Care Act (ACA) - Employer Shared Responsibility Provision (ESRP) 4980H

5.19.4.2.3 Taxpayer First Act (TFA) - Third Party Contact Notification (TPC) IRC 7602(c)(1)

5.19.4.3 Levy Information

5.19.4.3.1 Pre-levy Requirements - E2 Processing

5.19.4.3.1.1 Disqualified Employment Tax Levy (DETL)

5.19.4.3.1.2 Federal Contractor Levy - "FEDCON"

5.19.4.3.2 Payment or Filing Verification

5.19.4.3.3 Levy Routing and Duties

5.19.4.3.4 Levy Determination - (E3/E4 Processing)

5.19.4.3.5 Levy Sources and ACS Display

5.19.4.3.5.1 Form 1099K (Merchant Card and Third Party Network Payments)

5.19.4.3.5.2 Levy on Virtual Currency

5.19.4.3.6 Obtain, Verify and Update Levy Sources

5.19.4.3.6.1 Identifying Duplicate Levy Sources

5.19.4.3.7 Choosing a Levy Source

5.19.4.3.8 Levy Source Address

5.19.4.3.9 ACS Levy Sources on SERP

5.19.4.3.10 Levy Types

5.19.4.3.11 Typing Manual Levies

5.19.4.3.12 Issuing Levies

5.19.4.4 Procedures for Levy Responses

5.19.4.4.1 Levy Responses: General Information

5.19.4.4.2 Levy Responses Paper

5.19.4.4.3 Levy Responses: Telephone

- 5.19.4.4.3.1 Exempt Amount
- 5.19.4.4.4 Full Pay Levies
- 5.19.4.4.5 Partial Pay Levies
- 5.19.4.4.6 Continuous Wage Levies - E7 Payment Processing
 - 5.19.4.4.6.1 Manually Monitor Continuous Levy
- 5.19.4.4.7 No Payment Levies
- 5.19.4.4.8 Next Action After Levy Response
- 5.19.4.4.9 Levy Follow-Up
- 5.19.4.4.10 Levy Release: General Information
- 5.19.4.4.11 Levy Release: Returning Levied Property
- 5.19.4.4.12 Wrongful Levies
- 5.19.4.4.13 Erroneous Levies: Bank Charges
- 5.19.4.5 Notice of Federal Tax Lien Determinations and Filing Criteria
 - 5.19.4.5.1 Notice of Federal Tax Lien Filing Determinations
 - 5.19.4.5.1.1 Determination Requirement Exceptions
 - 5.19.4.5.1.2 Affordable Care Act (ACA) Provision 1501: Requirement to Maintain Minimum Essential Coverage (Individual SRP) IRC § 5000A – Exception
 - 5.19.4.5.2 Do Not File Decisions
 - 5.19.4.5.2.1 Do Not File Approvals
 - 5.19.4.5.3 NFTL Filing Decisions
 - 5.19.4.5.3.1 Before Filing NFTLs
 - 5.19.4.5.3.2 Filing Criteria
 - 5.19.4.5.3.3 Appeal Rights for NFTLs
 - 5.19.4.5.3.4 When Filing an NFTL Requires Approval
- 5.19.4.6 Procedures for Filing NFTL
 - 5.19.4.6.1 How to File a NFTL
 - 5.19.4.6.2 Special NFTL Filing Considerations
 - 5.19.4.6.3 Perfecting Entity Name/TIN Before NFTL Filing
 - 5.19.4.6.4 Post-NFTL Filing Calls and NFTL Withdrawals
 - 5.19.4.6.4.1 Withdrawal of NFTL for Direct Debit Installment Agreements
 - 5.19.4.6.4.2 Withdrawal of Notice of Federal Tax Lien after Release
 - 5.19.4.6.4.2.1 Post-release NFTL Withdrawals Under IRC 6323(j)(1)(A)
 - 5.19.4.6.4.2.2 Post-release NFTL Withdrawals Under IRC 6323(j)(1)(D))
 - 5.19.4.6.5 Lien Releases
 - 5.19.4.6.6 Tax Lien Discharges and Subordinations
 - 5.19.4.6.6.1 Tax Lien Discharge Information
 - 5.19.4.6.6.2 Tax Lien Subordination

Exhibits

- 5.19.4-1 Levy Enforcement Action Flow Chart
- 5.19.4-2 Lien Enforcement Action Process Flowchart
- 5.19.4-3 IDRS Input of CTLV
- 5.19.4-4 C1P/C1G/C1Z Values and Meanings

5.19.4.1
(03-01-2018)
Program Scope and Objectives

- (1) **Purpose:** This section contains information for:
 - determinations to issue and release a Notice of Levy.
 - determinations and criteria for filing a Notice of Federal Tax Lien, (NFTL).

Note: See Exhibit 5.19.4-1 Levy Enforcement Action Flow Chart for an overview of the levy process and see Exhibit 5.19.4-2, Lien Enforcement Action Process Flowchart, for an overview of the NFTL process.
- (2) **Audience:** Small Business/Self-Employed (SB/SE) and Wage & Investment (W&I) employees in Compliance Services Collection Operation (CSCO), Automated Collection System (ACS) and ACS Support, Field Assistance (FA) Offices, and Account Management (AM), who are making determinations to either issue a Notice of Levy or to file a Notice of Federal Tax Lien.
- (3) **Policy Owner:** Director, Collection Policy. Collection Policy is an organization under Small Business/Sell-Employed Division (SB/SE), Collection.
- (4) **Program Owner:** SBSE Collection Policy, Enforcement.
- (5) **Primary Stakeholders:** Campus Collection, and Advisors in the Civil Enforcement Advice and Support Operations (CEASO) organization.
- (6) **Program Goals:** This IRM section provides the fundamental knowledge and procedural guidance for making levy and levy release determinations and NFTL determinations, including NFTLs for special conditions. By following the procedures in this IRM employees will be able to issue levies and levy releases and to file NFTLs that are procedurally and legally correct to promote long-term voluntary compliance.

5.19.4.1.1
(03-01-2018)
Background

- (1) This Internal Revenue Manual (IRM) section provides employees with directions for the levy process which is impacted by IRC 6330, IRC 6331 and IRC 6334 and the NFTL process which is impacted by IRC 6321. Levy and NFTL processes are also affected by the taxpayer bill of rights and by IRS policy statements. The procedures in this IRM are designed to ensure levy and NFTL actions we take are in compliance with law and policy.

5.19.4.1.2
(12-27-2019)
Authority

- (1) Authorities relating to this section for **Notice of Levy** are found in the following code and regulation sections:

Code Section	Regulation	Description
26 USC 6331	301.6331-1	Levy and Distraint
26 USC 6334	301.6334-1	Property exempt from levy
26 USC 6343	301.6343-1	Authority to release levy and return property

- (2) Policy Statements and Delegation Orders for **Notice of Levy** are found in the following IRMs:

Policy Statements and Delegation Orders regulate Notice of Levy:

- IRM 1.2.1.6.1, Policy Statement 5-1
- IRM 1.2.1.6.2, Policy Statement 5-2
- IRM 1.2.1.6.11, Policy Statement 5-39
- IRM 1.2.2.6.3, Delegation Order 5-3 (Rev-1)

- (3) The authority for **Notice of Federal Tax Lien** is found in the following code and regulation sections:

Code Section	Regulation	Description
26 USC 6321	§301.6321-1	Lien for taxes
26 USC 6322	no regulation	Period of lien
26 USC 6323	§301.6323(a)-1	Validity and priority against certain persons
26 USC 6324	§301.6324-1	Special liens for estate and gift taxes
26 USC 6324A	§301.6324A-1	Special lien for estate tax deferred under section 6166
26 USC 6324B	no regulation	Special lien for additional estate tax attributable to valuation of farm, etc.
26 USC 6326	§301.6326-1	Administrative appeal of liens

- (4) Policy Statements and Delegation Orders for **Notice of Federal Tax Lien** are found in the following IRMs:

Policy Statements and Delegation Orders regulate Notice of Federal Tax Lien

- IRM 1.2.1.6.2, Policy Statement 5-2
- IRM 1.2.1.6.13, Policy Statement 5-47
- IRM 1.2.2.6.4, Delegation Order 5-4 - Federal Tax Lien Certificates

5.19.4.1.3
(03-01-2018)
Responsibilities

- (1) The Director, Collection Policy is responsible for all policies within the lien and levy programs.
- (2) The Program Manager, Enforcement is responsible for development and delivery of policies within the lien and levy programs.
- (3) Managers are responsible for ensuring employees are duly delegated to issue Notice of Levy and for ensuring the levy actions are in accordance with policy and procedures.
- (4) Managers are responsible for ensuring employees are duly delegated to file NFTLs and that lien actions are in accordance with policy and procedures.
- (5) Employees that request a Notice of Levy are responsible for ensuring that all pre-levy actions have been taken and that levy issuance is appropriate.
- (6) Employees are responsible for ensuring a timely Release of Notice of Levy when account conditions warrant such release.

- (7) Employees authorized to make determinations regarding specific lien actions are responsible for ensuring procedures are properly followed.
- (8) Employees that request NFTL filings are responsible for providing accurate information.
- (9) Employees manually preparing Notice of Levy and NFTLs are responsible for ensuring the accuracy of the document.

5.19.4.1.4
(03-01-2018)
**Program Management
and Review**

- (1) **Program Reports:** The following reports are generated by management and can assist with evaluating levy and NFTL activity:
 - Embedded Quality Review System (EQRS) Reports
 - National Quality Review System (NQRS) Reports
 - ACS Reports
 - Case Control Activity System (CCA) Reports
 - Collection Activity Report (CAR)
 - Monthly Monitoring Report (MMR)
- (2) **Program Effectiveness:** Operational and program reviews are conducted to ensure case actions are timely and in accordance with the procedures in this IRM. Evaluative (EQRS) and national (NQRS) quality reviews and consistency reviews are routinely conducted.
 - a. Cases are routinely reviewed by Centralized Quality Review System (CQRS) to ensure case actions are timely and in accordance with the procedures in this IRM.
 - b. Case reviews are conducted by managers to ensure compliance with this IRM.
 - c. Operational reviews are conducted by the Department and Operation Managers annually to evaluate program deliver, conformance to administrative requirements and ensure compliance with this IRM.
 - d. Headquarters Collection Policy, Campus Policy and Collection Policy, Enforcement, conduct program reviews as necessary to verify compliance with IRM requirements, address TIGTA/GAO findings, and address any trends that appear.

5.19.4.1.5
(12-27-2019)
Program Controls

- (1) National Quality Review System (NQRS), attribute 417, Managerial Approvals for Enforcement provides independent collection review information from which management may draw inferences regarding overall case quality for this attribute. See IRM 5.13.1, Embedded Quality Administrative Guidelines.
- (2) Certain notices of levy must be approved by managers. See IRM 1.2.2.6.3, Levy on Property in the Hands of a Third Party (not to include Levy Form 668-B).
- (3) Certain lien determinations must be approved by managers.
- (4) Programming safeguards are built into the ACS system to prevent a levy or NFTL from being generated on a module where the required notices have not been issued.

5.19.4.1.6
(03-01-2018)
**Terms/Definitions/
Acronyms**

- (1) A levy is a seizure by the IRS of the taxpayer's property and rights to property. A notice of levy is used by the Automated Collection System (ACS) to seize a taxpayer's property, held by a third party. If issued a levy, the third party remits the property to the IRS, e.g., a taxpayer's bank account, wages, commissions, retirement benefits, or money received as a contractor.
- (2) Terms and acronyms associated with the ACS levy program include:
 - a. **Manual Levy**- A manual levy is a paper levy that is manually prepared and mailed by an ACS employee.
 - b. **Paper levy** - A paper levy is generated on Form 668-A or Form 668-W and issued from ACS by entering action history LVnn either through systemic issuance or by an employee through next case processing.
 - c. **Systemic Levy** - Systemic levies in ACS are generated by ACS systemic levy program.
 - d. **Automated Levy** - Automated levies are levies issued through the Automated Levy Programs, ALP. These levies are transmitted electronically.
- (3) A tax lien is a legal claim on an individual's property for payment or satisfaction of a tax debt. It attaches to all property or rights to property the taxpayer has or acquires, whether real or personal, tangible or intangible.
- (4) The NFTL is a document filed in state recording offices to make the tax liability public and protect the IRS's priority as against other creditors of the taxpayer. For corporations, a NFTL may be filed with the Secretary of State, depending on state law.
- (5) Refer to IRM 5.19.1-1, Acronyms, Explanations and Command Codes for a complete list of acronyms.

5.19.4.1.7
(02-11-2022)
Related Resources

- (1) The **SSA Paper Levy Contacts** web page provides Social Security Administration (SSA) contacts using the first three digits of the taxpayer's social security number (SSN). SSA contacts can confirm the receipt of the paper levy, the amount of the payment, the date payment was made, and the name and account number of the taxpayer to whom the payment was to be credited. See <http://serp.enterprise.irs.gov/databases/who-where.dr/ssa-paper-levy-contacts.html>
- (2) The **National Levy Source Look-Up** web page provides up-to-date levy source name and address information. See <https://acsweb.enterprise.irs.gov/nlsweb/pages/nl08.xhtml> .
- (3) The **Taxpayer Bill of Rights (TBOR)** lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3) , Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see . <https://www.irs.gov/taxpayer-bill-of-rights>. For additional information see IRM 1.2.1.2.36, Policy Statement 1-236.
- (4) A NFTL filing can be appealed (with certain restrictions) under Collection Due Process (CDP) procedures. The final notice of intent to levy can (also with certain restrictions) be appealed under CDP procedures. NFTLs and levies can also be appealed under the Collection Appeals Program (CAP). See IRM 5.19.8, Collection Appeal Rights.

- (5) Taxpayer Advocate Service, (TAS) cases may be initiated because of Notices of Levy or NFTLs. See IRM 13.1.7, Taxpayer Advocate Service Case Criteria, for guidance in determining if the taxpayer meets the criteria to be referred to TAS.
- (6) For more detailed procedures and guidance, see IRM 5.11, Notice of Levy and IRM 5.12, Federal Tax Liens.

5.19.4.2
(12-02-2020)
**Levy Enforcement
Action and Filing of
Notices of Federal Tax
Lien Overview**

- (1) The Internal Revenue Code IRC 6331 authorizes levies to collect delinquent tax. Unless specifically exempt, any taxpayer property or rights to property can be levied. However, the IRS may generally only levy when the following requirements are met:
 - the IRS assessed the tax and sent the taxpayer a notice and demand for payment;
 - the taxpayer has neglected or refused to pay the tax within 10 days after notice and demand;
 - the IRS sent the taxpayer a Final Notice of Intent to Levy and Notice of Your Right to a Hearing at least 30 days before the Levy;
 - the advance written third party contact notification requirements have been met; and
 - no Collection Due Process (CDP) request is filed in response to the Final Notice of Intent to Levy and Notice of Your Right to a Hearing, or a CDP hearing is conducted sustaining the proposed levy.
- (2) Liens give the IRS a legal claim to a taxpayer’s property as security for the tax debt. The Federal Tax Lien arises when:
 1. the IRS assesses the liability,
 2. the IRS sends the taxpayer a Notice and Demand for Payment, and
 3. the taxpayer neglects or refused to fully pay the debt after notification.

When these three requirements are met, the “assessment” lien arises without any further action by the IRS. IRC 6323 authorizes the filing of a Notice of Federal Tax Lien (NFTL) in the public records. By filing the NFTL, the taxpayer’s creditors are publicly notified that the IRS has a claim against all the taxpayer’s property and to all the taxpayer’s rights to property. Filing the NFTL establishes IRS priority against subsequent creditors and in bankruptcy proceedings.

5.19.4.2.1
(01-01-2016)
**Affordable Care Act
(ACA) Provision 1501:
Requirement to Maintain
Minimum Essential
Coverage (Individual
Shared Responsibility)
IRC 5000A – Excluded
from NFTL and Levy**

- (1) If a taxpayer fails to pay the individual SRP imposed by IRC 5000A and Treasury Regulation 1.5000A-1 through 1.5000A-4, we will not file a Notice of Federal Tax Lien on any property of the taxpayer, or levy on any property of the taxpayer for the failure.
- (2) The individual SRP assessments are processed on the IMF (Individual Master File) under MFT 35 Tax Class 2. A mirrored individual SRP module(s) is posted to master file under MFT 65.

Note: Any references to ‘individual SRP’ assessment(s) within the IRM include both MFT35 and MFT65 assessments.
- (3) When manually preparing request for NFTL or Notice of Levy, employees must exclude any balances resulting from the individual SRP.

Note: ACS programming will automatically exclude the individual SRP balance due modules from:

- LT11, OL11, PO11 (or the Spanish equivalent)
- NFTL
- Notices of Levy

5.19.4.2.2
(10-31-2016)
**Affordable Care Act
(ACA) - Employer
Shared Responsibility
Provision (ESRP) 4980H**

- (1) Large employers (generally, employers with at least 50 full-time employees, including full-time equivalents employees, in the prior calendar year) may be assessed an employer shared responsibility payment (ESRP) under IRC 4980H(a) if they do not offer health insurance with minimum essential coverage (MEC) to full-time employees (and their dependents) and at least one full-time employee receives a premium tax credit (PTC) under IRC 36B. The ESRP may also be assessed under IRC 4980H(b) if the employer offers MEC to its full-time employees (and their dependents), but at least one full-time employee receives a PTC because the employer's insurance MEC was not affordable or did not provide minimum value.
- (2) Unlike the individual SRP assessments in which no enforced collection action is taken, the ESRP assessments may be included when issuing a levy or filing a Notice of Federal Tax Lien when an employer fails to pay the ESRP imposed by IRC 4980H.
- (3) The ESRP assessments are processed on the BMF (Business Master File) under MFT43.

5.19.4.2.3
(12-02-2020)
**Taxpayer First Act (TFA)
- Third Party Contact
Notification (TPC) IRC
7602(c)(1)**

- (1) The Taxpayer First Act amended IRC 7602(c)(1) and is effective for notices of third party contacts and contacts of third parties made after August 15, 2019. The Code now requires that IRS:
 - issue advance written notice of third party contacts
 - intend, at the time such notice is issued, to contact third parties (and state this intent in the notice),
 - specify in the notice the time period, not to exceed one year, within which IRS intends to make the third party contact(s), and
 - send the notice at least 45 days before making contact with a third party except as otherwise provided by an authorized IRS delegate of the Secretary

Note: Effective August 15, 2019, Publication 1 no longer satisfies the advance notice requirement of IRC Section 7602(c)(1).

- (2) In all cases involving third party contact notices provided after August 15, 2019, or in which contacts with third-parties will occur after August 15, 2019, a notice meeting the new requirements must be provided. Employees may generally not contact a third party until the 46th day following the date of the notice. The notice must also include the tax period(s) at issue. Employees may issue new notices, if necessary. ACS employees will generally use the LT40, *Notice to taxpayer of possible need to contact third parties - balance due/ combo accounts*, however ACS may utilize the Letter 3230 when module(s) to be included in the third party contact are in notice status.
- (3) When ACS employees intend to contact third parties in connection with the determination or collection of a tax liability of a taxpayer, they must verify the taxpayer was issued an advance third party contact notification letter that

describes the intent to contact third parties and establishes a time frame for the third party contacts occurring on or after August 15, 2019 in accordance with IRC 7602(c)(1). Make sure the third party contact will occur within the one-year time frame described in the notice. Perform IDRS and/or ACS research first to verify the issuance of advance third party contact notification by identifying transaction code (TC) 971 action code (AC) 611 posted on an IDRS module. ACS employees will need to ensure the appropriate revision of the advance third party contact notification letter was issued, see IRM 5.1.1.12.1(2).

- (4) The taxpayer may have given consent to make third party contacts. See IRM 25.27.1.3.6 *Taxpayer Authorizes Contact with Third Party* for procedures. In this situation there is no reason to give the taxpayer written advance notice of third party contacts. However, authorization should not be sought unless there is a high level of confidence that the 3rd party will have no fear of reprisal since to obtain the authorization the name of the 3rd party will necessarily be disclosed to the taxpayer thereby bypassing the reprisal procedures. See IRM 25.27.1.3.3, *Reprisal*, IRM 25.27.1.3.4 *Reprisal Determinations* and IRM 25.27.1.3.5, *Reprisal Notification Procedures* for discussion of reprisal
- (5) See IRM 25.27.1, Third Party Contact Program for general IRC 7602(c) procedures to follow when contacting anyone other than the taxpayer regarding the determination or collection of the taxpayer's tax liability and exceptions to third party contact notice requirements. . See IRM 5.1.1.12 , Third Party Contacts for detailed information on the statutory requirements and IRM 5.19.5.13 , Notification of Third Party Contact for ACS specific guidance.
- (6) Releasing a levy issued to a third party (other than a government entity) is generally a third party contact, however the Service will not delay the issuance of a release of levy to meet the written Third Party Contact requirement as amended by the Taxpayer First Act.

Reminder: When a copy of the Release of Levy is not sent to the taxpayer, employees must prepare a Form 12175, Notification of Third Party Contact. Refer to IRM 25.27.1.4 , Recording and Reporting TPCs and IRM 5.19.5.13.3 for procedures on preparing and submitting the Form 12175

- (7) ALP levies are not considered third party contacts and the related computer generated CDP notices do not contain advance third party contact notification. See IRM 25.27.1.2(2), Third Party Contact (TPC): Definition.

5.19.4.3
(12-22-2005)
Levy Information

- (1) This section provides information and guidance for issuing levies.

5.19.4.3.1
(02-11-2022)
Pre-levy Requirements - E2 Processing

- (1) IRC 7602(c)(1) requires that the Service provide advance written notification of intent to contact third parties for each module that will be referenced in the third party contact. The taxpayer may have been given an LT11 (revised June 2020 or later), an LT40 (revised June 2020 or later) or an equivalent letter (issued after 8/15/19) for each *module* to be included on the levy. Equivalent TPC notification letters include:

- Letter 3164 series, revised July 2019 or later
- Correspondex letters 3230C/SP, 3232C/SP and 3238C/SP revised January 2020 or later.

Note: For accounts where some modules need a CDP notification and other modules require a new TPC notice, simultaneously issue the LT11 and LT40 letters. Exclude specific tax modules by following the procedures in IRM 5.19.4.3.1(6) d below.

(2) IRC 6330 requires that the Service (except in the case of jeopardy levies, levies on State income tax refunds or disqualified employment tax levies (DETL) or federal contractor levies(FEDCON)) provide written notification in the form of a Collection Due Process (CDP) notice of its intent to levy on any property or right to property of any taxpayer at least 30 days prior to the levy and inform the taxpayer of the right to a CDP hearing. For more information on DETLs, see IRM 5.19.4.3.1 (11), Pre-Levy Requirements. For more information on federal contractor levies, see IRM 5.19.4.3.1.2, Federal Contractor Levy - "FEDCON". ACS uses an LT11 (Notice of Intent to Levy and Your Notice of a Right to a Hearing) to inform taxpayers of our intent to levy and provide due process hearing rights prior to levy. When an LT11 is issued, a TC 971AC069 is entered on IDRS systemically for each module listed on the LT11. The taxpayer MUST have been issued an LT11 or equivalent on or after 1/19/99 in order to levy. Equivalent CDP notices include:

- CPs: 77, 90, 90C , 92, 177, 242, 297, 297A or 297C.
- LT73
- LT75
- Letter 1058 issued by revenue officers.
- ACS discontinued use of Letter 1058C in 1/2001; however, reference to the issuance of Letter 1058C in ACS Comments or History Notes is considered equivalent to LT11.

(3) Issue LT11 or LT40 ONLY where the next action will be to levy. Review paragraphs (5) - (11) below, prior to issuing the LT11.

Note: Carefully review each module to determine if the taxpayer was given TPC notice and the time period specified in any such notice. If the levy is to be issued outside the time period specified in any prior notice, a new notice, LT40, is required for those modules. Follow the procedures in Figure 5.19.4-2 when one or more tax modules can be excluded from the new TPC notification.

Reminder: Do not issue an LT11 solely to meet the TPC requirements. An LT11 is **only** to be issued when one or more modules require CDP notification. Use the LT40 to provide the advance written notification.

Note: Do not include any individual SRP modules, MFT35/65, in the TPC notification when the next action will be to levy.

(4) When an LT11 is issued, either manually or systemically, the case is re-assigned to E3 with a 53-day follow-up to issue a levy as the next action. For new entity receipts, an LT11 is issued systemically during weekly analysis when the following conditions are met:

- There is no TC971 AC069 on any open ACS module;
 - There is at least one usable levy source; and
 - The entity does not meet criteria for systemic assignment to S1 (SCCB Action List), R5 (accelerated to ACS with TSIGN 0120); or R8 (returned from the Field queue).
- (5) Ensure that there is a levy source available for ACS to send; see IRM 5.19.4.3.7, Choosing a Levy Source. If there is no levy source available, do not issue LT11. Document ACS Comments or AMS History and reassign using ACS to Contact or Investigation, as appropriate.
- (6) Before requesting an LT11, ensure that it is required on at least one tax module by checking the modules for “PRI FNL NOT” and “SEC FNL NOT” dates. If dates are present for *all* balance due modules, this may indicate that Collection Due Process (CDP) requirements are met; however, further analysis is required:

Note: A tax module having a subsequent assessment on the account, including additional failure to pay penalties for additional taxes after the issuance of a collection due process notice (TC 971 AC069) must also receive a collection due process notice on the subsequent assessment prior to levy issuance. A failure to do so would violate the taxpayer’s collection due process rights. An exception to this rule involves assessments of accrued interest and failure to pay penalties. See IRM 5.1.9.3.1, Notice of Collection Due Process (CDP) Hearing Rights.

Note: The date of the CDP notice generally must be at least 10 days after the 23C date.

- a. Carefully review each tax module on IDRS to determine if a new CDP notification is needed. Check ACS Comments or AMS History for any specific instructions pertaining to LT11 issuance.
- b. Check for ASMT+ Indicator in the Alerts section. An ASMT+ indicator on the Entity screen means the assessed balance on one or more ACS modules has increased, usually with a TC290 or TC300. The same indicator is on the Tax Module Screen next to the affected tax modules. By law, the taxpayer must be sent a CDP notice for any additional tax assessments. A new LT11 must be issued before levying on a module to collect an additional tax assessment.
- c. If it is determined that another LT11 is **not** needed document AMS annotating which tax periods were reviewed and reason another CDP notice is not needed. Remove the ASMT+ indicator by entering History code ASMT. Make a levy determination and take next action immediately, following the procedures in IRM 5.19.4.3.4, Levy Determination.
- d. Follow the procedures in the table below when issuing an LT11 when an ASMT+ indicator is present.

If specific tax modules need to be excluded on ACS from LT11 issuance	Then
and the tax module screen shows an asterisk in front of each tax module	remove the asterisk from any module on the Tax Module Screen that does not need a new due process notice. Confirm the removal using History Code CS00 before paging to another screen or requesting a letter. Failure to confirm the screen change with History Code CS00 before moving to another screen will cause the system to fail to recognize your intention to exclude any tax modules from a letter or levy.
and you are excluding tax modules from two or more MOD screens	a separate CS00 entry is required for each screen.
confirm the screen changes with the CS00	enter LT11 & document in ACS Comments what tax module(s) will be on the LT11.

Figure 5.19.4-1

If specific tax modules need to be excluded from LT11 issuance on AMS	Then
and the module screen shows yes in the include column for each tax module	<ol style="list-style-type: none"> 1. click on the module to activate 2. click on the include box to remove the check mark 3. Click update to confirm the removal before going to another screen or requesting a letter. The yes in the include box will change to no. If you do not click on update before moving to another screen, the system will not recognize your intent to exclude any tax modules from letter or levy.
and you are excluding more than one tax module, you must click on each one	follow the same procedure as stated above.

If specific tax modules need to be excluded from LT11 issuance on AMS	Then
confirm the no in the include column	send LT11 and document AMS History what tax module(s) will be on the LT11.

Figure 5.19.4-2

- (7) The LT11 must be sent certified/return receipt requested to the last known address. If the “UD” alert is present on ACSWeb or there is an indication of undelivered mail and no indication of processing through Address Research (ADR) additional research on IDRS is needed:
 - a. When the “UD” Alert is present on ACSWeb, compare the last address update posting cycle to the posting cycle of the unreversed undelivered mail transaction, TC971 AC 661. If the last posted address update cycle is the same or later than the posting cycle of the undelivered mail transaction no additional research is needed. Reverse the undelivered mail transaction by inputting a TC972 AC 661 to the module where the unreversed TC971 AC 661 is posted to force the UD mail indicator to update on Masterfile and issue the LT11.

Note: A posted, unreversed TC 971 AC 661 causes the Undeliverable (UD) indicator to generate on the account entity. It was recently discovered that the programming to update the UD mail indicator was not working as intended. Once corrective programming has been transmitted, this guidance will be updated.
 - b. When the “UD” Alert is present on ACSWeb and IDRS research reveals the last posted address update cycle is before the posting cycle of the unreversed undelivered mail transaction **or** there is an indication of undelivered mail and no indication of processing through ADR follow the steps in c through e below.
 - c. Check local readily available sources, e.g., those on IDRS, for possible better addresses before issuing the LT11.
 - d. To meet statutory requirements before levying, the LT11 must be sent to the last known address provided by or confirmed by the taxpayer. Send the LT11 to the address on the Entity Screen on ACS or the Letter Screen on AMS.
 - e. At the same time, on ACS use History Code OL11 to send a copy of the letter by regular mail to other taxpayer addresses that you believe may be better or on AMS overlay other potential addresses that you believe may be better on the Letters Screen. Select LT11, click the button “Other addresses” then click the “submit” to send an OL11. Using OL11 generates the same text and enclosures as the LT11 but it is not sent certified, return receipt requested and does not generate a TC971 AC069. It is used by the call site only when the LT11 is issued simultaneously.
- (8) The required notice must be sent for each module included on a levy. If the case requires a notice for some but not all modules, you may exclude specific tax modules from the LT11 by following the procedures in Figure 5.19.4–1 or Figure 5.19.4-2. Proceed with levy issuance on the remaining modules.

Note: It is not necessary to exclude the individual SRP modules, as the system is programmed to block the individual SRP module(s).

- (9) Authorized taxpayer representatives must receive a copy of the LT11/LT73 including only the modules for which the representative is authorized to receive information. When a CAF indicator is present the ACS system will generate a PO11. Representatives will only receive a copy of the LT11 for tax periods in which they are authorized. Should the need arise follow the instructions in IRM 5.19.5.3.6, POA/CAF Letters and the RAF, to manually issue the POA copy of LT11 on ACS. To issue POA copy of LT11 on ACSWeb overlay the POA name and address on the Letters screen. Select LT11, click on "Authorized Representative" button, then click "submit" to send PO11.
- (10) A minimum of 46 days must generally elapse since the issuance of the LT40 before a levy is requested.
- (11) A minimum of thirty days must elapse between issuance of the LT11 and the date the levy is requested. However, the LT11 has a systemic 53-day follow-up to allow sufficient processing time for remittances or appeal requests. A waiting period is not required if collection is in jeopardy. See IRM 5.11.3.2, Jeopardy Levy Considerations. All cases where jeopardy is suspected to exist must be considered for referral to field Collection. Discuss with a manager any instance where it seems that the LT11 time frame seriously lessens our ability to collect a tax, notably on large dollar, in-business taxpayers. By working through ACS Support liaisons, a field group manager can be alerted to a pending reassignment and take immediate action to protect the governments interest.
- (12) Disqualified Employment Tax Levy (DETL) - A legislative change implemented on 3/11/2008 permits issuance of a levy without prior CDP rights for certain levies to collect employment taxes called "disqualified employment tax levies". A warning message will be displayed on ACS: "Qualify for DETL?" when there is a delinquent employment tax module, 941 (mft 01), 943 (mft 11), 944 (mft 14), 945 (mft 16), 940 (mft 10), or CT-1 (mft 09); and there is an indication that a prior CDP levy hearing was held within 2 years from the beginning of the period to be levied. Employees must refer to the instructions in IRM 5.19.4.3.1.1 , Disqualified Employment Tax Levy (DETL), to determine if issuing the DETL levy is appropriate.
- (13) Federal Contractor Levy (FEDCON) - The Small Business Jobs Act of 2010 permits the IRS to issue a levy on a taxpayer prior to providing them with their Collection Due Process notice and hearing if the taxpayer is a federal contractor. Employees must refer to the instructions in IRM 5.19.4.3.1.2, Federal Contractor Levy "FEDCON", to determine if issuing a FEDCON levy is appropriate.

5.19.4.3.1.1
(06-01-2020)

**Disqualified Employment
Tax Levy (DETL)**

- (1) A legislative change implemented on 3/11/2008 permits issuance of a levy without prior CDP rights for certain levies to collect employment taxes called "disqualified employment tax levies." The DETL is used to collect a taxpayer's employment tax liability if that taxpayer requested a CDP hearing under section 6330 for unpaid employment taxes arising in the two-year period prior to the beginning of the taxable period for which the levy is served. If a DETL is served, then the taxpayer shall be given an opportunity for a CDP hearing after the levy. The taxpayer may seek judicial review in the Tax Court of the determination resulting from the post-levy hearing.

- (2) A DETL is discretionary. The Service has the option to issue a pre-levy CDP notice for DETL periods, if the situation warrants.

Example: If there has been no contact with the taxpayer within the last 180 days, the issuance of a pre-levy CDP notice might be advisable to resolve the issue.

Note: Predecessor guidance has been incorporated into IRM 5.11.1.5.3, Predecessor Determination.

- (3) Prior Request for CDP Hearing - The prior request refers to a timely, processable CDP hearing request. Refer to IRM 5.1.9, Collection Appeals Rights, for information regarding the timeliness and processability of CDP hearing requests. Even if the request is subsequently withdrawn, it qualifies as a prior hearing request. The following can be used to determine if the taxpayer requested a prior CDP levy hearing involving unpaid employment taxes:

- a. Case history.
- b. A TC 971 AC275 on prior modules indicates a prior timely NFTL or levy hearing request, although AC275 does not identify whether a request is for a NFTL or levy hearing. Contact the appropriate ACS CDP Coordinator to determine if the levy hearing was requested. A list of ACS CDP Coordinators can be located on SERP WHO/WHERE.
- c. Effective March 17, 2008 a new TC 971 AC630 will be used to identify timely levy hearing requests. This code will be generated when the hearing request is added to the CDP tracking system.

Note: Requests for an equivalent hearing or untimely requests for CDP hearings do not satisfy the requirement of having had a prior hearing request.

- (4) A post-levy request for a CDP hearing made in response to a post-levy CDP notice also can constitute a prior CDP hearing request as a basis for a DETL.
- (5) The period(s) listed by the taxpayer on the CDP hearing request to be used as a basis of a DETL must be listed on a CDP levy notice preceding the request. There should be an unreversed TC 971 AC069 dated within about 30 days of the prior CDP levy hearing request.
- (6) Two-Year Look Back Period - The two-year look back period is measured from the beginning of the period for which the DETL is served. If the taxpayer requested a CDP levy hearing for employment taxes arising during a calendar quarter that ended during the two-year period, the module meets the criteria for a DETL.

Ex.	CDP Levy Hearing Requested for Taxes for Quarter Ended	Was request timely?	Additional taxes Subsequently Assessed for Tax and Quarter Ended	Liability for Additional Tax Begins	2 Year Look Period for additional taxes		Does Additional Employment Tax Liability Qualify for DETL?
					Begins	Ends	
N/A	N/A	N/A	N/A	N/A	Begins	Ends	N/A

Ex.	CDP Levy Hearing Requested for Taxes for Quarter Ended	Was request timely?	Additional taxes Subsequently Assessed for Tax and Quarter Ended	Liability for Additional Tax Begins	2 Year Look Period for additional taxes		Does Additional Employment Tax Liability Qualify for DETL?
1	941- 12/31/ 2005	Yes	941- 06/30/2006	04/01/2006	04/01/2006	04/01/2004	Yes
2	941 - 03/31/ 2006	Yes	941- 12/31/2005	10/01/2005	10/01/2005	10/01/2003	No
3	941- 03/31/ 2004	Yes	941 - 06/30/2006	04/01/2006	04/01/2006	04/01/2004	No
4	941- 12/31/ 2005	No	941 - 06/30/2006	04/01/2006	04/01/2006	04/01/2004	No

- (7) Issuing a DETL - When the tax period meets the criteria for issuing a DETL and levy action is determined to be appropriate, make sure the taxpayer was issued the CP 504 notice or the "Status 58" notice and that advance written third party contact notification requirements have been met
- a. If the CP 504 notice was not issued, issue the LT11. This meets the IRC 6331(d) and IRC 6330 requirement. If the CP 504 notice was not issued the DETL can only be issued 30 days after issuance of the L1058 per IRC 6331(d). Document the case history regarding the DETL determination.

Example: DETL to be issued for tax periods 01-200606 and 01-200609. TP qualifies for a DETL based on CDP levy hearing requested on 07/27/2007 for tax periods 01-200512 and 01 200603.
 - b. If the CP504 notice was issued and the advance written third party contact notification requirements have been met, issue the levy. An LT73, post CDP letter, will automatically generate.

5.19.4.3.1.2
(06-01-2020)
Federal Contractor Levy
- "FEDCON"

- (1) The Small Business Jobs Act of 2010 amended IRC 6330(f) and (h), to permit the IRS to issue any levy on a taxpayer prior to providing them with their Collection Due Process (CDP) notice and hearing if the taxpayer is a federal contractor. In addition, FEDCON levies may be served during a timely requested pre- or post-levy CDP hearing or judicial review of such hearing to collect liabilities for all outstanding balance due periods including periods that are the subject of the hearing.
- (2) A FEDCON levy is discretionary. The Service has the option to issue a pre-levy CDP notice to federal contractors, if the situation warrants.
- (3) The presence of an unreversed TC971 ac647 on the account entity indicates the taxpayer is a Federal Contractor. A federal contractor can also be identified on ACS by the presence of "FEDCN" in the Alert section.
- (4) ACS employees may issue FEDCON levies to collect any IMF or BMF liability, for which the IRC 6331(d) , Notice of Intent to Levy (CP 504 notice) period has

expired, if the taxpayer is a federal contractor and advance written third party contact notification requirements have been met.

- a. If the CP 504 notice was not issued, issue the LT11. Document the case history regarding the FEDCON determination.
- b. If the CP504 notice was issued and advance written third party contact notification requirements have been met, issue the levy. An LT75, post CDP letter, will automatically generate.

(5) For additional information on levies to federal contractors served through the FPLP, see IRM 5.11.7.2.3.4, FPLP Systemic Processes and Indicators.

5.19.4.3.2
(12-02-2020)
**Payment or Filing
Verification**

(1) Payment or filing requirement requests may be assigned to E2 or E3/E4 with the literals “CHKRTN” or “TPP2P”, e.g.:

- For filing verification before granting an installment agreement.
- For irregular payments.

Note: If the case is TIN-accessed before the follow-up date and promised payment has been received, revise the follow-up for next payment due. If this payment fully pays the account, extend the follow-up date, if necessary, to allow time for IDRS to send a closing record to ACS in its weekend processing.

(2) Determine whether the taxpayer’s promised payment or filing has been made. The employee making the arrangement establishes a follow-up 21 days after the first payment is due and enters in ACS Comments or AMS History the date and amount of each payment or required filing.

(3) Check IDRS TXMODA for more recent information or on AMS check Module details. See IRM 5.19.4.3.4(6), Levy Determination.

(4) The next action depends on the following:

If	Then
Promised action is found, and the case must be monitored by ACS for additional payments or filings	Reset follow-up for 21 days after the next taxpayer action is due.
Promised action is found, and installment agreement or extension to pay can be monitored on IDRS or Currently Not Collectible (CNC) hardship can be input.	Refer to IRM 5.19.1.6.3, Short Term Payment Plan Within 180 IRM 5.19.1.6.4, Installment Agreement (IA) or IRM 5.19.17.2, Currently Not Collectible (CNC) Procedures.

If	Then
Payment is significantly short of promised amount.	1. FPLP is blocked (FMS1 on Module Screen) input TC 972 AC 061 to unblock any blocked modules in order to allow account to be eligible for FPLP. 2. Proceed with levy determination. Note: If levy goes to bank on which payment was drawn, levy after a seven-day follow-up to avoid bouncing check.
Payment is not significantly short of promised amount	Revise follow-up date for next payment, unless it was final scheduled payment.
It was final scheduled payment	Send LT33 AND <ul style="list-style-type: none"> • If the aggregate assessed balance, including accruals but excluding individual SRP module(s), is at or above amount in the NOTE below enter History Code OADT,25,LEVY. • If aggregate assessed balance, including accruals and individual SRP modules(s) is less than amount in the NOTE below enter History Code Codes TOC0 and NC09.

#

#

If	Then
No payment or promised action is found	<ol style="list-style-type: none"> 1. If FPLP is blocked (FMS1 on Module Screen) input TC 972 AC 061 to unblock any blocked modules in order to allow account to be eligible for FPLP. 2. Proceed with levy determination, see IRM 5.19.4.3.4, Levy Determination. If there is no available levy source, IRM 5.19.4.4.8, Next Action After Levy Response.

5.19.4.3.3
(12-21-2007)
Levy Routing and Duties

- (1) Notices of levy are issued by ACS either systemically or through the processing of inventory in function/units E3/E4 and E5. You may access these ACS levy inventories:
 - a. by next case processing,
 - b. from local lists,
 - c. as a result of a taxpayer or third party telephone call, or
 - d. written response to previous levies.
- (2) Accounts in either the E3/E4 or E5 functions will be reassigned to the I4 function, with the action history literal "TOI4,,POTCLSR ", for manual case processing when there are no levy sources available for systemic levy issuance.
- (3) Function/unit E3/E4 issues levies as a next-case action, generally as a follow-up to an LT11. If a case appears on the follow-up date, then the taxpayer most likely has not responded.
- (4) When a levy is issued, the case is reassigned to function/unit E5 with a 47 day follow up. If a response has not been received to a previously issued levy by the follow-up date, E5 determines whether the next action should be either a letter to the levy source, issuance of another levy, or other action.
- (5) In processing written levy responses, ACS Support transcribes useful information and takes the next appropriate case action.
- (6) Any employee with ACS access may determine that the next action is to issue an LT11 or levy. If so, and the case is not in E5, E2, E3 or E4, take the appropriate action and reassign the case to the appropriate inventory. For instance:
 - a. Issue the LT11 following the procedures in see IRM 5.19.4.3.1, Pre-Levy Requirements, if the letter is required prior to levy.
 - b. Initiate a levy following the procedures in see IRM 5.19.4.3.4, Levy Determination, if the employee is at least the minimum authorized grade.
 - c. If below the minimum authorized grade to levy, either reassign the case to E3/E4 or arrange for an authorized grade employee to TIN access the case and levy.

5.19.4.3.4
(02-11-2022)
**Levy Determination -
(E3/E4 Processing)**

- (1) This section lists items that must be checked before levying. Most research is done on ACS. If following the procedures in this section jeopardizes collection by delaying enforcement, discuss it with your manager. By working through ACS Support liaisons, a field group manager can be alerted to a pending reassignment and take immediate action to protect the Government's interest.
- (2) Scan ACS Comments, AMS History, account alerts, and history codes for anything that may affect the levy decision.
- (3) Tolerance -- Do not levy if the aggregate assessed balance, including accruals and *excluding* any individual SRP module(s), is less than the following:
- (4) Check IDRS CC TXMOD for additional assessments pending and CC IMFOL/BMFOL to confirm that no other modules with balance due are on the account and not in Status 22. If the balance is still below tolerance follow the procedures in the table below:

#

When:	And:	Then:
the balance is still below tolerance, including individual SRP module(s)	N/A	<ul style="list-style-type: none"> • Issue LT33. <p>Note: Do not issue the LT33 when the last payment is from levy proceeds.</p>
The balance is over tolerance, but under deferral, including individual SRP module(s)	A levy won't be issued because the balance excluding the individual SRP module(s) is under tolerance	<ul style="list-style-type: none"> • Reassign the case to C0. • Update ACS Comments or AMS History comments. • Input history code NC09 on ACS.

- (5) Accruals Only -- These cases either have accruals exceeding the deferral level, or the aggregate assessed balance, including accruals (plus modules not yet in IDRS Status 22, ACS) exceeds the deferral level. If the balance is accruals only, check IDRS for other pending delinquencies:

If	Then
There are none, or there are only frozen modules	Input History Code LT33. If accruals exceed tolerance levels, levy as a follow-up to LT33.

If	Then
There are other delinquencies in notice status	Accelerate notice status modules to Status 22. On ACS, reset follow-up to the next Tuesday. Exception: Do not accelerate if the only delinquencies are the individual SRP module(s).
The balance is above deferral, including individual SRP modules, but a levy won't be issued because the balance excluding the individual SRP module(s) is under deferral	Reassign the account to I2

(6) Invalid Taxpayer Identification Number (TIN) (identified with an asterisk to the right of the TIN) -- Levy source search routines match TINs; an invalid TIN for the delinquent taxpayer may match another taxpayer's valid TIN. Verify that all levy sources are for the taxpayer.

- Check IDRS to see whether the valid TIN belongs to another taxpayer, and then determine whether the levy source can be used. If the validity of the levy source cannot be determined, do not issue a levy to this source.

Example: A delinquent taxpayer with an invalid TIN and a last known address in California had several substantial levy sources in Ohio. Researching the TIN without the asterisk showed another compliant taxpayer living in Ohio. A levy should not be issued to the levy sources in Ohio for payment of the delinquent taxpayer's liability. Also, be observant for possible identity theft issues.

- Delete improper levy sources from ACS.
- Continue with levy determination when valid levy sources are identified.
- When a valid levy source cannot be identified, reassign the case as follows:

If	Then
A phone number for the taxpayer is available	<ul style="list-style-type: none"> • Document ACS Comments or AMS History comments. • Reassign case TOCn
No phone number available	<ul style="list-style-type: none"> • Document ACS Comments or AMS History comments. • Reassign case TOI2.

- (7) "IDTHF" Alert - Accounts with an "IDTHF" Alert do not qualify for systemic levy issuance. Prior to issuing a levy on an account with an "IDTHF" Alert, employees must review all levy sources to ensure that the income reported belongs to the taxpayer.
- Verify the taxpayer address for all IRMF levy sources, using CCIRPTR and compare to the taxpayer's address.
 - Delete levy sources that do not belong to the taxpayer from ACS.
 - Continue with levy determination when valid levy sources are identified.
- (8) Changes to ACS balance:
- An ASMT+ indicator on the entity screen signals a change in balance on one or more modules. Ensure that LT11 has been issued before levying on a module with an additional tax assessment. See IRM 5.19.4.3.1 (6)a-c, Pre-Levy Requirements.
- Note:** Levies can be issued on any remaining modules where all CDP and TPC requirements have been met.
- A DTR indicator on the Entity Screen signals interim payment information or other transactions that may affect case processing. DTRs are received one day after posting to IDRS. If there is a pending change to the balance on ACS, but the decision is to proceed with the levy, deciding whether to issue the levy immediately depends on the amount of credit in relation to liability:

If pending payment or credit is:	Then
large in relation to liability and likely will post to ACS in next weekly update from IDRS	Reset follow-up date to following Tuesday so that ACS will show the correct balance due.
small in relation to liability	Proceed with levy determination.

- (9) Notification of Possible Third Party Contact - See IRM 5.19.4.2.3 Taxpayer First Act, Third Party Contact Notification (TPC) IRC 7602(c)(1) , IRM 25.27.1 , , Third Party Contact and IRM 5.19.5.13 , , Notification of Third Party Contact.
- (10) Collection Due Process (CDP) – A date will be entered in the PRI FNL NOT field located on ACS Module Screen - S4, or the FNL Notice column on the Module Summary Screen located on ACSWeb or the SEC FNL NOT field on the Module Detail Screen on ACSWeb. A date entered in the FNL Notice column on the Module summary screen or a date in the SEC FNL NOT field on the Module detail screen identifies the posting of a TC971 AC069 after the issuance of a collection due process notice . The CDP criteria has been met when 45 days has elapsed since issuance of the notice. See IRM 5.19.4.3.1(1), Pre-Levy Requirements, and IRM 5.19.8.4, Collection Appeal Rights, for details on CDP requirements.

Reminder: The individual SRP modules are excluded from the LT11, (and levy issuance) therefore there should not be a TC971 ac069 posted on these modules. When following the procedures in (b) below, do not input a TC971ac069 to any individual SRP module(s).

- a. The system will allow the issuance of levies requested between 31 and 44 days after the LT11 date; however, the requestor sees a warning message; “45 DAYS AFTER LT11; IS LEVY APPROPRIATE?”.

If	Then
45 days has not elapsed from the PRI FNL NOT date	<ul style="list-style-type: none"> a. Document ACS Comments or AMS History. b. Input history OAD-T,XX,CMTS (XX = number of days to meet 45-day requirement.)
CDP notice was returned unclaimed/refused (TC971 AC067) or undelivered (TC971 AC068)	Only a 30 day follow up is required, proceed with levy determination.
Some modules meet CDP requirements and some do not	Proceed with levy determination for the specific modules meeting the requirements.

Note: If collection is in jeopardy no waiting period is required, review the account with your manager to consider expediting the account to an RO to protect the interests of the government .

- b. There may be situations where comments show the LT11 was issued for all of the tax modules to be included on a levy, and the history codes show an LT11, but ACS has no corresponding date entered in the PRI NOT FLD on the Tax Module Screen or ACSWeb has no date entered in the FNL Notice column on the Module screen, or a TC 971 AC069 is missing from one or more modules on IDRS. Because ACS systemically prohibits levy issuance on any modules that are missing the TC971 AC069, review the following for ways to confirm that it was sent:

If	Then
History Codes “ MCLT” or “CLnn” or comments show letter cancelled	<ul style="list-style-type: none"> a. Document ACS Comments or AMS History. b. Re-issue LT11.
TC971 AC069 did not post to one status 22 module when LT11 was issued.	<ul style="list-style-type: none"> a. Input TC971 AC069 using CC REQ77. Be sure to use the same date as the TC971 AC069 on the other modules. b. Document ACS Comments or AMS History. c. Proceed with levy determination for all other modules.

If	Then
TC971 AC069 did not post to any status 22 modules when LT11 issued.	<ul style="list-style-type: none"> • Research CC TXMOD for the following TC971 action codes: --AC066 - the return receipt was signed. --AC067 - delivery of notice was refused or unclaimed. --AC068 - the notice was returned, undeliverable. Note: If one of these are present on one or more modules, the absence of a TC971 AC069 is clearly an oversight. • If a TC971 AC066, 067 or 068 is found, input a TC971 AC069 using CC REQ77, backdating to the LT11 date plus 7 days. • Document ACS Comments or AMS History. • Input ACS history OADT,07,CMTS
None of the above applies	<ul style="list-style-type: none"> • Document ACS Comments or AMS History. • Reissue the LT11 on affected modules.

(11) Pending Installment Agreement:

- a. Levy action is prohibited on cases with pending installment agreements. IRM 5.19.1.6.4.7, Pending I/A Criteria, provides that cases with a proposal to pay that are not approved and input within 24 hours, or which are initially rejected, must receive a TC971 AC043 on each tax module. A systemic block prevents levying on any ACS module with an unreversed TC971 AC043. Pending installment agreements are worked from either R5 or S5. If the case is in E3/E4 with an un-reversed TC971 AC043, or if comments indicate that an installment agreement proposal is pending, reassign to R5 or S5, as appropriate, with comments.
- b. When an installment agreement proposal is rejected, the taxpayer has 30 days in which to appeal. Levy action is prohibited during this 30 day period and during the appeal, if any. Once the 30 day period has expired and no appeal has been received, a TC972 AC043 is input to reverse the pending installment agreement. If the case is in E3/E4 with an un-reversed TC971 AC043, or comments indicate that the rejection occurred less than 30 days ago, reassign the case to R5 or S5 as appropriate, with comments.

- (12) Pending/Posted Adjustments - For all accounts with a “TC470” alert, IDRS must be checked to determine which modules contain a pending or posted TC470. Exclude all modules with a pending or posted TC470 from levy issuance.
- (13) Undelivered mail -- If the “UD” alert is present on ACSWeb or comments show the LT11 was undelivered because of a bad address, and there is no indication of previous address research, additional research is needed
- a. When the “UD” Alert is present on ACSWeb, compare the last address update posting cycle to the posting cycle of the unreversed undelivered mail transaction, TC971 AC 661. If the last posted address update cycle is the same or later than the posting cycle of the undelivered mail transaction no additional research is needed. Reverse the undelivered mail transaction by inputting a TC972 AC 661 to the module where the unreversed TC971 AC 661 is posted to force the UD mail indicator to update on Masterfile and proceed with levy determination.
- Note:** A posted, unreversed TC 971 AC 661 causes the Undeliverable (UD) indicator to generate on the account entity. It was recently discovered that the programming to update the UD mail indicator was not working as intended. Once corrective programming has been transmitted, this guidance will be updated.
- b. When the “UD” Alert is present on ACSWeb and IDRS research reveals the last posted address update cycle is before the posting cycle of the unreversed undelivered mail transaction **or** when comments show that an LT11 was undelivered because of a bad address and there is no indication of prior address research, follow the steps in c – e below.
 - c. Check readily available locator sources for a better address.
 - d. If a potential better address is found on ACS use OL16 to issue an LT16 to the new address. On AMS overlay the address on the Letters screen. Select LT16, click on the “Other address” button and then click “submit” to issue OL16. Retain the case in E3/E4 for follow-up. A CDP notice is required by statute to be mailed by certified or registered mail, return receipt requested, to the taxpayer’s last-known address. The last-known address is the address on the most recently filed and properly processed return, unless the Service has been given clear and concise notification of a different address. See Rev. Proc. 2010–16. Similarly, do not use an OL11 to send the text of the LT11 by regular mail to a different address. The text refers to the taxpayer’s due process rights that expired when there was no response to the initial LT11. Instead, use OL16 to issue an LT16 to the new address, and keep the case in E3 for follow-up.
 - e. If any LT16s are issued and there is no taxpayer response by the follow-up date, proceed with the levy determination.
 - f. If no better address is found, continue with levy determination.
- (14) Limited Liability Companies (LLC) - These may have one or more members. If the entity has two or more owners, it may elect to be taxed as a corporation or a partnership. If the entity has one owner it may elect to be taxed as a corporation or be a disregarded entity. Usually, the entity name line ends with LLC. See IRM 5.19.1.5.14, LLC Accounts, for additional information on Limited Liability Companies.

Note: Disregarded entities are liable for and subject to levy for excise taxes for periods beginning or after Jan 1, 2008 and employment taxes for periods beginning on or after Jan. 1, 2009.

- a. Do not levy if ACS Comments or AMS History show the entity has one member and is a disregarded entity, i.e., one that is not taxed as a corporation. We will accept the taxpayer’s word about the LLC’s status as a disregarded entity. Proceed as though levy sources are exhausted for the LLC if the single member is liable for the unpaid taxes. If an LT11 was not previously issued to the member, one should be issued. However, if the Federal tax liability of the disregarded entity pertains to any taxable period for which the entity was not disregarded, or pertains to Federal tax liabilities of any other entity for which the disregarded entity is liable, the disregarded entity is treated as an entity separate from its owner with respect to such Federal liabilities.
- b. If ACS Comments or AMS History show no additional information about the LLC, or if it shows there is more than one member or that the LLC is taxed as a corporation, proceed with the levy determination. Later, if the taxpayer tells us that the LLC has one owner and is a disregarded entity, we will release the levy and, if levy proceeds have been processed, inform the taxpayer about wrongful levy procedures.

(15) Currently Not Collectible (CNC) modules -- When a new module comes to ACS and the account has other modules in currently not collectible status, basic information regarding those CNC modules is added to the Notes section on ACS by ACSS employees. Consider including CNC modules on the levy **only if all** of the following apply:

- a. Currently not collectible closing code is other than hardship (e.g., CC24-32); and
- b. Employee believes levy proceeds may exceed the balance due on open ACS modules. This may be determined from previous contact with the taxpayer or levy source, or if the levy screen information suggests an amount greater than that on ACS modules may be held by the third party; and,
- c. IDRS shows that the Collection Due Process requirements have been met on the CNC modules. See IRM 5.19.4.3.1, Pre-Levy Requirements. If a due process notice is required on any CNC module that you wish to include on a levy, reactivate the module to ACS status 22.

Caution: Do not reactivate individual SRP modules, as they are not included on the levy.

Then, issue an LT11 for that specific tax module. See Figure 5.19.4–1 and Figure 5.19.4–2 in IRM 5.19.4.3.1, Pre-Levy Requirements, for more information about identifying specific tax modules on ACS LT letters and levies.

If	Then
CNC modules will not be included on levy	Document that fact in comments.

If	Then
CNC modules will be included on levy	Prepare a manual levy. Note: Do not include individual SRP modules on a manual levy.

(16) Military/Federal employees -- Levies on active and retired military and federal employees may require additional research and/or special processing. See IRM 5.11.6, Notice of Levy in Special Cases, in the Notice of Levy Handbook as directed below. Also, check the levy source listing on SERP for the latest mailing address. Levies on:

- a. Military retirement requires a 90-day follow-up.
- b. Civil service retirement requires the civil service account number on the levy, if known, and a 90-day follow-up.
- c. Active duty military -- Payment can be expected up to ten weeks after a military levy is acknowledged. If the taxpayer is in the Air Force or Marines, and is on active duty or in the reserves, include the taxpayer's military service address on the levy, if known. See IRM 5.11.6.5.1, Military Personnel on Active Duty, for levy follow-up guidance.

Note: When issuing a levy on any source listed above, immediately after the action history LVnn input "OADT,90,LVY"

to extend the follow up date.

Exception: If the case shows the taxpayer is serving in a combat zone or is inquiring about military deferment, take no enforcement action. Process the case in accordance with IRM 5.19.1.5.9, Military Deferment, or IRM 5.19.10.6, Combat Zone Accounts

- d. U. S. Postal Service requests the following, if known:
 - employee number
 - type of employment
 - town where the taxpayer works, if different from where the employee lives

#

(17) Offer in Compromise— (OIC) - Levy action is prohibited on cases with a pending OIC, (TC480 present on IDRS.) When it is determined an offer is processable, Automated Offer in Compromise, AOIC, will be updated and the affected modules will be updated to Status 71. There may be situations when the Status 71 will not generate.

Example: MFT 31 cases, imminent statute, etc. In those cases the offer specialist should input a TC470 cc90 to suspend collection activity.

Example: If only one party of a joint liability is submitting the offer, the affected modules will not be updated to Status 71. *Continue with collection action for the taxpayer who has not filed the OIC.*

- a. If comments show the taxpayer recently promised to submit an offer, check IDRS to see if an OIC has been received but not yet processed, (TC480 on IDRS CCTXMOD)
- b. On all IMF cases, codes are entered onto the AOIC system, which will show on CCTXMOD in the CSED EXT indicator field.

If the value is:	Then
P	the offer is for the primary taxpayer (controlling TIN on the entity)
S	the offer is for the secondary taxpayer
B	both husband and wife are making a joint offer

If	And	Then
TC480 is present on an IMF account	CSED EXT Indicator, on CCTXMOD, = "P" on a single liability OR CSED EXT Indicator = "B" on a joint liability	<ol style="list-style-type: none"> a. Do not levy. b. Fax Form 4442 to COIC, See IRM 5.19.4.3.4(18)c , Levy Determination, below. c. Document ACS Comments or AMS History. d. Input history code OADT,30,CMTS
TC480 present on an IMF account	CSED EXT indicator is not a B on a joint liability	Continue with levy determination on the taxpayer who has not filed the OIC.
TC480 present on a BMF account		<ol style="list-style-type: none"> a. Do not levy. b. Fax Form 4442 to COIC, See IRM 5.19.4.3.4 (18)cbelow. c. Document ACS Comments or AMS History. d. Input history code OADT,30,CMTS

- c. If TC480 present fax a Form 4442 referral to the Centralized Offer in Compromise, COIC, site to have the account updated so the account

Centralized Service Center locations can be found on the Who/Where tab on SERP.

- (18) If divisible taxes are involved, e.g., employment taxes and trust fund recovery penalties where the taxpayer pays a portion of the amount owed before filing a suit for refund, see IRM 5.11.1.4.9, Refund Litigation, which has more information about this infrequent occurrence.

5.19.4.3.5
(08-04-2014)
Levy Sources and ACS Display

- (1) Levy source data comes from a variety of sources, including:
 - a. Forms W-2 and 1099 information.
 - b. States, credit bureaus, and other third parties.
 - c. The taxpayer, when requesting an installment agreement or during other contacts.
 - d. Partial payment checks submitted by the taxpayer.
 - e. Closed accounts from ACS Archives.
- (2) IDRS displays levy sources using CC LEVYS. This contains sources from wage and information documents filed with IRS, those loaded to IDRS via tape exchange, or conversations with third parties. This information is kept only as long as a case remains on IDRS.
- (3) The ACSWeb Levy & Release displays levy sources from:
 - a. IDRS, plus
 - b. those obtained systemically from archives of prior ACS closures, and
 - c. those manually added while working the case.
- (4) Levies on ACS Web identified as INFO are to be used for locator purposes only. These sources are:
 - a. CTR
 - b. Federal Contractor(FCF)
 - c. IRA's
 - d. State of Alaska, Permanent Fund Dividend (PFD)
 - e. FPLP Sources
- (5) IDRS provides ACS with levy sources when a case is established on ACS, and at least every three weeks afterward if a new levy source is available. When IDRS sends levy sources to ACS it places a marker on its record internally so that the same record is not transmitted to ACS again. When IDRS receives an update to a levy source the information is provided to ACS. ACS will update the levy source with the current cycle in the confirmed levy source field.
- (6) The yearly Information Returns Master File (IRMF) download will occur in February, followed by weekly downloads, on all open modules in ACS and other Collection statuses for new levy sources. If a new source is found, it is systemically loaded to the levy source data base.
- (7) To avoid pursuing low-value sources, ACS systemically drops the following levy sources from the IDRS levy updates that it receives and from archive searches of previous ACS closures done when a new case is received on ACS:

#

- a. Wage documents less than \$250
- b. Interest documents less than \$10
- c. Non-employee compensation less than \$500

Exception: ACS retains all levy sources on balance-due cases with a FE (Federal employee) indicator in the Account Alerts Section of the entity screen regardless of age or dollar amount.

(8) ACS displays up to fifteen levy sources; click on the ACSWeb Levy & Release screen to view any levy source. The Confirmed Levy field indicates when the source was loaded to an IRS database (IDRS, ACS, IRMF, TIF). When a case is established, sources are listed in a suggested priority order, based on the type of source. Within each grouping, sources are listed in descending order by dollar amount. This sequence is lost as the case is processed in ACS, with sources deleted and added where levy space is available. Initial order and unique literals displayed for each, where available, are as follows:

- a. Federal Contractor File (FCF)--Identifies a contractor for a Federal agency. On ACS for information only; do not levy. Used by revenue officers.
- b. Federal Payment Levy Program (FPLP) - Displays if we obtained information because IRS records matched with Federal Management System records. Details about this automated levy program are in IRM 5.19.9.1, Automated Levy Programs Overview, and IRM 5.19.9.3, Federal Payment Levy Program.
- c. Non-wage sources manually loaded onto IDRS (manual input is also called "real-time")--bank or other non-wage sources.
- d. Employment Commission (EC)--Wage information obtained from states that generally update their files quarterly.
- e. Federal Tax Deposit (FTD)--Identifies the bank used to make the deposit.
- f. Remittance Processing System (RPS) and Remittance Processing System Lockbox (RPSL)--Banks on which payments were drawn.
- g. Defense Manpower Data Center (DMDC)--Federal employees and retirees.
- h. Electronically Filed Returns (ELF)-- Wage or bank sources secured from an electronically filed return.
- i. Wage sources manually loaded onto IDRS
- j. Information Returns Program (IRP) levy sources-- Lists interest, then wage, then other documents; each group is in descending dollar order. A search is done only on the most recent year's documents.

Note: Levy sources pulled from ACS Archives when case is established on ACS are not uniquely identified as being from Archives. They have original source codes and cycles of origin.

(9) Priority levels, 00 through 10, are assigned to levy sources systemically and displayed in the Priority Level field. The priority level is determined by several factors however the main criteria is the source of income.

If Priority Level Assigned is:	Then Levy Sources are:
00	Federal Contractor sources, FCF

If Priority Level Assigned is:	Then Levy Sources are:
01	FPLP sources. When issuing a levy to a FPLP source you must follow the procedures in IRM 5.19.9.3.5, ACS Inventory Processing and FPLP
02	Manually added, (manual input is also called ‘real-time’, RT), bank or non-wage sources. NOTE: When a levy source is updated or confirmed by a CR, the priority level will automatically update to 02.
03	<ul style="list-style-type: none"> • Employment Commission • FTD • RPS/RPSL • DMDC – both retirement and wage income • USPS • IRMF 1099K See IRM 5.19.4.3.5.1 , Form 1099K (Merchant Card and Third Party Network Payments, for more information.
04	manually added wage sources.
05	ELF sources. These sources are wage sources reported on the electronically filed return or the bank used for direct deposit for refund or direct debit of refund.
06	IRMF Interest sources.
07	IRMF wage sources.
08	All retirement sources. (i.e. IRMF 1099R). Note: Levies issued to 1099R sources require managerial approval.
09	All other IRMF sources.
10	Currency Transaction Register (CTR) sources.
11	Priority level 11 is assigned to a levy source when the systemic assignment can't determine the correct assignment.

- (10) Other ACS display characteristics are literals TIF, TILT, and ACS.
 - a. TIF (Taxpayer Information File) contains most sources.
 - b. TILT (Taxpayer Inquiry Look-Up Tape) is a subset of TIF identifying wage and information documents filed with IRS.
 - c. The literal ACS can refer to either: 1) new sources manually added to ACS or 2) the levy source has been confirmed based on contact with TP.
- (11) For all levy sources, the Confirmed Levy field initially contains the cycle the levy source was loaded to IDRS. This field will systemically update when a levy source is updated, changed or confirmed.

- (12) A new six digit field is generating for levies loading after January 2005. The field is located directly above the first name line of each source on the ACS levy screen. On AMS the new field is called PRD EARN. The new field indicates the time frame the levy source data originated, see below:
- IRMF and ELF sources will indicate the year for which the income was reported.
 - Employment Commission sources will indicate the quarter for which the data was reported.
 - RPS/RPSL/FTD will indicate the cycle the payments were originally received.
 - For all other sources this field will display the cycle passed in the download from IDRS. In many cases this may match the confirmed levy field.

Note: This field will systemically update when an update record is received from IDRS.

- (13) A new field is generating for levy sources beginning 1/10/2009. On AMS the new fields can be located on the bottom right hand side of the levy detail screen directly above the “Modify Only” and “Confirm/Modify” buttons. On the ACS green screens, the field is located directly below the Priority Level field of each source on the ACS levy screen. For both AMS and ACS screens the fields are labeled as: C1P, C1G and C1Z.
- a. **C1P** – Reflects Levy address validation against the address hygiene software.
 - b. **C1G** – Reflects the address hygiene software zip general return code.
 - c. **C1Z** – Reflects the address hygiene software zip code return code.

Note: See IRM Exhibit 5.19.4-4 for additional information on C1P, C1G and C1Z values.

5.19.4.3.5.1
(08-04-2014)
Form 1099K (Merchant Card and Third Party Network Payments)

- (1) Income information reported on a Form 1099K represents credit and/or debit payments processed through a merchant account and through third party network payments.

Example: Income from online transactions settled by a payment card or through PayPal or other such third party networks.

- (2) When preparing the Form 1099K the filer has the option of checking a box which classifies the file as either a Payment Settlement Entity, (PSE) or an Electronic Payment Facilitator (EPF)
- (3) Per IRC 6050W(b)(4)(B), an EPF may not hold the taxpayer’s property or right to the property.
- a. Beginning in September 2013 when the EPF box is checked on a 1099K the levy source will download as “INFO ONLY”
- Note:** ACS will not systemically generate a Notice of Levy on 1099K income when the EPF box is checked.
- b. Employees can also identify whether the levy source is an EPF by reviewing the IDRS command code IRPTR, which reflects the EPF’s literal designation.

- (4) Since the EPF may not hold any funds for the merchant, employees may need to find out who holds the sales funds and deliver the levy to that entity.
- (5) Prior to requesting a levy when the entity is an EPF, employees should contact the levy source for additional information for where the Notice of Levy should be served.
- (6) The funds held by the processors and acquiring bank are not deposits within the meaning of IRC 6332(c) and the 21 day holding period does not apply to these funds. Therefore, the credit card processor makes the payment when they otherwise make payments according to the merchant contract.
- (7) For additional information on Merchant Accounts see IRM 5.11.6.16, Levies on Merchant Accounts.

5.19.4.3.5.2
(02-20-2020)

Levy on Virtual Currency

- (1) For information on Virtual Currency levies see IRM 5.11.6.21, Virtual Currency. Additional information can also be found at www.irs.gov using search term "virtual currency"
- (2) The IRS may issue a levy to a virtual currency service provider. Prior to issuing the levy, ensure:
 - a. the virtual currency service provider is located in the U.S. Just like banks, some may only have a presence in a foreign country.
 - b. If possible, determine if the virtual currency service provider qualifies as a bank under IRC 408(n). Virtual currency service providers that qualify as a bank must wait 21 calendar days after service of a levy before surrendering the funds in the account (including interest thereon) held by the bank, subject to extension. See IRM 5.11.4.2, Holding Period.
 - c. Levying property held by a virtual currency service provider requires special instructions. ACS employees will need to manually prepare the Notice of Levy following the procedures in IRM 5.19.4.3.11. State on the notice of levy or in the "Special instructions" field, "This levy attaches to all property and rights to property, including cryptocurrency belonging to the taxpayer that is currently held by the virtual currency service provider named above. Please liquidate the cryptocurrency and remit the proceeds to us by mailing a check payable to United States Treasury."

Note: Use Form 668-A, Notice of Levy to levy property that a virtual currency service provider is holding.

Note: Be aware of the taxpayer's contractual rights to withdraw fiat currency or virtual currency held through an account with an virtual currency service provider and the potential effect this may have on the levy. When the IRS issues a notice of levy to a third party, the IRS steps into the shoes of the taxpayer with respect to all property or rights to property. For example, customers of a virtual currency service provider may be contractually limited to a specific withdrawal amount each day, depending on account characteristics. If the taxpayer's rights are contractually limited, the IRS must understand these limitations prior to pursuing a levy enforcement action.

- (3) A levy source may call inquiring how to honor a levy that has attached virtual currency or to income paid by virtual currency. Advise the caller to liquidate the cryptocurrency and remit the proceeds by mailing a check payable to the United States Treasury.
- (4) If the virtual currency service provider refuses to convert the virtual currency into USD and responds that they wish to comply by turning unliquidated virtual currency over to the IRS, via a virtual currency wallet, advise the caller that the Service does not have virtual currency wallets.
 - a. Advise the caller to liquidate the cryptocurrency and remit the proceeds by mailing a check payable to the United States Treasury.
 - b. If the caller indicate they will not liquidate the cryptocurrency, follow the procedures in IRM 5.19.4.4.7(14) and route to Advisory

5.19.4.3.6
(02-28-2022)
**Obtain, Verify and
Update Levy Sources**

- (1) On October 1, 2019, IPU 19U1067 eliminated the procedures for verifying and obtaining levy sources in IRM 5.19.1.4.4.2. To ensure alignment with IRM guidance, the procedures for ACS employees to add new levy sources based on contact with taxpayers is being removed. Additionally, ACS employees are no longer required to verify existing levy sources on ST22 cases when handling incoming calls.
- (2) Beginning October 1, 2017, ACS Support employees process taxpayer levy responses and only third party levy responses determined to be correspondence. All other third party levy responses are discarded as classified waste, IRM 5.19.6.15, Levy Responses. For information on what is determined to be third party correspondence see IRM 5.19.6.12(3), Receiving and Sorting incoming Mail, fifth bullet.
- (3) To ensure that levies are issued to the best known source ACS employees working inventory or correspondence must verify existing levy sources based on IDRS research prior to issuing a levy. Research current year IRPTR and current year taxpayer payments received (CCIMFOLP and RTR) to verify/ obtain the most current levy source data available and delete older sources that are not present on current year IRPTR.
 - Employees should not add levy source information for any of the income types listed in IRM 5.19.4.3.7(1), *Choosing a Levy Source*.

Note: Unless a manager has already approved a levy on Social Security or Retirement income, employees should not add the levy source information on ACSWeb (or IDRS).
 - If a taxpayer is self employed, unemployed or disabled enter that information in the account history *only*. **Do not add as a levy source.**

Reminder: Do not add levy sources to ACS for a secondary taxpayer unless a joint liability exists for which the secondary taxpayer is liable.
- (4) Employees working inventory or handling correspondence are not required to add, verify or delete levy sources on the following:
 - TDI only cases (ST 02 or 03)
 - ST 12 cases
 - On any account where ACSWeb, AMS or CC ENMOD indicate levy sources were confirmed or updated within the last three months or 13 cycles.

- On any cases where the total accrued balance is below deferral. See IRM 5.19.1.2.6.1, Tolerance and Defferal - All Employees
- An adjustment to the account will resolve the balance due, or other action will resolve the balance due within the same day.

Example: A misapplied payment located or an on-line adjustment.

- Account assigned to an RO, ST26, or transferring a case exceeding authority levels. See IRM 5.19.1.4.1(4) and (5) Account Actions on Referral/Redirects
- Accounts that are in ST 53, or requests for CNC accompanied with Form 433–F, Collection/Information Statement.
- ST 60 cases or IA request correspondence (e.g., Form 433–D, Installment Agreement, Form 9465, Installment Agreement Request).

Note: This includes Field Assistance TAC employees when contact is solely for the purpose of hand delivering a payment and the account is in ST 60.

- ST 71 cases, or OIC correspondence requests accompanied with Form 656, Offer in Compromise.

- (5) ACS Web has a feature that allows you to compare up to three different levy sources by selecting the levies you want to see and then the Compare button on the Levy and Release screen. When duplicates are identified, use the delete button. The history code will automatically use delete code 6 for duplicate.
- (6) When verifying levy source information, confirm each levy source on ACS when the confirmed indicator is N or when the confirmed indicator is Y and the confirmed cycle field, “CONF CYC”, has not been updated in the last 13 cycles. Delete those that are no longer valid or are duplicates. (See IRM 5.19.4.4.8(1)for procedures.)

Note: Confirm each levy source on the ACSWeb levy verification screen by selecting “Confirm” for each source to be confirmed or re-confirmed and submitting your update.

Caution: Employees should exercise caution when verifying 1099K income sources with the taxpayer. Prior to deleting a 1099K levy source, be certain that a taxpayer no longer uses the services of the Merchant Account and/or Third Party Network Payment.

- (7) If ACS displays fifteen levy sources and one must be added:
 - a. Delete duplicates-- Same source may come from three or more separate data bases. See IRM 5.19.4.3.6.1 for guidance on deleting duplicate levy sources.
 - b. Delete older, low-dollar, low-priority sources as needed.
 - c. As a last resort you may add sources to comments.

5.19.4.3.6.1
(09-15-2014)
**Identifying Duplicate
Levy Sources**

- (1) This section contains guidance to determine whether a duplicate levy source exists on ACS, as well as guidance on how to decide which source to delete.

- (2) Although two or more levy sources may have the same first name line it does not necessarily mean that the levy sources are duplicates. When comparing levy sources the following fields must always match for the levy sources to be considered a duplicate:
 - a. TYPE of income
 - b. P/S/J indicator. When P/S/J indicator is “ S ” , then the secondary SSN fields must also match
 - c. Payer EIN: If both sources contain a payer EIN, then the payer EIN must be the same.
- (3) Bank sources received from FTD and RPS can be considered duplicates when they match on 1st name line, 2nd name line and complete address.
- (4) When it has been determined that the levy sources are duplicates and one of the levy sources contains a notice issue date, do not delete the levy source that was issued, when issued within the past 6 months. If the levy source was issued more than 6 months ago and no levy payments are being received, then delete that source.
- (5) The scenarios listed below are not all inclusive of duplicate levy source situations and are intended only to provide a basis for determining which levy source should be deleted.
 - a. When one levy source has been added **by** ACS and the same source was **downloaded** to ACS, always delete the ACS added source.
 - b. When the levy source belongs to the secondary taxpayer and all fields match except one source has a secondary SSN and the other does not, delete the levy source with the missing secondary SSN.
 - c. When all fields match except the “PRD EARNED” date, delete the source with the oldest “PRD EARNED” date.
 - d. When levy sources match all fields except one levy source contains a payer EIN and the other doesn't, delete the levy source that doesn't have the payer EIN.
 - e. When one levy source is a CTR and the other source is a bank source from RPS/FTD and all fields match, delete the CTR source.

5.19.4.3.7
(08-04-2014)

Choosing a Levy Source

- (1) For the following sources, take other action to enforce collection or to locate the taxpayer:
 - a. Insurance company levies for interest and dividends -- Generally, this is due to interest or dividends paid on insurance policies with cash value. Delete these sources.
 - b. Dividends/distributive income - These require special processing better suited to revenue officers and are not done in ACS. A 1/2003 systems change dropped these sources from any new receipts. Delete any you encounter on older cases.
 - c. Bureau of Public Debt -- These income sources are treasury bills and registered securities. Delete this source.
 - d. Foreign governments, U.N. employees, or companies/banks with addresses outside U.S. -- It does not matter where the taxpayer resides, but where the levy source is located. Also, never send levies to another country's embassies, consulates, or missions, even if they are within U.S. borders.

- e. Federal Contractor File (FCF) -- Identified on ACS for information only (INFO). However, these may be valuable as a locator source.
- f. Railroad unemployment or Railroad retirement income. Delete this source because exempt from levy unless part of FPLP
- g. Pensions and IRAs - Individual Retirement Accounts: No function will be given the authority to levy on lump sum pension/IRAs at the request of the taxpayer. It will only be allowed after a three step determination, including finding of a "flagrant" situation. See IRM 5.11.6.3, Funds in Pension or Retirement Plans.
- h. State Lotteries - Ignore the source if it is a Form 1099 - non-employee compensation.
- i. State of Alaska, Permanent Fund Dividend (PFD) – The PFD is income to the taxpayer, but is only levied through the Alaska Permanent Fund Dividend Levy Program (AKFPD). IRM 5.19.9.4, Alaska Permanent Fund Dividend Levy Program, discusses the AKFPD. The levy is identified on ACS for information only and may be valuable as a locator source.
- j. U S Treasury Dept – Internal Revenue Service – Do not issue a levy to this source. Delete this source when present on ACS.

Note: Information only levies can be viewed on the ACS Web by accessing Details View. An Information levy is used for locator purposes and can be deleted on ACS Web, but not modified. If you determine the source to be valid for levy issuance, you can turn the INFO indicator off by using the Info On/Off button.

- (2) When determining which levy to issue consideration should be given to the priority level of the levy source being issued.

- Choose levies with priority level 02 first.
- If there are multiple priority level 02 sources, consider issuing the levy with the newest confirmed levy cycle.
- If multiple levy sources contain the same confirmed levy cycle, issue the next levy using the levy source with the highest dollar value
- When there are no levies with a priority level 02, determine which levy to choose by priority level, newest confirmed levy cycle and highest dollar values.

Note: Use judgment and experience to decide whether to choose the first source displayed on the levy screen or a subsequent source that may be more effective.

- (3) See IRM 5.19.9.3.4 when considering using a FPLP levy source.

- If the Entity Screen shows an Account Alert FMS3, one or more tax modules is included in the Federal Payment Levy Program (FPLP).
- Before issuing a levy, determine if a levy has already been issued through the FPLP. See IRM 5.19.9.3.3, FPLP Systemic Processes and Indicators.

If	And	Then
Yes	N/A	levies may be issued on other sources but not the FPLP levy source.
No	There is a need to issue a paper levy on a federal source	a. Enter a TC971 AC61 on IDRS to block/remove the tax modules from FPLP. b. Check the MOD Screen to determine which tax module(s) require the block. c. Levies on other non-federal agency sources can still be issued.

- (4) Levying on Social Security income is a last resort, not a first levy and, for simplicity, usually is done through FPLP. See IRM 5.19.4.3.10 (5)(b), Levy Types, for basic FPLP information. A manager must approve a manual levy to SSA that could attach more than the 15% through FPLP, see IRM 5.11.6.2.1, Social Security. A few facts to remember if considering this option:
- a. Check the last filing status and exemptions to compare FPLP versus manual levy potential per Publication 1494. When in doubt, use FPLP.
 - b. Do not issue both a FPLP levy and a manual levy to SSA. The FMS3 indicator means the case is currently included in FPLP. Remove the case from FPLP per IRM 5.19.9.3.5, ACS Inventory Processing and FPLP, before preparing a manual levy.
 - c. When issuing a levy to SSA on ACS, immediately after issuing the levy input "OADT,90,LVY" to extend the follow up date.
- (5) An NL indicator in the Alerts Section means a name line discrepancy between the entity screen and delinquencies listed on the tax module screen. Check the P/S/J indicator for any intended levy source and the tax module screen for the entity name on each delinquency to ensure that the levy source chosen attaches to at least one of the delinquent modules.

Example: The entity screen name line may be John and Mary Smith, from the last return filed, but all delinquencies may be John Smith. We receive levy source information on Mary Smith for use in locating John, not as a levy source to enforce collection.

- (6) Community property laws in some states may impact levy choice. Local management should provide guidance, if necessary.

Example: In a community property state, taxpayers who are liable for delinquent tax may have a community property interest in their spouse's wages, so

the wages of the spouse not liable for the tax might be subject to levy. (See IRM 5.11.6.13, Levy on Non-Liable Spouse in a Community Property State, for more information.)

5.19.4.3.8
(10-21-2014)
Levy Source Address

- (1) Beginning in January 2009, employees are not able to issue levies using levy sources that do not meet postal standards for mailing. Employees receive a real time error message when attempting to issue levies on sources that do not comply with postal mailing standards. Employees need to research and correct the levy source address information before the levy can be issued. The corrected address will be validated during real-time processing. If the Code-1 Plus (C1P) value is "1" after validation, proceed with levy action. If the C1P value is other than "1", a status message will generate indicating the invalid address condition and a levy cannot be issued. See IRM 5.19.4-4, C1P/C1G/C1Z Values and Meanings, for additional information on C1P, C1G, and C1Z values.
- (2) When a levy source contains a complete address or the levy source contains an "NLS IND = Y" it is not necessary to verify the levy source address via SERP. For levy sources with address errors and an "**NLS IND = Y**", prepare a Form 4442 annotating the levy source information, name and address exactly the way it appears on ACS, and the error message received preventing levy issuance, and fax it to the appropriate levy source coordinator for corrective actions. A list of levy source coordinators can be found on *SERP* under *Who/Where* tab, Levy Source Information. Enter ACS history code OADT,10.
- (3) Centralized Address for Notice of Levy Issuance
 - a. Addresses for levy sources created through systemic means (e.g., IRP, FTD, RPS) are secured from BMF using payor's EIN. However, some employers and banks ask that levies be mailed to a different office, such as a central processing site.
 - b. A subroutine of the Centralized Asset Research System (CARS) can store unique addresses for levy mailing and pass them to IDRS and ACS as the levy address when the source is created.
 - c. When levy sources request mailing of levies to an address other than BMF address, ask them to submit a brief letter on company stationery with their entity name, TIN, and complete address. Banks must also show their American Bankers Association (ABA) transit number.
 - d. If a written response asks that levies be sent to a different address, it applies to more than one service center jurisdiction, and it contains all required information, forward to headquarters. If it lacks some required information, call the third party to solicit the proper written request and then forward to headquarters.
 - e. Letter can be sent directly to headquarters at the following address: "Director Filing and Payment Compliance, Program Manager, Enforcement, Attn: Systemic Levy Analyst, SE:S:C:CP:PC:FPC, 5000 Ellin Road, Lanham, MD 20706."
- (4) The Levy Source Information page on the Servicewide Electronic Research Program (SERP) contains a database of local, regional and national levy sources submitted by participating sites and headquarters. Each has special levy instructions and useful information, e.g., a unique mailing address, contact person to verify employment, or fax number. See IRM 5.19.4.3.9, ACS Levy

Sources on SERP, when adding levy sources to ACS and a complete mailing address is not known.

- (5) If an erroneous levy source address is an unrelated taxpayer residence or requires immediate attention because of disclosure, work stoppage, Taxpayer Advocate involvement, etc., do the following:
 - a. Secure screen prints from both ACS and IDRS to show how the erroneous information is displayed. Contact the appropriate Levy Source Coordinator and your local Policy and Analysis analyst to provide this information. Policy and Analysis will forward this information to the appropriate headquarters ACS levy analyst.
 - b. Headquarters works with Information Systems to overlay the incorrect address on IDRS and ACS with the correct address. The process takes about four weeks to coordinate and run.

5.19.4.3.9
(03-26-2007)
**ACS Levy Sources on
SERP**

- (1) To avoid delays in routing and processing, it is important to ensure that levies are sent to the proper mailing address where levies are processed. The Servicewide Electronic Research Program (SERP) provides a National Levy Source (NLS) database lookup that can be found under the heading Levy Source Information. The NLS database is an electronic database of centralized levy source addresses.
 - a. Generally, levy source information shows a mailing address, a contact point for banks or employers, or telephone or fax numbers to use in confirming the source, expediting a levy or release, or following-up.
- (2) Anyone who contacts a levy source by telephone or correspondence may identify a need to add, delete or update the NLS database.
 - a. Third party correspondence, including levy replies processed by ACS Support that has new or revised information for future levies must be mailed or faxed to the appropriate ACS Levy Source Coordinator.
 - b. Third party outgoing or incoming telephone calls that identify changes must be prepared in writing and forwarded to the appropriate coordinator.
 - c. The Levy Source Coordinator will perform the necessary research required to verify the correct levy source address.
- (3) Levy Source Coordinators will update the centralized levy source listing through the NLS system.

5.19.4.3.10
(02-18-2015)
Levy Types

- (1) Methods of levy issuances:
 - a. Paper levies are levies issued from ACS by entering action history LVnn either through systemic issuance or by an employee through next case processing. Levies are issued through the ACSWeb Levy & Release page by clicking and issuing the selected source to be levied.
 - b. Manual levies are those not issued through ACS. Manually prepared levies by ACS employees are rare. A manually prepared levy is not generated by the action history "LV" on ACS, rather they are typed by an employee and they must contain a signature. See IRM 5.19.4.3.11, Typing Manual Levies.

Reminder: Only those employees with delegated authority to issue a Notice of levy can sign the Notice of Levy. Any signature method that reliably authenticates these documents may be

used. A written signature, stamped signature, electronic signature, or systemically printed signature is an acceptable representation of the authority to issue a levy.

- c. Automated levies are levies issued through the automated levy programs. These levies are transmitted electronically. The proceeds are also received electronically. See IRM 5.19.9 for more information on Automated Levy Programs, ALP.
- (2) Continuous Effect of Levy: A levy has continuous properties only for salary and wages. It attaches future paychecks, until the levy is released. Wages and salary include fees, bonuses, and commissions. All other levies only attach property and rights to property that exist when the levy is served. Non-continuous levies reach the property or assets for which the taxpayer has a fixed, determinable right. Also see IRM 5.11.6.2, Retirement Income, for additional information about retirement and benefit income.

Example: A levy is served to take an author's royalties. The author has a fixed and determinable right to royalties for books that have already been published. The levy reaches royalties for sales of those books in the future. The levy does not reach royalties for books that are written and published later. A new levy must be served to take those royalties

Example: If a bank account is levied, it only reaches money in the account when the levy is served. It does not affect money deposited later.

Reminder: Continuous levies must be released timely after the account is full paid. If a levy is not released in a timely manner, employers will continue to send money creating the potential for collection of surplus proceeds. See IRM 5.11.2.6, Disposing of Surplus Proceeds, for guidance if surplus proceeds are collected.

- (3) Form 668-W was developed to use when individual taxpayers may be entitled to the exemption from levy. IRC 6334(a)(9) allows for a portion of an individual taxpayer's wages, salary, and other income to be exempt by law from levy. This provision also extends to persons working for contract income except for government contractors.

Note: All contract payments from the Federal Government are subject to continuous levy under IRC 6331(h). The IRC 6334(a)(9) exemption from levy does not apply to an individual's contract income from federal payments. Form 668-W should not be used to levy on federal payments. Rather, levies for these payments should be on Form 668-A or the funds should be collected through the Federal Payment Levy Program (FPLP). See IRM 5.19.9.3, Federal Payment Levy Program.

- a. ACS generates a 668-W levy when the source is coded as wage, pension or non-employee compensation; otherwise, ACS generates a 668-A levy.
 - b. Generally, Form 668-W is a continuing levy, attaching current and future wages and salary, or retirement benefits, until a levy release is issued.
- (4) Form 668-A was developed to use when the taxpayer is a corporation, partnership, or other entity (no exemption applies) and for levies on property held by third parties to collect taxes owed by individual taxpayers.

- a. Form 668-A, Notice of Levy, commonly called a bank levy, is mailed to banks, credit unions, savings and loan institutions, trust companies, and others described in IRC 408(n). For simplicity, "bank" refers to all these institutions unless otherwise specified

Note: A Form 668-A is also used to serve a levy on the acquiring bank or processor holding a merchant account, (1099K). The funds held by the processors and acquiring bank are not deposits within the meaning of IRC 6332(c) and the 21 day holding period does not apply to these funds. Therefore, the credit card processor makes the payment when they otherwise make payments according to the merchant contract. For additional information on Merchant Account levies, see IRM 5.11.6.16, Levies on Merchant Accounts. For additional information on income reported on Form 1099K see IRM 5.19.4.3.5.1, Form 1099K (Merchant Card and Third Party Network Payments)

- b. The service center mails Form 8519, Taxpayer's Copy of Notice of Levy, to the taxpayer seven days after Form 668-A is sent to the bank to ensure the taxpayer knows about the levy.
- c. A bank must wait 21 calendar days from the received date before sending payment. During the holding period, the taxpayer may provide reasons why the levy should be released. On the next business day, the bank must turn over the taxpayer's money up to the amount of levy.

Example: If the taxpayer's bank accounts total \$4,000 when the levy is received and the levy amount is \$3,000, the bank sends us \$3,000 (plus interest earned during the holding period). If the bank accounts total \$2,000 when received, then the bank sends the IRS \$2,000 (plus interest earned by accounts during 21 days).

- d. The money deposited during the holding period or later and the deposits that did not clear by the received date of the levy are not surrendered. Another levy must be served to reach this money.
- e. Contact the ACS Support Site liaison to settle disputes quickly about ownership of the bank account before the money is sent. Identity of the Support liaison(s) for ACS can be located on SERP under Who/Where, <http://serp.enterprise.irs.gov/>

Note: If ownership or other issues affecting whether the bank should send us money cannot be resolved within the 21 day holding period, call the bank to ask for more time.

- f. Most banks charge their customers a fee for processing levies, but they cannot deduct these fees from the money they send the IRS. Also, the bank may not use funds from the levy to offset loans it has with the taxpayer.
- g. The amount the bank sends the IRS must include interest earned through the holding period, regardless of when they usually credit interest to the account.

(5) There are a few Automated Levy Programs that may affect cases on ACS:

- a. IRM 5.19.9.2, State Income Tax Levy Program (SITLP) General, covers situations where a state income tax refund may be applied to federal tax liability.

- b. Under the Federal Payment Levy Program (FPLP), the law allows up to fifteen percent (15%) of specified payments to be levied. Cases assigned systemically to various ACS inventories are selected for FPLP; other ACS cases may be selected into the FPLP on a case-by-case basis. ACS displays the Account Alert FMS3 on the MOD and ENT screens to show a case is selected for FPLP; on IDRS an unreversed TC 971 AC 060 is present on each balance due tax module.
- c. IRM 5.19.9.4, Alaska Permanent Fund Dividend Levy Program (AKPFD), covers annual dividends (payments) that Alaska provides to eligible residents.

5.19.4.3.11
(03-01-2018)
Typing Manual Levies

- (1) In a few situations, a manual levy is needed because of special requirements for enclosures or mailing parts of the levy directly to the taxpayer, the computer system cannot issue a levy containing all of the requested information.
- (2) See IRM 5.19.4.3.4(17), Levy Determination, for situations that may require a manual levy, and the reference in IRM 5.11.6, Notice of Levy in Special Cases, for more detailed information about the special requirements in each situation.
- (3) When a manual levy is needed and one or more modules contains restricted penalty and/or interest, calculate and update IDRS.
 - See IRM 20.2.8.3, Manual Computations, for information on restricted interest.
 - See IRM 20.1.2.1.5, Manual Penalty Adjustments, for information on restricted penalties.
- (4) When it is determined that a levy must be manually prepared, ensure that AMS history is clearly documented. AMS documentation must include all of the following:
 - the levy source name and complete address
 - Which levy form was used, 668A or 668W.

Note: Use Form 668–W to levy an individual’s wages, salary (including fees, bonuses, commissions, and similar items) or other income. Other income is generally income owed the taxpayer as the result of personal services in a work relationship. Form 668-W are also used to levy on a taxpayer’s benefit or retirement income.
Use Form 668–A to levy other property that a third party is holding.
 - the MFT, tax period, amount due for each module and then total amount due for all modules included on the levy.
 - Whether Notice of Levy was mailed or faxed to levy source. If the levy was faxed, include the contact name, phone number and fax number of the levy source.

Caution: Do not include individual SRP modules on the manual levy.

- (5) A copy of the Notice of Levy, along with a print of AMS histories and ACSWeb action histories documenting approvals must be maintained in a paper case file.

- For Form 668-A retain part 5
- For Form 668-W retain part 6

- Note:** Taxpayer records of any kind cannot be maintained by Collection personnel after disposition of the account. All records must be held at the originating call site for 1 year and then disposed of in accordance with approved records control schedules. Refer to Document 12990, Schedule 22 (2)
- (6) When a Form 668-A(c)(DO) is prepared manually, the initiating office must also send a levy notification to the taxpayer.
- a. Remove part 4 of the levy assembly, i.e., Form 8519, and mail the rest to the levy source.
 - b. Five workdays later, mail Form 8519 to the taxpayer.
 - c. Input action history "OADT,00,8519MLD" on the day the Form 8519 is mailed.
 - d. When the Form 8519 is sent to a spouse, employees must document AMS history with spousal name/address information.
- (7) A Form 12175 must be prepared when issuing a manual levy, see IRM 5.19.5.13, Notification of Third Party Contact, for documentation requirements.
- (8) A manager or lead must review and initial the manual levy before it is mailed. Additionally, the reviewing manager or lead must document the review in AMS history and on ACS by entering action history "OADT,00,MLEVYAP"
- (9) Employees must input action history "OADT,00,MLVYMLD" on the day the notice was mailed or faxed.
- (10) Employees must manually input of TC 971 AC 640 for each module included on a manual levy that does not already have a posted TC 971 AC 640. Request the manual input of TC 971 AC 640 only after the taxpayer's right to a post-levy CDP hearing has expired or the CDP hearing is resolved. Refer to IRM 5.19.1.5.19, Passport Certification in Case of Certain Tax Debts, for additional information.
- 5.19.4.3.12
(03-25-2022)
Issuing Levies
- (1) To issue a levy on ACSWeb access the Levy & Release page and select the levy source. Once the source is selected, click the "issue levy" button.
 - (2) To issue a levy on ACS input history code LVnn, where nn = number of the specific source on the ACS levy screen. Identify the levy source as part of this entry by entering an abbreviation of the levy source's name. The system assigns the case to E5 with a 47 day follow-up. Enter a different follow up date as necessary.
 - (3) There are occasions when a real-time error message will generate in response to an "LV" action history. Employees are required to review the account, determine if the levy action is appropriate and update AMS histories.
 - a. If the levy action is not appropriate employees must cancel the levy by entering an action history of "CLnn".
 - b. If the levy action is appropriate, allow levy issuance.
 - (4) Levies requested on levy sources that do not meet the new postal standards for mailing will no longer be allowed. Real time error messages will generate advising of the invalid condition requiring perfection. Employees will need to

perfect the levy source in order to issue a levy to the source. If unable to perfect the levy source the source should be deleted.

- (5) If the liability is a result of a joint return and both husband and wife are employed, generally issue the first levy on the employer of the spouse receiving the larger income.
- (6) Issue multiple levies simultaneously if the aggregate balance on the ACSWeb Case Overview Screen is \$2,500 or more, and more than one unique levy source is available, subject to the following limitations:
 - On IMF, issue up to 2 multiple simultaneous levies. Review the guidance in IRM 5.19.4.3.7, Choosing A Levy Source, to select the most effective levy sources. Use judgment to determine the best combination of levy sources to use. However, you **MUST NOT** levy both spouses' income simultaneously unless you are certain that the taxpayers on a joint assessment are no longer married or are living apart. In that situation, each spouse is entitled to his/her own levy exemptions.
 - On BMF, issue up to three levies simultaneously, either two bank levies and one accounts receivable, or one bank and up to two levies against accounts receivable.
- (7) Managerial Approval-- Reassign accounts requiring managerial approval TOC0,,LVnn. Document ACS Comments or AMS History identifying which levy needs approval. The approving manager will approve the proposed levy action either by issuing the requested levy or by showing approval in ACS Comments or AMS History if a manual levy is required. Managerial approval is required when issuing levies on the following sources:
 - a. Benefit income
 - b. Retirement income (except IRA and railroad retirement as these are not levied in ACS)
 - c. Social Security income

Reminder: Managers must consider what is known about the taxpayer's financial condition, including economic hardship, when approving the above referenced levies. If there is sufficient information to determine the levy would cause an economic hardship, the levy should not be issued. While information in the Service's records may be sufficient to corroborate the presence of economic hardship, in some cases the taxpayer may need to provide additional information in order to make that determination.

- (8) Managerial Approval is no longer required when issuing a levy to the same source on same assessment. (Refer to Delegation Order 5-3 (**Rev 1**), see IRM 1.2.2.6.3.) Exercise caution when determining whether to reissue a levy, consider the following:
 - a. Were levy proceeds previously received?
 - b. Consider year of income earned - compare that to the latest income information. Do not reissue the levy if the latest income information does not show the source or reflects a period earned before the time the prior proceeds were received.

Note: See IRM 5.11.1.3.5, Managerial Approvals, for additional information.

- (9) When issuing a levy to a Limited Liability Company (LLC) entity, a warning message generates. Employees will be required to confirm that the levy request is appropriate. Refer to IRM 5.19.4.3.4(15), Levy Determination.
- (10) If you cannot levy on all modules, e.g., one or more modules have not met due process requirements, on ACS follow paragraphs (a) through (d) and (i) or on AMS follow paragraphs (e) through (i) below:

Note: It is not necessary to exclude the individual SRP modules when issuing a levy, as the system is programmed to block these modules.

- a. Remove the asterisk in front of any module on the Tax Module Screen that you wanted excluded from the levy.
 - b. Confirm the removal using History Code CS00 before paging to any another screen or requesting a levy. If you do not confirm the screen change with History Code CS00 before moving to any other screen, the system will not recognize your intention to exclude any tax modules from a letter or levy.
 - c. If you are excluding tax modules from two or more MOD screens, a separate CS00 entry is required for each screen.
 - d. After confirming the screen changes with the CS00, proceed with the levy request.
 - e. Update the “yes” to “no” on the Module screen “include” column. Click on the module, click on the “include” box to remove the check mark, then click on the “update” button.
 - f. Confirm the removal by seeing if the “no” is in the “include” column before going to any other screen or requesting a levy. If you do not confirm the change with “update” before moving to any other screen, the system will not recognize your intention to exclude any tax modules from a letter or levy.
 - g. If you are excluding more than one module you must select each one individually and follow steps in (e) above.
 - h. After confirming the “no” in the “include” column proceed with the levy request.
 - i. Document in ACS Comments of AMS History what module(s) are on the levy.
- (11) When issuing a levy to a FPLP source, a warning message will alert employees to the fact that FPLP may already be levying this taxpayer. The message will be displayed on ACS in the following situations:
- a. LVnn issued and account has FMS3 indicator
 - b. LVnn issued and account is FERDI.
 - c. LVnn issued and levy source type is FCF, FPLP, or DMDC.

Note: Refer to IRM 5.19.4.3.7 in these situations.

Note: The warning message displayed will state: “CHECK FOR FPLP ISSUES PRIOR TO LEVY”:

- (12) Levy sources must be recorded as third party contacts when a manually prepared levy is issued or when an outcall is made to confirm employment or an account. See IRM 5.19.5.13, Notification of Third Party Contact, for documentation requirements.

- (13) If a levy must be served quickly, prepare it manually and fax it to the levy source. (Confirm the source has fax equipment and will accept the levy this way.)
- (14) Prior to sending one or more LP61 letters simultaneously to secondary, unverified levy sources ensure that the taxpayer has received advance written notification of third party contact that meets the advance notice requirements of IRC section 7602(c). This can clean up the remaining levy file while awaiting a response to levy, thereby speeding overall case processing. Some things to consider in using these letters are:
 - a. They have a lower response rate than levies.
 - b. The LP61 letter only provides the taxpayer name line from the entity screen and entity TIN. If the source is for a spouse not identified on the entity screen, the spouse name and TIN do not appear on the letter. In these situations, an LP61 is unproductive, so consider a levy, telephone call, or manually prepared version of LP61 letter.
 - c. Do not send an LP61 letter to sources on which ACS cannot issue a levy. (See IRM 5.19.4.3.7, Choosing a Levy Source..)
- (15) When requesting a levy or an LP61 to a levy source that is non-employee compensation, add literals "Re: non-employee income" if space is available on the second name line. This will help the levy source locate necessary records.
- (16) If a telephone number for the taxpayer is available, you may, at any time, attempt telephone contact with the taxpayer before issuing a levy.
- (17) If there are no levy sources remaining, or none on which ACS may issue a levy, next-case action depends on what the site has done previously to contact the taxpayer. Also, various case characteristics, identified by issuance codes, balance due, type of tax, or such may dictate next-case actions. (See IRM 5.19.4.3.8, Next Action after Levy Response, for more specific guidance).

5.19.4.4
(12-22-2005)
Procedures for Levy Responses

- (1) This section contains the information you will need to process levy responses.

5.19.4.4.1
(11-01-2019)
**Levy Responses:
General Information**

- (1) Levy responses are received by telephone or in writing. ACS Support employees process taxpayer levy responses and only third party levy responses determined to be correspondence. All other third party levy responses are discarded as classified waste, IRM 5.19.6.15. *Levy Responses*. For information on what is determined to be third party correspondence see IRM 5.19.6.12, *Receiving and Sorting Mail(3)*, fifth bullet.
- (2) A call from a third party levy source can provide a more thorough response and a chance to solicit locator information.
- (3) For responses on cases no longer on ACS, research on IDRS to see the account status.

If	Then
Case is full paid (Status 12)	Prepare Form 668-D, Levy Release, if the Levy meets the criteria in IRM 5.19.4.4.4.
The balance owed is only attributable to an individual SRP module.	<ul style="list-style-type: none"> • Prepare Form 668-D, Levy Release • Reassign the account TOCO,05,NC35
Otherwise	Special action usually is not required. See IRM 5.19.4.4.4., Full Pay Levies, for additional information and destroy the response.

5.19.4.4.2
(11-01-2019)
Levy Responses Paper

- (1) Notices of levy are sent with a business reply envelope addressed to the corresponding Support Site. ACS Support employees process taxpayer levy responses and only third party levy responses determined to be correspondence. All other third party levy responses are discarded as classified waste, IRM 5.19.6.15. Levy Responses. For information on what is determined to be third party correspondence see IRM 5.19.6.12, Receiving and Sorting incoming Mail (3), fifth bullet.
- (2) Most payments are processed through RPS, or to IDRS, using CC PAYMT. The payment amount will show as a pending transaction the next day. The ACS balance due is updated by IDRS with the next weekly update.
- (3) Levy responses without a remittance attached are sent directly to ACSS after the mail room opens them. Only responses determined to be correspondence will be worked, all others will be discarded as classified waste..
- (4) If the response to the levy requests that future levies be sent to a different address, see IRM 5.19.4.3.8, Levy Source Address.
- (5) If we receive stock certificates or negotiable instruments as a result of levy issuance, take the following actions to ensure safe handling of documents.
 - a. Enter into comments the results of levy - name of financial institution, certificate numbers, owner's name, and value of the stock certificates or negotiable instruments.
 - b. Transfer case to Field Collection using TSIGN 6566.
 - c. Make a complete set of ACS screen prints and route the entire case to the service center revenue officer or ACS liaison, as designated locally. The following week, secure hard copy TDA from batch initialization and deliver it to that same person, who then forwards it to the Area Office.
 - d. The revenue officer reviews the case file and prepares a memo to the group manager to transmit the certificates and TDA, and sends the entire package, via Form 3210, to the Area Office.
- (6) Processing instructions for various levy response situations are located throughout IRM 5.19.4.4.1 through IRM 5.19.4.4.10 .

5.19.4.4.3
(02-11-2022)
Levy Responses:
Telephone

- (1) Telephone contact helps us to clarify vague statements about employment or account status, and solicit locator information that often is not provided by third parties on written responses.

Note: Be sure to advise the levy source that it is not necessary to respond by mail, as the case comments have been updated based on the phone call.

- (2) If the levy source says that the taxpayer is employed there, has an open account, or is currently a contractor, determine and document the reason the levy proceeds were not sent. Proceed with next action after levy response, see IRM 5.19.4.4.8, Next Action After Levy Response.

If	Then
Levy proceeds will be sent	Schedule another follow-up date 21 days from the date the payment will be sent.
On a follow-up call, levy source claims not to have received levy	Verify levy source address. Ensure case still meets levy requirements in IRM 5.19.4.3.7 then issue a new levy by entering on ACS History Code LVnn or by accessing the ACSWeb Levy & Release page by clicking on the levy and clicking on the "issue levy" button.
Levy source refuses to honor the levy	Follow IRM 5.19.4.4.7(14), No Payment Levies

- (3) If no longer employed:
 - a. Confirm if money is still due the taxpayer.
 - b. Ask for locator information (e.g., taxpayer's telephone number, address [if different from the one we show], and current employer and address, if known).

Reminder: Prior to requesting locator information ensure the advance third party contact notification requirements are met.

- c. Document comments, delete the levy source, and proceed with the next action, see IRM 5.19.4.4.8, Next Action After Levy Response.
- (4) Use the procedures in IRM 5.19.4.4.3.1 to assist employers in determining the correct amount exempt from levy. Also use the procedures in IRM 5.19.4.4.3.1 if proceeds are substantially below the amount expected based on the taxpayers known income and probable exemptions.

5.19.4.4.3.1
(03-04-2019)
Exempt Amount

- (1) Part of the individual taxpayer's wages, salary, (including fees, bonuses, commissions and similar items) and other income, as well as retirement and benefit income, is exempt from levy.
- (2) Exempt portion of a taxpayer's wages, salary, and other income is computed as follows:
 - a. The total of the taxpayer's standard deduction and the amount determined on an income tax return for the year the levy is served
 - b. Divide this total by the number of times the taxpayer is paid each year.

Example:

If taxpayer paid	then
daily	divide sum by 260 (assuming 5 days in a work week)
weekly	divide sum by 52
biweekly	divide sum by 26
semimonthly	divide sum by 24
monthly	divide by 12

Note: Under the Tax Cuts and Jobs Act (TCJA), IRC 6334(d)(2), **Exempt Amount** is not in effect for taxable years 2018 through 2025 because the "exemption amount" for any deduction for personal exemptions is zero for such taxable years pursuant to IRC 151(d)(5). For these taxable years, the "exempt amount" for property exempt from levy is determined under IRC 6334(d)(4), Years When Personal Exemption Amount Is Zero.

Note: Amount determined. For purposes of paragraph (2)a above, the amount determined is \$ 4,150 multiplied by the number of the taxpayer's dependents for the taxable year in which the levy served. This amount is adjusted for inflation starting the calendar year after 2018.

- (3) IRC 152 *Dependent defined as a "qualifying child or qualifying relative."*
Taxpayers cannot claim themselves as a dependents

Example: For taxpayers filing married filing joint return with three qualifying children, their determined amount would be \$4,150 X 3 dependents

- (4) Publication 1494, Tables for Figuring Amount Exempt from Levy on Wages, Salary and Other income, which is mailed with the Form 668-W, explains to the employer how to compute the amount exempt from levy. For taxpayers who are paid irregularly, help the third party determine a reasonable exemption, one that tries to tie the earnings into a time frame that produced it.

Example: A fisherman is paid a percentage of the catch after the fish are sold. If the person was working on the boat for two months to earn that share, two months worth of exemptions apply.

Example: A realtor works only for commission and is paid the Tuesday after a house sale closes. In this case, it's not clear how long the realtor worked on this specific sale. After all, realtors routinely show many houses to many clients simultaneously. The realty company may have some idea, or you might settle on a simpler solution, e.g., if the realtor averages two sales a month, suggest two weeks of exemptions, or if the realtor seldom sells a home, maybe count the weeks between contract signing and the settlement date to compute exemptions. The point is don't default to a daily or weekly exemption, or presume a six month exemption because it has been that long since the realtor last sold a house.

- (5) The taxpayer can give a new statement to the employer later to have the exempt amount recomputed. If a levy was served prior to January 1, 2018, the effective date of the TCJA's exempt amount rules, then the taxpayer's exemption amount will have been calculated under the old law, and the exemption amount will not be consistent with the TCJA exemption formula. Thus, taxpayers in this situation should be instructed to file a new statement with their employer so that the exempt amount is calculated consistent with the current law. Likewise, taxpayers whose exemption amounts were calculated after January 1, 2018 but prior to the Pub. 1494 being revised to reflect the TCJA should also be instructed to file a new statement with their employer.

Note: The taxpayer's filing status or dependents may change.

Note: There may be a change in exempt rates in a new year.

- (6) The Form 668-W, Notice of Levy on Wages, Salary, and Other Income, was developed for use when an individual may be entitled to the minimum exemption from levy in IRC 6334(a)(9) and includes a Statement of Dependents and Filing Status. The employer gives the statement to the taxpayer to complete and return within three work days. If it is not received by then, the exempt amount is figured as if the taxpayer is married filing separate with no dependents (zero). The taxpayer can give the statement to the employer later to change the exempt amount.
- (7) The statement is completed under penalties of perjury. It is usually accepted unless it seems a taxpayer is claiming extra exemptions to offset the levy's effect. See IRM 5.19.4.4.7(11). If it is disallowed, notify the taxpayer and the employer. The taxpayer can show evidence that the statement is correct and ask for a manager's review.
- (8) An employer who threatens to fire an employee to avoid handling a levy may be violating Title 15 USC 1674. If the employee is fired because of this, the employer is subject to a \$1,000 fine and possibly a one-year prison term. Refer the taxpayer to the Wage and Hour Division of the Department of Labor, which must decide if the employer violated the law.
- (9) For additional information on exemption amounts see IRM 5.11.5.4, Exempt Amount.

5.19.4.4.4
(03-04-2019)
Full Pay Levies

- (1) To request a levy release on AMS, access the ACSWeb Levy & Release page, click on the levy source. On the drop down menu, select LP68.
- (2) To request a levy release on ACS, input History Code LP68,nn (when n=position of levy on ACS Levy Screen).
- IDRS identifies levy remittances by a TC670 with a Designated Payment Code 05.
 - Call the levy source or fax a levy release per IRM 5.19.4.4.10, Levy Release: General Information, if it appears that the levy release may not reach the third party in time to prevent over collection.

Example: A levy release to LV04 is LP68,04

- (3) If the levy full pays the assessment but leaves a small accrual balance, see IRM 5.19.4.3.4(3) , Levy Determination, for tolerance instructions.

Note: When calculating the amount needed to satisfy the liability, do not include any amounts attributable to the individual SRP module(s) .

- (4) Look for other outstanding levies, matching up History Codes LVnn with subsequent deletions (DLnn) and other indications of response. Select LP68 in ACSweb or input LP68, Lnn, as necessary.
- (5) If another outstanding levy source indicates that proceeds will be sent soon:
 - a. Immediately attempt to contact that source by telephone; and
 - b. Fax a levy release.
- (6) Reset follow-up date by entering OADT,21, if necessary, to allow time for receipt of closing information from IDRS, usually with next weekend update
- (7) See IRM 5.19.4.4.10 for further background information regarding levy releases.

5.19.4.4.5
(06-01-2020)
Partial Pay Levies

- (1) Determining the proper action after receiving a partial levy payment depends on:
 - If multiple simultaneous levies are outstanding
 - If the levy was for wages, or other income, or to a bank
 - The payment amount
 - If the amount seems reasonable or should be questioned
 - If additional payments are expected
- (2) When an account in E5 receives at least 2 payments within 90 days the account is systemically assigned to E7. If this is the second levy payment on a wage source, consider establishing a continuous wage levy agreement, even if the account resides in E7.
- (3) Partial payments can be secured from any levy source type. Determine the next appropriate action to take by using the following criteria:

If partial levy payment is secured from:	And	Then
Wages or other income	There are no other levy sources available	a. Annotate in comments the amount and which source was successful. b. Input a new follow-up date 21 days after the next anticipated payment. c. No action is needed on other outstanding levies at this time

If partial levy payment is secured from:	And	Then
Wages or other income	There are other levy sources	a. Annotate in comments the amount and which source was successful. b. Do a new levy issuance analysis
A Bank source	There are other levy sources	Do a new levy analysis
There are no other levy sources	See IRM 5.19.4.4.8.	N/A

- (4) If levy proceeds are substantially below the amount expected based on the taxpayer’s known income and probable exemptions, consider contacting the employer to determine whether the taxpayer is claiming too many exemptions or is allowing voluntary deductions to an extent that defeats the levy. (See IRM 5.19.4.4.7(7) , No Payment Levies, and Policy Statement P-5-29 of IRM 1.2.14.1.6, Policy Statements for Collecting Process Activities.)

Reminder: Prior to contacting the levy source ensure the advance written third party contact notification requirements are met

- (5) If a second payment is not received on a Form 668-W levy when anticipated, or if the second payment differs significantly from the first so that it is difficult to know whether we can expect regular payments, follow up with the levy source.
- (6) If you are not able to follow-up or the source indicates the payments will be varied, establish a continuous wage levy agreement for the minimal amount that can be expected each month.
- (7) Review all partial pay responses for any pertinent taxpayer or levy source data per IRM 5.19.4.4.7(11), No Payment Levies.

5.19.4.4.6
 (06-01-2020)
**Continuous Wage Levies
 - E7 Payment
 Processing**

- (1) After a second partial payment is secured on a Form 668-W, consider if the account should be reviewed for manual or systemic monitoring through IDRS as a continuous wage levy installment agreement, CTLV. Although not considered an installment agreement, these are loaded to IDRS as Status 60.
- (2) Provide for monitoring of continuous wage levy payments through IDRS Status 60 if:
 - Time to full pay is more than four months, excluding any individual SRP modules **and**,
 - There are **no** other levy sources that ACS can use or the site believes is worth pursuing **and**,
 - The taxpayer is an IMF or out-of-business sole proprietor BMF entity **and**,

- Payments are expected at regular intervals. If payment amounts will vary, establish the agreement for the minimum amount that can be expected each month.
- (3) Cases receiving payments through the FPLP program require special handling. Do not set the account up on a CTLV.

If	And	Then
FPLP levy will full pay account in 4 months	No other levy sources present	a. Leave case in E7 until account is full paid. b. Document ACS Comments or AMS History and extend the follow up date.
FPLP levy will not full pay within four months	No other levy sources	Send the case to the queue. 1. Make a NFTL determination in accordance with IRM 5.19.4.5. 2. transfer the case to the queue. Either select "Out of ACS to Queue" or by inputting an action history TFQU,,DOAO7000
FPLP levy will not full pay within four months	Other levy sources present	Leave FPLP in place and issue next levy.

Note: To consider an account receiving proceeds through the FPLP program to be eligible for establishment of a continuous wage levy, follow the procedures in IRM 5.19.9.3.5.1, FPLP Levy vs ACS Paper Levy.

Note: Beginning January, 2007, SSA submits paper levy payments to IRS through the Electronic Funds Transfer Payment System (EFTPS). These payments post to IDRS as TC 670 DPC 05 but are identifiable by the presence and content of an EFT-TRACE-NUM field. All SSA levy payments have values of "49" in the third and fourth positions of the EFTTRACE- NUM.

- (4) If later levy payments are likely to full pay the account within four months, input history code OADT,130,CTLV. After 4 months, if the account is not full paid, proceed with new levy analysis.
- (5) On combination balance due/return delinquency entities where a continuous wage levy agreement is a possibility, see if the return delinquencies qualify for TC59x with Closing Codes 25 (BMF), 26, or 28 (IMF). If they do, close the return delinquency modules, and establish continuous wage levy agreement. If they cannot be closed, establish the CTLV and move case TOI5.

Note: For compliance reasons, in this situation the use of TC59x with Closing Code 27 (minimal tax due) is discouraged, but not prohibited. Unresolved return delinquency modules do not prevent loading a continuous wage agreement to IDRS Status 60.

- (6) Prior to establishing any continuous levy agreement determine if the amount received seems appropriate considering the taxpayer exemptions and filing status. If less than anticipated, contact the employer to determine whether the taxpayer is claiming too many exemptions or is allowing voluntary deductions to an extent that defeats the levy. (See IRM 5.19.4.4.3(4), Levy Responses: Telephone, and Policy Statement P-5-29 of IRM 1.2.14.1.6, Policy Statements for Collecting Process Activities.)

Reminder: Prior to contacting the levy source ensure the advance written third party contact notification requirements are met

- (7) The CSED must be considered before establishing a continuous wage levy. A CTLV can be established if the earliest CSED is further than 18 months in the future. Request a review date:
- no more than three years in the future.
 - 18 months prior to the earliest CSED if the earliest CSED is at least 24 months in the future; or
 - 9 months prior to the earliest CSED if the earliest CSED is less than 24 months in the future.

Note: If **fewer** than 18 months remain prior to the CSED levies we cannot establish a continuous wage levy on IDRS, ST60. Send cases meeting this criterion to ACSS to be monitored manually. See IRM 5.19.4.4.6.1, Manually Monitor Continuous Levy

- (8) When continuous payments are being received from multiple levy sources, the account must be manually monitored. Do **not** establish an agreement on IDRS, ST60. Follow the procedures in IRM 5.19.4.4.6.1.

- (9) If the case meets continuous levy agreement criteria:

- Make a NFTL determination if required by IRM 5.19.4.5.1, Notice of Federal Tax Lien Filing Determinations.
- Verify that all modules, including those previously reported as currently not collectible, were included on the levy. If not, see IRM 5.19.4.3.4 (16).
- When the continuous levy is being established due to a levy on wages/salaries, input a TC971 AC687 with miscellaneous processing code 002 for each module included in CTLV.

Note: Do not input a TC971 AC687 on any individual SRP modules, as these are not subject to levy.

- For other continuous levies that reach a taxpayer's right to future payment and will not be released when the CSED expires, input a TC971 AC687 miscellaneous processing code 001 for each module included in the CTLV.

Note: Do not input a TC971 AC687 on any individual SRP modules, as these are not subject to levy.

- For accounts that do not contain an individual SRP module(s), establish a continuous wage levy on IDRS using CC IAGRE. Reassign the case "TOC0,21,CTLV" for ACS Call Sites and "TOS0,21,CTLV" for ACS Support, immediately following input of CC IAGRE. See Exhibit 5.19.4-3.

Note: For accounts where there is a balance owed on an individual SRP module, see IRM 5.19.4.4.6.1 Manually Monitor Continuous Levy

f. Site management may prefer that potential continuous wage levy agreements be reviewed by a manager or designated employee before establishing them on IDRS. If so, enter in comments the monthly payment amount, payment dates, locator number, and name and address of levy source. Reassign as directed locally.

(10) If the account will not be full paid in four months and does not meet requirements for a continuous wage levy see IRM 5.19.4.4.8(4) , Next Action After Levy Response.

5.19.4.4.6.1
(06-03-2019)
**Manually Monitor
Continuous Levy**

- (1) Some continuous levies are not eligible for systemic monitoring in status 60 and must be manually monitored.
- (2) All actions in IRM 5.19.4.4.6(10) a - d must be completed prior to reassigning the case for manual monitoring.
- (3) Once all actions have been taken, follow the table below for closing actions:

If	Then Document ACS Comments or AMS History	And
CSED will expire in fewer than 18 months:	Monitor Continuous Wage Levy/CSED Expiring , in addition, document the name, address and any contact information, including phone and fax numbers, in AMS history for the levy source submitting proceeds.	Reassign the case TOS0,14,MMCTLV.
Continuous payments are being received from multiple levy sources	Monitor Continuous Wage Levy/Multiple Levies Remitting . In addition, for each levy source submitting proceeds, document the levy source name, address and any contact information, including phone and fax numbers in AMS history.	Reassign the case TOS0,14,MMCTLV.

If	Then Document ACS Comments or AMS History	And
The account also includes an individual SRP module, MFT35/MFT65	Monitor Continuous Levy/SRP Balance Owed , in addition, document the name, address and any contact information, including phone and fax numbers, in AMS history for the levy source submitting proceeds.	Reassign the case TOS0,14,MMCTLV.

5.19.4.4.7
(06-01-2020)
No Payment Levies

- (1) Levy responses without payment are the most common. They can be by telephone or in writing.

Reminder: ACS Support employees process taxpayer levy responses and only third party levy responses determined to be correspondence. All other third party levy responses are discarded as classified waste, IRM 5.19.6.15, *Levy Responses*. For information on what is determined to be third party correspondence see IRM 5.19.6.12, Receiving and Sorting incoming Mail (3), fifth bullet.

- (2) Form 668-W -- If the response is negative:

- a. "No longer employed" or similar -- delete the source.
- b. "No record of employment" or "never an employee", -- check ACSWeb Levy & Release or ACS levy screen. The source may have been non-employee compensation, but the levy was not adjusted to show "re: non-employee compensation" on the second name line. Also, ensure the levy was issued with a correct name line and TIN. It may be necessary to contact the levy source or reissue the levy. If satisfied that source is no good, delete it.
- c. No funds due -- leaves open the possibility that money may be due the taxpayer in the future. If accompanying information doesn't clarify the statement, consider a follow-up call to the source. If satisfied that the source is no good, delete it.
- d. Laid off or "seasonal", -- consider contacting the levy source to determine when that happened and the likelihood of being recalled. If a layoff date has already been provided and it is more than six months ago, the taxpayer is likely to have found employment elsewhere. For seasonal employees who expect to be rehired, keep the source on ACS, and document in ACS Comments or AMS History the possible rehiring date. If satisfied that the source is no good, delete it.

- (3) Form 668-A -- If the response is negative:

- a. "Account closed" or "no account" -- delete source.
- b. "No funds" or other vague comments -- might mean a temporarily overdrawn account that we might want to try again at a later date. It also

might mean an inactive account is still on the books but dormant for a long time. In this case, delete the source.

- (4) Some third parties say they cannot honor the levy and cite some detail about the levy form or process. If the source is good and can be reasonably accommodated, do so. Depending upon the situation, a site or Area Office liaison may need to call the source to discuss levy requirements. Prior to contacting the levy source ensure the advance written third party contact notification requirements are met.

Example: Some do not honor levies without a Total Amount Due shown. This occurs when restricted interest or penalty on one or more ACS modules prevents the system from receiving updated accruals from IDRS, so the levy leaves accruals and Total Amount Due fields blank. Staffers are used to solicit a call to compute accruals if full payment will be sent. Because of thirdparty objections, some ACS support functions routinely compute accruals on selected employers or banks or, if immediate full payment is unlikely, simply write in Total Amount Due without figuring accruals.

- (5) Unable to process or similar statement may mean that the source was dividends, insurance company interest, Bureau of Public Debt, or other sources that should not have been issued. Often, the third party will enclose a detailed form letter explaining the reason for returning the levy. If the source is valid for ACS use and can be perfected, do so. Otherwise, document response in ACS Comments or AMS History and delete the levy source.
- (6) “Part-time employee” often means the employee earns less than the levy exempt amount. Document status in ACS Comments or AMS History and proceed with next action after levy response, see IRM 5.19.4.4.8, Next Action After Levy Response..
- (7) “Too many exemptions” means the taxpayer earns less than the levy exempt amount.
 - a. Consider contacting the employer to determine if the taxpayer is claiming too many exemptions on Statement of Exemptions and Filing Status or is allowing voluntary deductions to an extent that defeats the levy. (See Policy Statement P-5-29 of IRM 1.2.14.1.6, Policy Statements for Collecting Process Activities, and IRM 5.19.4.4.3(4) , Levy Response: Telephone.) This type of response also may mean that the employer is confused about computing the exempt amount, so a call helps resolve current and future levy issues. If the levy source will be retained for future use, document the levy information in ACS Comments or AMS History. If it is unlikely the levy source will ever be productive, delete it and proceed with case processing.

Reminder: Prior to contacting the levy source ensure the advance written third party contact notification requirements are met

- b. Sometimes, an employer believes that the taxpayer is entitled to less than the amount claimed on the form, and will ask what to do. Advise the employer that they need to use the Statement of Exemptions and Filing Status, not the employee’s W-4, Employee’s Withholding Certificate. If the taxpayer did not complete the statement, advise the employer to compute the exempt amount as if the taxpayer is married filing separate

with no dependents (zero). Also advise the employer that the taxpayer can give the statement to the employer later to change the exempt amount.

Note: The statement is completed under penalty of perjury. Generally, accept the information on the statement, unless there is reason to question it. If it is disallowed, notify the employer and the taxpayer in writing. The taxpayer can provide evidence that the statement is right and request managerial review.

- c. If requested, fax a quick note to the levy source to confirm it. They, in turn, will notify the taxpayer who may call or write to appeal the decision. If the third party cannot be reached by telephone and you determine that fewer exemptions should be permitted, send a quick note to the levy source and a copy to the taxpayer.

Note: If the site issues multiple simultaneous levies to wage sources, the taxpayer is entitled to an exempt amount on only one. Tell the second employer not to allow any exempt amount.

- (8) If the levy source questions some discrepancies between the entity information on the levy and their records, contact the third party to ensure the levy source is valid, then reissue as needed.

Example: Banks sometimes identify accounts they have for a taxpayer under a different identifying number, such as an individual account under the taxpayer's name only and his/her SSN, while our levy identifies that person, sole proprietor business name, and an EIN. The bank may ask whether to honor the levy under those circumstances. In this example advise the bank, based on the facts and circumstances of the taxpayer's account, whether the levy should be honored. Elevate to management any cases in which you are unable to determine whether the levy should attach to the taxpayer's account.

- (9) "Taxpayer in bankruptcy" requires documentation in ACS Comments or AMS History and reassignment to R4; use History Code TOR4,,BKRPTCY. If the levy was issued after the taxpayer filed for bankruptcy, and the proceeds were sent and processed, then a violation of the bankruptcy automatic "stay" occurred. Advise local management as the Insolvency Unit will need to expedite contact. Variations occur in state exemption laws that debtors may elect to use in a bankruptcy proceeding and in Standing Orders adopted by bankruptcy courts. This can result in differing local procedures among sites.
- (10) Reassign to R4 responses showing the taxpayer is deceased or has a military deferment.
- (11) On no pay responses question the caller or analyze correspondence for any pertinent taxpayer or levy information.

If information is:	Then
Newer than what we have	Pursue leads. Enter home, work or cell phone number onto ACS. If a telephone number is already present put additional number in comments as a potential number (POTHOMETEL, POTWORKTEL or POTCELLTEL). Enter new employer's name, address, and telephone number into comments (POTEMP). Enter the new taxpayer address in comments (POSSNEWADRS). Transcribe useful locator information from the levy or attached correspondence.
Older than what we have	<ol style="list-style-type: none"> 1. Don't act on information. 2. Record it in ACS Comments or AMS History so we know it is old information if it comes up again from another source.

- (12) If the taxpayer is incarcerated, see IRM 5.19.1.5.7, Incarcerated Taxpayers, and proceed with next case action.
- (13) If the taxpayer is in a college, university, or other school, an issue may be raised about money in school bank accounts that is provided by the Department of Education for student aid. (See IRM 5.11.4.8, Schools' Bank Accounts, for processing instructions.)
- (14) Outright refusals to honor levies are rare. If it happens and the contact is by telephone:
- a. Explain to the source his/her legal requirement to honor a levy. Tell the levy source that IRC 6332 provides that if the levy is honored the levy source will be discharged from any obligation of the taxpayer or anyone else. If the levy source, however, fails or refuses to honor the levy, the levy source will be liable in a sum equal to the value of property or rights to property not surrendered, plus interest, and, absent reasonable cause, may be liable for a penalty equal to 50 percent of that sum.
 - b. If the source continues to refuse to respond, insert the term "REFUSES TO HONOR LEVY" and the source's telephone number on one of the blank name/address lines for this source on the ACSWeb Levy & Release or ACS Levy Screen.
 - c. Print Entity and Levy Screens AMS Account Summary, ACS Web Case Overview and Levy & Release Screens.
 - d. On print, circle the problem levy source and note the reason for not honoring levy.
 - e. Route print to management, which may consult with Advisory about initiating legal action. Do not delete the levy source.
 - f. Issue an LP59 per IRM 5.19.4.4.9(5)b, Levy Follow Up, to levy source.
 - g. Proceed with the next action after levy response, see IRM 5.19.4.4.8, Next Action After Levy Response.

5.19.4.4.8
(06-01-2020)
Next Action After Levy Response

- (1) Individual and multiple levy sources may be deleted at one time on the levy verification screen. Select “Delete” for all applicable sources and submit the request. The system will automatically generate deletion code “2” (see 2 below) when deleting from the levy verification screen. To delete a levy source using a deletion code other than “2”, view the levy source details on ACSWeb and click the “Delete Levy” button. A menu will open displaying the deletion codes (see 2 below). Click on the appropriate code and click on the delete button. It will generate the appropriate history code as shown in the example in 2 below.
- (2) Delete sources on ACS using History Code DLnn, where nn=number position of source on ACS Levy Screen, followed by one of the following levy deletion codes, then an abbreviation of the source’s name. Add to ACS any new information that the levy source provides. It is not necessary to also delete the source from IDRS. (See IRM 5.19.4.3.5(5), Levy Sources and ACS Display.)
 - 1 - No Account per response from levy source.
 - 2 - Not or no longer employed, no working relationship, or no account
 - 3 - Not or no longer employed, or no working relationship per response from levy source.
 - 4 - **Reserved**
 - 5 - Source is a non-liable spouse
 - 6 - Levy source not usable, e.g. duplicate, no address, ACS restricted from using, etc.
 - 7 - No response levy; no follow-up or follow-up unproductive
 - 8 - Levy income below exempt amount, no money owed or no funds in account

Example: Deleting Acme Widget Company could be DL01,,2ACME

- (3) Employees who receive levy responses but who are not authorized to request subsequent levies should do the following:

If	Then
Account is in E5 with a future follow-up date	Enter History Code OADT,01 to accelerate accessing case.
Account is in other ACS functions or units	No additional entry or rescheduling of follow-up dates is needed.

- (4) If the account will not be full paid in four months and does not meet requirements for a continuous wage levy (see IRM 5.19.4.4.6, Continuous Wage Levies - E7 Payment Processing), choosing the next action depends on factors such as:
 - a. Prior call site actions - has it been to Contact or how far within Investigation, was the taxpayer contacted, or are other levies outstanding?
 - b. If there has been taxpayer contact, has there been a broken promise?
 - c. Are there unresolved return delinquency modules?
 - d. Information on ACS Screens (e.g., a taxpayer telephone number, other levy sources, unique coding that requires special processing).
 - e. Availability of locator sources that might identify a levy source for the taxpayer.
 - f. Whether the case meets call site “currently not collectible” criteria.

- g. Local procedures and other factors, such as community property laws.
 - h. Where case is assigned in ACS and whether it no longer is on ACS.
- (5) If there has been no written or verbal contact with the levy source, consider the levy follow-up in IRM 5.19.4.4.9, Levy Follow-Up:

If	Then
There will be no follow-up or if a telephone follow-up confirms the source is no good	<ol style="list-style-type: none"> 1. Delete source from ACS using the appropriate deletion code. 2. Document ACS Comments or AMS History.
Follow-up is by LP59	<ul style="list-style-type: none"> • If other levy sources are available, issue a levy. • If no other levy sources are available allow for the 25 day follow up before proceeding to (8) below. • If there is no response to the LP59, delete the source when the case is accessed more than 25 days later. • Issuing a new levy and an LP59 to an earlier levy source is not considered multiple simultaneous levy.

Reminder: Prior to contacting the levy source or sending the LP59 ensure the advance written third party contact notification requirements are met.

- (6) If there are additional levy sources, do a new levy analysis as follows See IRM 5.19.4.3.4:

If	Then
The case meets multiple simultaneous levy criteria, and we have not received responses to some outstanding levies	<p>You may issue a new levy to replace an unproductive one if one of the same type levy sources is available.</p> <p>Example: If one wage and one bank levy was issued simultaneously, the wage source is unproductive and the bank has not responded yet, issue a levy to one non-bank source.</p>

If	Then
A telephone number is shown for the taxpayer and contact has not been attempted to that number.	Case may be reassigned to Contact at any time as directed by call site management, unless account has been to Cn previously and another telephone call attempt would be wasteful.

(7) If no levy sources are available, the case is in E5:

If	Then
There is an IR issuance code on each module and IDRS shows the entity was not reactivated from TC530 CC39 status	Report case currently not collectible.
There is a QR issuance code	Return case to the Field queue (IDRS status 24).
You have the taxpayer's home telephone number or a valid work telephone number (usually a source on which we may not levy)	Reassign case to Contact using History Code TOCn.
The balance is less than deferral, including any individual SRP module(s)	<ol style="list-style-type: none"> 1. Enter History Code NC09. See (10) below for exceptions. 2. Reassign TOC0,21,NC09
There is no taxpayer telephone number	<ol style="list-style-type: none"> 1. Reassign case TOI2 2. If I2 research was completed within the last 6 months, reassign the case TOI4.

(8) If there are no levy sources available and the case is assigned to other Contact, Investigation, Research, or Service Center function/unit, then other case processing has superseded levy. Enter levy response information in ACS Comments or AMS History , but take no other action.

#

- a. Document ACS Comments or AMS History.
- b. Enter History Code NC09
- c. Reassign TOC0,21,NC09

(10) NC09 in (9) above does not apply to cases:

- a. On which substantive contact has been made or adjustment or payment tracer activity is applicable.

- b. Where the module is coded E or F.
- c. Where there are return delinquency modules that do not qualify for Closing Codes 25 (BMF), 26, or 28 (IMF), or do not qualify for Closing Code 27 when balance-due amount is added to estimated return delinquency

5.19.4.4.9
(06-01-2020)

Levy Follow-Up

- (1) E5 cases are next case accessed if no response is received or processed by the follow-up date entered when the levy was requested.
- (2) Employees must **be alert to other outstanding levies**. You may need to partially or fully release levies or delay the next action because of other levies.
- (3) On AMS double click on the modules in the Module section. Review for transaction code TC670 DPC 05 for levy proceeds. You may sort the transactions by TC by clicking on the heading "code" or sort them by date by clicking on the heading "date".

Note: If there are continuous or multiple TC670 payments in the same amount posted with no DPC 05 view the payment on the Remittance Transaction Register, RTR, to determine the source of payments before taking the next case action.

- (4) Check IDRS for recent payments. Levy proceeds are generally posted to an account without corresponding notation in ACS Comments or AMS History. Look for odd dollar amounts with a posting date at least several weeks after the levy issuance or for continuous and/or multiple payments in the same amount. Levy proceeds may be identified on IDRS with a Designated Payment Code (DPC) 05 on line after TC670 payment. However there may be instances where levy proceeds are applied without a DPC. Use RTR to determine the source of the payments before taking the next case action.
- (5) Initiate an LP59 follow-up only in the following circumstances:
 - a. The taxpayer is a federal employee see IRM 5.19.18.5.6(1).
 - b. It has been confirmed that the levy source is holding funds subject to levy, but our records indicate no payments have been received.

Note: If the levy source claims that they never received the levy, do not issue LP59, instead reissue the levy. If follow-up is by LP59, a levy may be issued to another source simultaneously. This is not considered repeated levy on the same source. If the account does not meet the criteria listed in item 4 above for LP59 issuance, then proceed with case processing.

Reminder: Prior to sending the LP59 ensure the advance written third party contact notification requirements are met.

- (6) If the account does not meet the criteria listed in item 4 above for LP59 issuance, then proceed with next action after levy response, see IRM 5.19.4.4.8, Next Action After Levy Response.

5.19.4.4.10
(12-02-2020)
**Levy Release: General
Information**

- (1) When a faxed levy release is necessary to expedite the processing of the release of levy and a return call is needed to provide the correct fax number, document ACS Comments or AMS History. In order to assist the next CR and facilitate a effective call resolution, documentation should include::
- identification of levy source and
 - the type of release granted, full or partial. For all partial releases, annotate the amount to be released..

Note: When paper levies issued to the Social Security Administration (SSA) need expedited release due to economic hardship employees utilizing Form 668D on AMS and e-fax services will need to write "EXPEDITE IMMEDIATELY" on the top of the fax cover sheet. Employees using Form 668D on AMS intending to manually fax the levy release must write "EXPEDITE IMMEDIATELY" on the top of the release of levy form. Fax the release to the SSA office that issued the taxpayer's social security number. See the Servicewide Electronic Research Program (SERP), Who/Where, Levy Source Information for the SSA office fax numbers <https://acsweb.enterprise.irs.gov/nlsweb/nlsstandalone.jsp> Phone contacts for SSA Paper Levy issues are listed on SERP on the IRWeb, Who/Where, SSA Paper Levy Contacts, <http://serp.enterprise.irs.gov/databases/who-where.dr/ssa-paper-levy-contacts.html>

- (2) The primary purpose for issuing a Notice of Levy is to collect the delinquent tax liability. However, there may be some instances when a full or partial levy release is necessary.
- (3) When a taxpayer claims to be a victim of identity theft, follow IRM 5.19.21.2.3, Identification Theft and Disposition of Levy Proceeds, to determine if a levy release is warranted. When contact is from the Non-Owner of the TIN, follow IRM 5.11.2.3.6, Returning Levy Proceeds to ID Theft Victims – (SSN Owner), to determine if a levy release is warranted. Full and partial levy release instructions can be found in (8) below.
- (4) Levies are issued after the taxpayer has been given an opportunity to resolve their tax liability but failed to do so. Taxpayers will generally call us once they learn that a Notice of Levy has attached and the levy source will be sending us proceeds. Release of levy is not required for a levy that was issued prior to reaching resolution with the taxpayer unless it meets one of the criteria for required release listed in item (5) below.

Example: A taxpayer has not responded to any of our attempts to contact him/her to resolve a tax liability. A levy is issued and attaches to proceeds in the taxpayer's bank account. The taxpayer calls and explains that he/she is ready to cooperate. He/she requests a release of the bank levy in exchange for his/her cooperation in resolving the account. Unless one of the 10 conditions listed in IRM 5.19.4.4.10(5) , Levy Release: General Information, exist, the levy should not be released.

- (5) A Release of Notice of Levy must be issued on modules when any of the following conditions apply:

Reminder: Releasing a levy issued to a third party (other than a government entity) is a third party contact, **do not delay** the issuance of a release of levy to meet the written Third Party Contact requirement as amended by the Taxpayer First Act. See IRM 5.19.4.2.3(6)

Reminder: When a copy of the Release of Levy is not sent to the taxpayer, employees must prepare a Form 12175, Notification of Third Party Contact. Refer to IRM 25.27.1.4, Recording and Reporting TPCs and IRM 5.19.5.13.3 for procedures on preparing and submitting the Form 12175

- a. **CDP Notice Period Has Not Expired:** A release must be issued on any modules where the levy was issued prior to the expiration of the taxpayer's 30-day notice period in a non-jeopardy situation. If the levy includes other modules where proper notice has been given, and these modules do not meet any other conditions for release, then a partial release should be issued to remove only the erroneous modules. See IRM 5.19.8.4, Collection Appeal Rights Program, for information on CDP time frames and IRM 5.19.4.3.4, Levy Determination, for definitions of equivalent CDP notices.
- b. **CDP Notice Issued to Incorrect Address:** A release must be issued on any modules where the LT11 (or equivalent) was sent, but not to the taxpayer's last-known address. If the levy includes other modules where proper notice has been given, and these modules do not meet any other conditions for release, then a partial release should be issued to remove only the erroneous modules.

Example: A secondary taxpayer's address may differ from the address on the ACSWeb Case Overview & AMS Account Summary screen. In this case, due process notice must be sent to each spouse at their respective last known address prior to levy issuance. A levy on spouse's assets where it is discovered that due process notice was not issued to the correct last known address of that spouse must be released.

Note: This does not apply when the levy attaches monies owned jointly with the primary taxpayer. For example, release of levy on a joint bank account is not required.

- c. **Liability is No Longer Owed:** A release must be issued on any modules that are no longer owed, or where a pending adjustment will fully satisfy the liability. If the levy includes other modules that are still outstanding, and these modules do not meet any other conditions for release, then a partial release should be issued to remove only the erroneous modules.

Caution: "Other outstanding modules" does not include individual SRP module(s). Do not refuse or delay a release of levy when the remaining balance is solely due to the individual SRP module(s).

Other factors to consider:

-- Be alert for multiple simultaneous levies and ensure that all levies are released.

-- Follow procedures in IRM 5.19.10.10.2.2, Full Paid Continuous Wage Levy Accounts, when a release is required for continuous wage levy that has fully paid an account.

--If over-collection occurs, IDRS generates a refund within a few weeks if the taxpayer has no other delinquent accounts. Over-collection attributed to multiple simultaneous levies is not grounds to accelerate refunds. A manual refund will be initiated only for hardship cases. See IRM 5.1.12.20, Manual Refund.

- d. Amount Held by Levy Exceeds Amount of Liability: If the amount of the proceeds being held by a levy will fully satisfy the liability, then we must release any excess levy amounts to avoid over-collection. If the levy source verifies that full payment is being held by levy:

If	Then
Multiple simultaneous levies have been issued	Issue/fax full levy releases to all other levy sources for which levies have been issued.
Subsequent to levy issuance, a payment or adjustment posts to modules thereby reducing the original levy amount	Issue a partial levy release showing the corrected balance due, by manually preparing Form 668-D. Mail or fax it to the levy source and document comments.

Note: If there is over-collection and there are other liabilities, levy proceeds will offset, even if the other delinquent modules were not included on the levy and may not have been issued a CDP notice. Although this is legal and we will retain funds already received, as a matter of policy we do not intentionally allow levies to remain in effect once we are aware that the modules listed on it have been resolved. We must either release the levy, or, if CDP criteria are met, reissue a new levy to include the additional modules. Surplus levy proceeds may not be applied to individual SRP modules, (MFT35/MFT65).

- e. Modules with Expired CSED: In cases where a continuous wage levy has been honored, a release must be issued on any modules where the statutory collection period has expired. If the levy includes other modules where the CSED has not expired, and these modules do not meet any other conditions for release, then a partial release of the continuous wage levy should be issued to remove only the modules with the expired CSED. See IRM 5.11.2.3.1.2, Statutory Collection Period Expired.

Note: Except for a continuous wage levy, a levy served prior to the expiration of the CSED is good and should not be released. See IRM 5.11.2.3.1, Legal Basis for Releasing Levies and IRM 5.11.2.3.1.2, Statutory Collection Period Expired, for examples.

Exception: A continuous wage levy served before the expiration of the CSED should be released according to procedures in IRM 5.19.10.10.2.2, Full Paid Continuous Wage Levy Accounts .

Example: One week before the CSED runs out, a levy is issued on the taxpayer’s bank account. The bank does not have to send the levy proceeds until the 21 day holding period expires, but this will be after the period for collection runs out. The levy does not have to be released when the CSED expires because it was served timely.

- f. Modules Included in an Approved Agreement: A levy that includes modules that are already part of an existing or approved agreement must be released, unless the agreement provides otherwise. This means that once it is decided that an installment agreement will be granted, use judgment to decide whether, or what portion of, the levy proceeds to

include as part of the agreement. If it is determined that all or part of the levy will remain in effect, it must be included as a condition of the agreement. (Be sure to document ACS comments when the levy is included as a condition of the agreement.) An outstanding levy may remain in effect as a condition of the agreement. Any portion of the levy proceeds that will not be included in the terms of the agreement must be released.

Note: If a levy was issued BEFORE an installment agreement is entered into, it must be released, unless the installment agreement provides otherwise. See IRC 6343(a)(1)(C) . If a levy was served and then the taxpayer offers to pay in installments, the levy does not have to be released while negotiations for the installment agreement are pending. .

Example: A taxpayer has not responded to any of our attempts to contact him/her to resolve a tax liability. A levy is issued and attaches to \$5,000 in the taxpayer's bank account. The taxpayer calls and requests an installment agreement that qualifies for a pending installment agreement. Based on the facts of the case, consider whether all, or a portion of, the \$5,000 can be used as a down payment or first payment of the installment agreement. If so, do not release the levy. Include the levied proceeds as a condition of the agreement.

- g. An existing/approved agreement includes any of the following:

If an	Then
Installment Agreement	the account will be in Status 60, 61, 63, or 64. Be careful not to release levies that are part of an active continuous wage levy, unless release of wage levy is part of agreed upon resolution with the taxpayer.
Short Term Payment Plan Within 180 (Formerly Extension of Time to Pay.)	See IRM 5.19.1.6.3, Short Term Payment Plan Within 180, for qualifying criteria.
Offer-in-Compromise	the account will be in Status 71 with a posted TC480. Do not release the levy based solely on the taxpayer's request for an OIC.

- h. **Bankruptcy:** The automatic stay section 362(a) of the Bankruptcy Code (Title 11) generally prohibits levy on the taxpayer's property after the taxpayer files bankruptcy. A levy on this property is generally illegal and must be released. See IRM 5.19.1.5.2, Insolvency Issues. The automatic stay, however, may not be in effect even if the taxpayer filed a bankruptcy petition. See IRM 5.9.2, The Bankruptcy Code and Collection and IRM 5.9.5.7, Serial Filers.
- i. The release will facilitate collection of the liability. This is a statutory requirement. See IRM 5.11.2.3.1.3, Facilitate Collection, for examples

- j. **Economic Hardship:** If the levy is creating an economic hardship due to the financial condition of a individual taxpayer, then the levy must be released. --The definition of economic hardship is derived from IRC 6343 and Treasury Regulation 301.6343-1(b)(4). Economic hardship occurs when an individual taxpayer is unable to pay his or her reasonable basic living expenses. The determination of a reasonable amount for basic living expenses will be made by IRS, not the taxpayer, and will vary according to the unique circumstances of the individual taxpayer. Unique circumstances, however, do not include the maintenance of an affluent or luxurious standard of living.

Caution: When the Service determines that the levy is creating an economic hardship, do not refuse, delay or understate the release amount as a means to secure other compliance, e.g., missing tax returns. When there are also open delinquent returns, do not condition relief of the economic hardship upon receiving the delinquent returns. Inform the taxpayer of the financial information needed to make a collection determination and provide relief of the economic hardship if appropriate. You may, as a separate issue, inform the taxpayer of the unfiled tax returns and pursue appropriate actions to resolve them separate from the economic hardship relief issue. You may also inform the taxpayer before an installment agreement can be established delinquent returns must be filed.

-- The decision to release a levy due to economic hardship requires financial analysis. The financial analysis requires sufficient financial information to confirm the levy is causing the taxpayer to be unable to meet necessary living expenses. To determine whether the financial information submitted by the taxpayer is sufficient to establish an economic hardship each levy should be considered independently.

Example: The taxpayer missed the deadline to provide a CIS and a notice of levy is served on the taxpayer's bank account and attaches \$600.00. The taxpayer calls and indicates he is unemployed and his only source of income is social security which was deposited into the bank account we levied. The taxpayer provides you proof of the monthly amount received from social security and an eviction notice for his apartment that reflects \$600.00 is due tomorrow to avoid loss of his residence. The notice of levy is released as the financial information submitted by the taxpayer has established that not releasing the levy would cause the taxpayer to be unable to meet necessary living expenses.

Example: The taxpayer missed the deadline to provide a CIS and a notice of levy is served on the taxpayer's wages. The taxpayer calls and indicates he will not be able to pay all his families necessary living expenses with the \$534.62 exemption allowed from his weekly pay check. The taxpayer agrees to complete a CIS over the phone. The expense amounts are reasonable and your financial analysis of the taxpayer's CIS establish that the taxpayer can pay \$400.00 a month. You agree to fax a partial release of levy to the taxpayer employer since the financial information (CIS) established that not releasing the amount

greater than \$400.00 would cause the taxpayer to be unable to meet necessary living expenses.

Note: Necessary living expenses are included in allowable living expenses. See IRM 5.19.13, Campus Procedures for Securing Financial Information, for guidance regarding financial analysis and allowable living expenses.

Note: Per Reg 6343–1(a) the Service may require any supporting documentation as is reasonably necessary to determine whether the condition requiring release exists; including economic hardship.

Where the financial analysis shows that the taxpayer does not merit a full or partial levy release to relieve economic hardship, document the financial analysis in the history and communicate the decision to the taxpayer. The taxpayer may appeal as outlined in IRM 5.19.8, Collection Appeal Rights.

- k. Entity is a single-member limited liability company (LLC) that is a disregarded entity, i.e., it is not taxed as a corporation. We must release any levy made against the assets of a single-member disregarded LLC to collect liabilities of the single member owner. Levy action to collect liabilities that arise from the business activities of a single-member disregarded LLC can only be taken against the assets of the owner, even when the tax is assessed against the disregarded LLC. Accept the taxpayer's word about the business entity's classification as a single-member disregarded LLC. However, if the Federal tax liability of the disregarded entity pertains to any taxable period for which the entity was not disregarded, or pertains to Federal tax liabilities of any other entity for which the disregarded entity is liable, the disregarded entity is treated as an entity separate from its owner with respect to such Federal tax liabilities.

Note: Amendments to the Treasury Regulations changed the rules with respect to the assessment and collection of employment taxes and certain excise taxes. A single-member LLC that is disregarded for federal tax purposes is regarded and treated as a separate entity for purposes of certain excise taxes and employment taxes. The amendments are effective for excise tax periods beginning on or after January 1, 2008 and for wages paid on or after January 1, 2009 with respect to employment taxes. See IRM 5.1.21, Collecting From Limited Liability Companies (LLCs). For these liabilities, therefore, the Service can levy against the single-member LLC's assets.

- (6) A Release of Notice of Levy should be considered when the taxpayer states they have made a payment by credit card. Credit card payments are a source of guaranteed funds -- meaning the line of credit is authorized before the confirmation number is issued. Taxpayers can't cancel a payment once the transaction is completed. The transaction is complete when the taxpayer receives the confirmation number.
- a. If the credit card payment is pending on IDRS and the account will be full paid, issue a full levy release.
 - b. If the credit card payment is pending on IDRS and the account will not be full paid, issue a partial levy release.

- c. If the credit card payment is not pending on IDRS, do not issue a levy release unless payment verification can be provided. A receipt for payment verification can be obtained by the taxpayer through the credit card provider by choosing the 'Payment Verification' option on the provider's website and following the prompts. Request that the taxpayer fax the receipt of payment verification. Upon receipt of the fax, release the levy as appropriate. Fully document the case history on AMS.

#

Note: See IRM 21.2.1.48.4, Payment by Credit or Debit Card (Integrated e-file and e-pay) or IRM 21.2.1.48.5, Credit or Debit Card Payments (Pay by Phone or Internet), for additional information.

- (7) A Release of Notice of Levy should be considered when the taxpayer states they have made a payment using IRS Direct Pay. Generally payments made via IRS Direct Pay post within 48 hours. Unlike payments made with credit cards, taxpayers can cancel a payment made using IRS Direct Pay.

Note: The bank has 5 business days to reverse the payment for insufficient funds.

- a. If the payment is pending on IDRS and the account will be full paid, issue a full levy release.
- b. If the payment is pending on IDRS and the account will not be full paid, issue a partial levy release when appropriate.
- c. If the payment is not pending on IDRS, do not issue a levy release.

Note: See IRM 21.2.1.48.1, IRS Direct Pay.

- (8) Prompt issuance of the levy release is essential. Per Delegation Order 5-3, levy release authority requires a minimum GS-5. Any employee who recognizes a case that meets release criteria must take the appropriate action to release the levy. A levy release determination on a Status 22 (ACS) account should be made by an employee with access to the ACS database, either directly or by telephone to someone who has access.

Reminder: Since ACS Comments or AMS History documentation may impact the decision to release the levy, Accounts Management employees who identify a need for potential levy release will refer the account to ACS support by preparing a Form 4442 and routing it to the appropriate ACS Support site Liaison. For the correct ACS Support Liaison address go to the following SERP Who/Where link: <http://serp.enterprise.irs.gov/databases/who-where.dr/acs-support-status-22-tas-liaisons.html>

Note: Employees have the option of either mailing or using e-fax to release a levy. See IRM 5.19.4.4.10(9) , Levy Release: General Information, for information when a levy release **must** be faxed.

Note: A written signature, stamped signature, electronic signature, or systemically printed signature is an acceptable representation of the authority to issue a levy release.

- a. Issue a Full Levy Release using History Code LP68,nn where nn = the levy position
 - b. If a partial release is required, manually prepare Form 668-D on AMS or select the Manual Release option on the ACSWeb Levy & Release screen . Mail or fax it to the levy source and document ACS Comments or AMS History.
 - c. If the account is no longer on ACS release the levy by using Form 668-D on AMS. Mail or fax it to the levy source and document AMS History.
- (9) The levy source should receive the levy release in 7 to 10 days. **If a release is needed to prevent over-collection, or to relieve hardship, manually prepare Form 668-D immediately and fax it to the levy source and/or the taxpayer.** However, if the levy source will accept a verbal notification pending receipt of the mailed release, issue the release normally as described in item 3 above. See IRM 5.19.5.4(8) for e-fax workaround procedures when sending a "manual release" (668-D) from ACSWeb. The following are examples of when a levy release should be faxed:

Example: Taxpayer calls to advise you that he sent full payment three weeks ago. You research IDRS and verify that full payment has been received and there are no other outstanding balances. The taxpayer also advises you that we have a levy against his bank account and they plan on sending a payment the next day. The bank will not accept verbal authorization that the levy has been released and if sent through the mail they will not receive the release in time.

Example: Taxpayer calls and states he paid his entire balance due by credit card. He also states that when he got to work this morning his employer told him that there was a levy against his wages and they would start sending payment from this week's check if the matter hadn't been resolved. You verify on IDRS that the credit card payment is pending and the account will be full paid. The employer will not accept verbal authorization that the levy has been released and if sent through the mail they will not receive the release in time.

Example: A notice of levy was issued to a taxpayer's employer on August 17, 2006. On October 10, 2006, the taxpayer entered into an installment agreement and the account is now in Status 60 (Installment Agreement Status). You receive a call from the taxpayer on November 10, 2006 that his employer is still taking the money out of his check in the levy amount. You review CC IADIS and notice that there is an actual Installment Agreement (IA) and not a continuous wage levy. You review the comments and History codes on ACS and AMS systems and note that there is no indication that the levy was released. There is also no documentation that the levy is a condition of the IA. The employer will not accept verbal authorization that the levy has been released and if sent through the mail they will not receive the release in time. Fax the release to the employer.

- (10) Releasing levies that have been issued through an Automated Levy Program (ALP) such as the State Income Tax Levy Program (SITLP), the Federal Levy Payment Program (FPLP), and the Alaska Permanent Fund Dividend Levy Program (AKPFD) require special handling.

- a. See IRM 5.19.9.2.2, SITLP Exclusion Criteria, for guidance on identifying a SITLP levy and what transactions will exclude (and release) the account from levy.
- b. See IRM 5.19.9.3.7, FPLP Levy Release: General, for guidance on how and when to release FPLP levies. This includes taxpayer claims that the FPLP levy will prevent performance on a contract that is crucial to national security.

Note: There may be instances when a FPLP levy release may be needed more quickly than the normal processing time allows. If an immediate release is required on a FPLP levy, follow the procedures in IRM 5.19.9.3.7.1, FPLP Levy Release, General, to manually prepare Form 668-D and forward to the FPLP Liaison. FPLP Liaisons are listed on the “Who/Where” page of SERP.

- c. See IRM 5.19.9.4.6.1, No Levy/Levy Release Procedures, for guidance on AKPFD levies.
- d. Generally, when ALP modules are resolved, they will be removed (released) from ALP if they no longer meet the selection criteria.
IMPORTANT: Do not, under any circumstances, mail Form 668-D to state taxing authorities, Bureau of Fiscal Service (BFS), or any other federal agency such as OPM or SSA.

- (11) In some situations the taxpayer may insist on going to an IRS office to obtain a completed Form 668-D, Release of Levy. Enter in ACS comments or AMS History that a release is authorized or the condition for release (e.g., copy of a document, payment, etc.).
- (12) ACS generates some Letters LP68 systemically in weekly processing to cover situations where an ACS case with an open levy closes without employee action, e.g. a credit or offset. Systemic levy release occurs when:
 - Entity gets a Status 12, 43, 44, 53 (except if systemic NC39 within last 6 weeks), 73 or 91 record from IDRS; **and**
 - There are no TDA modules in Status 22, or 60 through 69; **and**
 - There is an LVnn without a subsequent DLnn or LP68; **and**
 - If LVnn was issued to a Form 668-W source within the last 20 cycles, or to a Form 668-A source within the last 13 cycles. You may encounter situations that meet the above criteria, but the systemic levy release has not been issued. Prepare and mail or fax Form 668-D on non-ACS cases meeting the above listed release criteria.

Note: A systemic LP68 will generate when the remaining balance on ACS is solely attributable to the individual SRP module(s).

- (13) In the past, accounts may have been transferred to the Queue (IDRS Status 24) when the entity did not meet the continuous wage levy agreement criteria, because payments were very small or irregular, and there were no other enforcement or contact options. Also, cases may have been removed from ACS systemically and assigned to the Queue or to currently not collectible status with closing code 39 (TC530-39), with a productive continuous wage levy still open. This happened because we didn't reach the case in E5 before systemic removal criteria took over. There is no mechanism to identify and release the levies in this situation. If the account eventually is fully paid, and the taxpayer or third party requests a levy release:

- Confirm on IDRS that all modules likely on the levy are resolved. The taxpayer or third party may have a copy of the levy that can be of help.
- Prepare Form 668-D manually. Use as much identifying information about the levy that can be found.
- Mail or fax Form 668-D, as needed, to prevent or to end over-collection. Document ACS Comments or AMS History.

- (14) Occasionally, a taxpayer may prefer to let the full levy stand as an initial payment. Sometimes, a taxpayer may request a partial release, with regular levy payments substituting for a payroll deduction agreement. Encourage the taxpayer to set up a Payroll Deduction agreement or a Direct Debit installment agreement, as it benefits the taxpayer by reducing the likelihood of default and lessening taxpayer burden. However, setting up this type of agreement is acceptable when the taxpayer's employer refuses to process a payroll deduction agreement. See IRM 5.19.4.4.6(9) , Continuous Wage Levies - E7 Payment Processing, for continuous wage levy agreement criteria.
- (15) All instances of over-collection resulting from multiple simultaneous levies must be reported to management to determine how they occurred. This information should be available to headquarters upon request, not to assign blame but to judge whether procedural or systemic improvements are needed to make the program work more effectively.

5.19.4.4.11
(01-03-2012)

Levy Release: Returning Levied Property

- (1) See IRM 5.11.2.4, Returning Levied Property to the Taxpayer, for information. Also, IRM 5.1.12.20, Manual Refund, has instructions for hardship situations where a manual refund of levy proceeds is warranted. IRM 5.11, Notice of Levy Handbook, and IRM 5.1.12.20, Manual Refund, are available on SERP.

Note: In situations where the IRS releases a levy due to hardship or installment agreement and receives post-release payments due to a delay in receiving the release, it may be in the best interest of the government to return such payments. See IRM 5.11.2.4.1(4), Current Authority for Returning Levied Property to the Taxpayer. However, if the taxpayer requests that the IRS keep the funds, the IRS should follow the taxpayer's instructions.

- (2) Delegation Order 5-3 authorizes ACS Operations Managers to determine whether to return levy payments.

5.19.4.4.12
(03-04-2019)

Wrongful Levies

- (1) Generally a wrongful levy is one that attaches property (e.g., a bank account) to which the taxpayer has no rights. **EXAMPLE:** A levy source has paid funds to the Internal Revenue Service from an account of a non-liable party.

Note: The Tax Cuts and Jobs Act of 2017 extended the time period for filing an administrative claim and for bringing a suit for wrongful levy from nine months to two years for levies delivered to the owner possessor of the property on or after March 23, 2017. For additional information see IRM 5.11.2.3.2.1.

- (2) If the proceeds have not been forwarded, the levy should be released and no claim for return of levied property processed. Follow the levy release procedures outlined in IRM 5.19.4.4.10.
- (3) If the proceeds have already been forwarded, and it has been determined that returning the proceeds is appropriate, supporting documentation must be

provided by the party other than the taxpayer or financial institution before the claim can be processed. This documentation must include:

- a. Name, address and SSN of the innocent party.
- b. Name and address of the levied bank.
- c. Date and amount of the levy payment.
- d. Documentation that levy proceeds were processed. For example, bank statement or other documentation showing that funds were removed from the account

Note: Usually, it is a party other than the taxpayer that originates request for return of levy proceeds.

- (4) When documentation is received, provide your manager with the information. Attach screen prints of all ACS Comments or AMS History (if applicable) and completed Form 5792 (Request for IDRS Generated Refund). The initiator will complete Form 5792 with ACS Operation Chief’s signature for concurrence in Section IV box 4 and 5 on the form as delegated in Delegation Order 5–3. Instructions for completing the Form 5792 can be found in IRM 21.4.4.5, Preparation of Manual Refund Forms

#

the returned proceeds, the ACS Support Compliance Liaison will provide the appropriate date for the calculation using COMPAD for Form 5792. Completed Form 5792, all supporting documentation, and ACS Comments or AMS History screen prints should be faxed by the initiator to the ACS Support Compliance

#

- (6) ACS Support Compliance Liaison confirms receipt of request by fax to the initiator within one business day, then verifies and processes the information. If the information is verified, ACS Support Compliance Liaison requests a refund on IDRS no later than the next workday. Refunds should be issued within 3 working days.

Note: If the information is not verified or is incomplete, ACS Support Compliance Liaison attempts to correct it by telephone; otherwise, the document is rejected back to the initiator.

5.19.4.4.13
(12-12-2008)
Erroneous Levies: Bank Charges

- (1) Policy Statement P-5-39 provides that the Service reimburse taxpayers for bank charges that result from erroneous levies. In addition to the bank’s fee for processing levies, this includes charges for overdrafts directly caused by the levy. The claim must be filed with the Area Director or Field Director, Compliance Services who issued the levy within one year after the expense accrues.
- (2) Provide Form 8546 (Claim for Reimbursement of Bank Charges). Advise the taxpayer to send the completed Form 8546, along with a copy of the levy and proof that the bank charges have been paid, to the Service Center Collection Branch, ATTN: Claim Specialist.
- (3) The following criteria must be present in all cases:
 - a. The Service must have caused error.
 - b. The taxpayer must not have contributed to continuation or compounding of error.

- c. Before the levy was issued, the taxpayer must have responded timely to contact and provided requested documentation sufficient to establish his/her position.
- (4) Examples of circumstances that may result in reimbursement of bank charges include:
 - a. The taxpayer paid the liability, but payment was not credited timely to the taxpayer's account.
 - b. The taxpayer was found to be entitled to an adjustment that left no liability, but there was a delay in inputting the adjustment.
 - c. The taxpayer contacted IRS and an installment agreement was granted, IDRS CC STAUPs were not input, and a levy was issued.
- (5) See IRM 5.19.6.12.4, Erroneous Levy, Reimbursement of Bank Charges, for further processing details. This reimbursement process is separate from the collection of any tax owed.

5.19.4.5
(08-04-2014)
**Notice of Federal Tax
Lien Determinations and
Filing Criteria**

- (1) This section contains the instructions for making a Notice of Federal Tax Lien (NFTL) filing determination decision and if the decision is to file, the filing criteria.

5.19.4.5.1
(02-11-2022)
**Notice of Federal Tax
Lien Filing
Determinations**

- (1) The Notice of Federal Tax Lien (NFTL) filing determination decision for ACS is a process of deciding whether to file or not file a NFTL. If the decision is to file and there is no applicable exception as outlined in IRM 5.19.4.5.1.1 , Determination Requirement Exceptions, then follow the filing criteria and thresholds found in IRM 5.19.4.5.3 .

Note: The decision to file a NFTL will be made without regard to any balances resulting from the individual SRP. See IRM 5.19.4.5.1.2 Affordable Care Act (ACA) Provision 1501: Requirement to Maintain Minimum Essential Coverage (Individual SRP) IRC 5000A – Exception, for additional information.

- (2) IRC 6320 requires the IRS to ensure collection actions, including the decision to file an NFTL, balance the need for the efficient collection of the tax with legitimate concerns of the taxpayer that actions be no more intrusive than necessary. To that end, review the factors contained in this IRM section and related subsections to reach the appropriate decision.
- (3) Filing determination considerations are listed below. It is not an all-inclusive list but it, as well as this IRM as a whole, provides guidance for the varying circumstances experienced when working with taxpayers.
 - Taxpayer compliance, see IRM 5.19.1.4.4.1, Full Compliance Check.
 - Taxpayer qualification for a determination exception: See IRM 5.19.4.5.1.1, Determination Requirement Exceptions.
 - Protection of the governments interest, including exigent circumstances; where the filing of an NFTL is necessary to protect those interests: See IRM 5.12.1.2, Introduction to Liens, and IRM 5.17.2.3.1, Purpose and Effect of Filing Notice
 - Taxpayer qualification for a determination that an NFTL filing will hamper collection: See IRM 5.19.4.5.2, Do Not File Decisions.

- 5.19.4.5.1.1 (12-02-2020)
Determination Requirement Exceptions
- (1) **An NFTL filing determination is not required** on certain installment agreements, as directed throughout IRM 5.19.1 .
- (2) If an employee finds that an NFTL determination is needed to protect the governments interest (such as in the case of an impending bankruptcy, or other exigent circumstances), follow the instructions in IRM 5.19.4.5.3, NFTL Filing Decisions. Also, an NFTL determination decision to file may be made on In-Business Trust Fund Agreements if necessary to protect the governments interest, such as:
- a taxpayer has defaulted on an installment agreement in the current year or prior calendar years,
 - a BMF entity meets the definition of a "pyramiding" trust fund taxpayer as described in IRM 5.7.8.4, Pyramiding Taxpayers.
- Reminder:** Where an NFTL filing determination is not required, but a decision to file an NFTL has been made, document the justification in the case history including the manager's concurrence.
-
- 5.19.4.5.1.2 (01-01-2016)
Affordable Care Act (ACA) Provision 1501: Requirement to Maintain Minimum Essential Coverage (Individual SRP) IRC § 5000A – Exception
- (1) While the IRC 6321 statutory lien arises on SRP/MFT 35 and MFT 65 assessments, the individual SRP assessments are not subject the NFTL filing under IRC 6323. (See IRC 5000A(g)(2)(B).)
- Note:** For additional information on the Federal Tax Lien and the Affordable Care Act's (ACA) Shared Responsibility see IRM 5.17.2.10, Federal Tax Lien and the Affordable Care Act's (ACA) Shared Responsibility.
-
- 5.19.4.5.2 (01-01-2015)
Do Not File Decisions
- (1) Do not file a NFTL when:
- Account is reassigned for immediate field contact. For ACS, this means History Code TFRO is input. For notice status cases, it means acceleration to Status 26, bypassing ACS.
- Note:** If there is evidence collection is at risk (jeopardy situation) and a lien should be filed, immediately discuss the case with a manager. The ACS manager will contact the Field Group Manager regarding the pending reassignment. They will decide the actions necessary to protect the governments interest.
- Liability paid, there is substantial doubt that liability is correct, or credits are available to fully satisfy liability
 - If the taxpayer has filed for bankruptcy
 - The taxpayer is a defunct corporation (unless assets are about to be sold), or the taxpayer corporation has gone through liquidation.
 - The taxpayer lives abroad and there are no known assets in the U. S.
 - Against a Limited Liability Company (LLC) that has advised IRS that it has one owner and is a disregarded entity, i.e., it is not taxed as a corporation. Accept the taxpayer's word about the LLC. If an NFTL has not been filed against the single-member owner, file an NFTL against the owner. However, if the Federal tax liability of the disregarded entity pertains to any taxable period for which the entity was not disregarded, or pertains to Federal tax liabilities of any other entity for which the dis-

regarded entity is liable, the disregarded entity is treated as an entity separate from its owner with respect to such Federal tax liabilities.

Note: Amendments to the Treasury Regulations changed the rules with respect to the assessment and collection of employment taxes and certain excise taxes. A single-member LLC that is disregarded for federal tax purposes is regarded and treated as a separate entity for purposes of certain excise taxes and employment taxes. The amendments are effective for excise tax periods beginning on or after January 1, 2008 and for wages paid on or after January 1, 2009 with respect to employment taxes. See IRM 5.1.21.7.6.2, Notice of Federal Tax Lien . For these liabilities, therefore, the Service should list the name of the single-member LLC, not the owner, on the NFTL.

- The taxpayer is deceased and no assets are identified after research of internal resources (including IRP) for personal property and external people search reports (Accurant) for real property. See IRM 5.19.1.5.3, Deceased Taxpayers, paragraph (3) and (5), for asset research procedures on decedent accounts.
- The balance to be reflected on the lien is less than \$2,500 and the case facts do not indicate that immediate protection of the governments interest is warranted (e.g, taxpayer is dissipating assets).
- There is genuine doubt as to the validity of the liability (for example, assessments made against victims of identity theft; see IRM 5.19.21, Campus Procedures for Handling Identity Theft.
- A decision to file an NFTL will either hamper collection or is not proper, due to doubt as to liability.

Note: A decision not to file a NFTL must be approved by the manager and documented appropriately in a history entry (See IRM 5.19.4.5.2.1 , Do Not File Approvals.)

- The balances owed are for standalone individual SRP modules. See IRM 5.19.1.5.16.1, Affordable Care Act.

5.19.4.5.2.1
(08-04-2014)
Do Not File Approvals

- (1) A decision not to file a NFTL must be approved by the manager and supported by a history entry that clearly states the reason why filing a NFTL will either hamper collection or is not proper, due to doubt as to liability. The approving manager must document their concurrence in ACS Comments or AMS History. (See IRM 5.19.4.5.2 , Do Not File Decisions, for more situations where an NFTL should not be filed.)

Example: A BMF sole proprietor requires credit access but is no longer incurring trust fund tax liability. The taxpayer could be effectively put out of business by the filing of a NFTL, though a NFTL might generally be filed as part of an installment agreement.

5.19.4.5.3
(08-04-2014)
NFTL Filing Decisions

- (1) This section contains the instructions for pre-filing actions and filing criteria when the decision is to file an NFTL.

5.19.4.5.3.1
(03-04-2019)
Before Filing NFTLs

- (1) Be sure a written warning of NFTL filing is evident on each module to be included on the NFTL. Examples of notices
 - a. CP501, 504 or 523

Note: CPs 504 or 523 are displayed on ACS on the MOD Screen under 4TH NOT CYC or on ACSWeb on the Module detail screen;
 - b. an ACS LT11 or LT39
 - c. or a Correspondex letter referring to NFTL filing, e.g., Letter 2603C; or CPs 77, 90 or 297. ;

Note: If a written warning is needed before filing a NFTL on an ACS case, do not use an LT11 unless there is an intent to levy as a follow-up action. Use an LT39 or a Correspondex letter other than Letter 1058C.

Note: Though no longer a sufficient notice prior to levy, the CP504 and CP523 are valid NFTL warning letters.
- (2) Document additional warnings of NFTL filing made during taxpayer contacts.
- (3) If there is undelivered mail and no evidence of any prior taxpayer contact, check readily available sources, e.g., those on IDRS, for a possible better address. If one is found, on ACS use History Code OL39 to send an LT39 to a different address or on ACSWeb overlay it on the Letters screen. Select LT39, click the "Other address" button, then click "submit" to issue OL39.
- (4) The possible filing of an NFTL is a strong incentive for many taxpayers to pay their tax quickly. Advise taxpayer of:
 - Government's need to file a NFTL
 - Credit bureau's routine research of public records for this information
 - Possibility of poor credit and/or denials of personal loans and credit cards
 - A letter that will be sent by certified mail after the NFTL is filed with more information about the NFTL and taxpayer rights.
- (5) A case resolution may be possible that avoids immediate NFTL filing per IRM 5.19.4.5.2, Do Not File Decisions, (e.g., a short-term payment extension rather than an installment agreement). If the account is on ACS, document in ACS Comments or AMS History warnings to the taxpayer about NFTL filing if he or she fails to meet the commitment.
- (6) Tax modules with NFTLs filed are identified as follows:
 - a. On IDRS, a TC582 posts to each affected tax period when an NFTL is filed through the Automated Lien System (ALS).
 - b. The ACSWeb Case Overview and AMS Account Summary screen displays an Alert literal LIEN if an NFTL has been filed on all of the ACS modules; an asterisk to the right of the LIEN means not all ACS modules have a NFTL filed indicator. Check the tax module screen that displays the literal LIEN for each module on which a NFTL has been filed.
- (7) Employees GS-6 or higher (GS-8 if not in Compliance/Collection) are delegated authority to request NFTL filing. For cases on ACS (status 22) where the only issue is NFTL filing, not manager approval, issue the NFTL following the procedures in IRM 5.19.4.5, Notice of Federal Tax Lien Determinations and

Filing Criteria, through IRM 5.19.4.6.4, Post-NFTL Filing Calls and NFTL Withdrawals.

- (8) For employees who do not have delegated authority to request a NFTL and the only issue is the NFTL filing, reassign the case to E9.
- 5.19.4.5.3.2
(12-02-2020)
Filing Criteria
- (1) When determining whether an account meets NFTL criteria, do not include any amount(s) owed for the individual SRP (assessed on IMF accounts under MFT35 or MFT65 for mirrored individual SRP assessments.)
- (2) **Installment agreement** - In general, if an installment agreement does not meet Guaranteed, Streamlined, or In Business Trust Fund Express, (See IRM 5.19.4.5.1.1, Determination Requirement Exceptions), file NFTL when BOTH of the following conditions exist:
- a. Aggregate assessed balance is at or above \$10,000, excluding any individual SRP balances.
- Note:** For information on NFTL determinations and accounts meeting guaranteed, streamlined or in-business trust fund express criteria see IRM 5.14.5, Installment Agreements, Streamlined, Guaranteed and In-Business Trust Fund Express Installment Agreements.
- b. A Collection Information Statement (CIS) is required
- Note:** No CIS is required for payment extensions up to 180 days, or for streamlined IMF installment agreements, so an NFTL is not required. However, warn the taxpayer that a NFTL may be filed if he/she does not perform agreed-upon actions timely, or if it is determined that collection is at risk.
- Note:** NFTLs may be filed when an installment agreement is pending (TC971 AC043), in connection with granting an installment agreement, and during the rejection process. However, there are exceptions. See the Note in “a” above IRM 5.12.2.3.1, Determination Requirement Exceptions.
- (3) **Currently Not Collectible** -- in general, file a NFTL when BOTH of the following conditions exist:
- a. Aggregate assessed balance is at or above \$10,000, excluding any individual SRP balances.
- b. Account is being closed using unable to locate (cc03), unable to contact (cc12) or hardship (cc24 through 32) provisions
- (4) **Reassignments to the Queue (TFQU)** - File a NFTL when the aggregate assessed balance is \$10,000 or more, excluding any individual SRP balances.

Reminder: Ensure pre-filing requirements in IRM 5.19.4.5.3.1, Before Filing NFTLs, are met.

- (5) **Continuous Wage Levies, (CTLV)** – In general file a NFTL when the aggregate assessed balance is \$10,000 or more, excluding any individual SRP balances, except when the taxpayer asks for the continuous wage levy to be left in place that would otherwise meet streamlined installment agreement criteria. If a taxpayer agrees to a continuous wage levy, has a total unpaid

balance of assessment less than \$25,000, excluding any individual SRP balances, and the balance due will be satisfied in 60 months or less, a NFTL determination is not required.

(6) **E9 cases** -- These are older accounts with an aggregate assessed balance at or above \$10,000, excluding any individual SRP balances, that are reassigned to E9 for follow-up to a systemically issued LT39. E9 also may have cases manually reassigned there by employees who are GS-5 or below. See IRM 5.19.5.4.9, Reminder Notices, for information about the LT39 Reminder Notice program, and IRM 5.19.5.9.8, E9 - NFTL Determinations (Follow-Up to LT39), for details about E9 processing.

(7) **Collection at risk** – in general file a NFTL if collection is at risk, such as:

- A creditor plans to seize the taxpayer's assets or the taxpayer is preparing to sell a business or real property.
- The taxpayer is about to file bankruptcy. Check with local Insolvency Unit. The taxpayer and/or attorney may have to be contacted to determine bankruptcy status.

Note: An NFTL must be filed BEFORE, not AFTER, the taxpayer files for bankruptcy, so learning when the taxpayer plans to file is crucial to the NFTL decision. Filing a NFTL after the taxpayer files for bankruptcy violates the bankruptcy automatic stay of collection actions against the debtor's property or property of the bankruptcy estate and could subject the Service to damages.

Note: See IRM 5.19.4.5.2(1) , Do Not File Decision, Note for additional guidance for filing an NFTL when there is evidence of a situation where collection is at risk.

(8) **Subsequent liabilities** - If a NFTL has been filed and there are subsequent liabilities, file an additional NFTL when the aggregate assessed balance is \$10,000 or more, excluding any individual SRP balances. Be sure a warning of NFTL filing is evident on each module per IRM 5.19.4.5.3.1(1) , Before Filing NFTLs.

Note: Managerial approval is required before filing a NFTL on subsequent modules when the combined amount of the subsequent liabilities reflected on the NFTL will total less than \$2,500.

(9) **Any ACS Inventory** - You may consider NFTL filing from any ACS inventory where the taxpayer has:

- Broken a promise,
- Been warned of possible NFTL filing,
- There is an indication that filing the NFTL immediately will result in collecting the balance due.

(10) **NFTL Refiling** - A NFTL refiling determination is required in the following situation:

- Entity is in IDRS Status 22, ACS,
- Collection Statute Expiration Date (CSED) on at least one verified module expires within 11 months,
- Module(s) nearing CSED has a lien indicator.

Note: See IRM 5.12.8, Notice of Lien Refiling, for more information about this process

5.19.4.5.3.3
(08-04-2014)
Appeal Rights for NFTLs

- (1) If you are filing an NFTL and have personal contact with the taxpayer, tell the taxpayer that a letter will be sent by certified mail after the NFTL is filed with more information about the NFTL and taxpayer rights. (See IRM 5.19.8.2(1), Collection Appeal Rights Process, which states that taxpayers must be kept informed of their rights to appeal collection actions.)

Note: The letter has a Toll-Free ACS call site telephone number. It identifies the Operations Manager, as the contact, but the response address is to the campus.

- a. Be alert for taxpayers that do not understand the NFTL and its impact. Explain it as needed.
- b. If the taxpayer expresses objections regarding NFTL filing and criteria in IRM 5.19.4.5.3.2 or IRM 5.19.4.5.2.1 do not apply, treat it as Collection Appeal Program (CAP) BEFORE filing the NFTL and follow procedures in IRM 5.19.8, Collection Appeal Rights.
- c. If the decision still is to file a NFTL, arrange for the taxpayer to speak with a manager as the first step in the appeal process (see IRM 5.19.8, Collection Appeal Rights.) Taxpayers may appeal the proposed filing of a NFTL under CAP.

Reminder: Once filed, ACS has no authority to release liens or withdraw NFTLs. For further guidance, see IRM 5.19.4.6.4 for NFTL Withdrawals and IRM 5.19.4.6.5 for Lien Releases.

5.19.4.5.3.4
(01-01-2015)
When Filing an NFTL Requires Approval

- (1) Managerial approval is required when a decision to file a NFTL on an account where the aggregate assessed balance is less than \$10,000 has been made. The approving manager must document their approval in ACS Comments or AMS History.

Note: Managerial approval is not required if a NFTL has already been filed and this is a new module under \$10,000.

Example: An example of when it might be appropriate to file a NFTL on an account where the aggregate assessed balance is below \$10,000 is at risk situation where the taxpayer is selling real property.

- (2) Managerial approval is required before filing a NFTL on *subsequent* modules when the combined amount of the subsequent liabilities reflected on the NFTL will total less than \$2,500.
- (3) Managerial approval is needed prior to filing an NFTL where the AAB is \$10k or greater, but less than \$10K after removal of the individual SRP balances.

5.19.4.6
(12-21-2020)
Procedures for Filing NFTL

- (1) Use the procedures in the following subsections to file a NFTL.

5.19.4.6.1
(03-04-2019)

How to File a NFTL

- (1) When a Notice of Federal Tax Lien (NFTL) will be filed on a taxpayer account containing **only notice status** modules:

Note: For information on equivalent notices see IRM 5.19.4.5.3.1(1).

If	Then
A CP501 or equivalent has not been issued on each module to be included on the NFTL	<ol style="list-style-type: none"> 1. Send a Correspondex letter referring to NFTL filing, e.g., Letter 2603C, Letter 2271C or Letter 4624C. Show that payment is required 17 days from the date of the letter 2. Document IDRS and suspend account for 31 days. Note: If there is personal contact with the taxpayer, verbally advise the taxpayer that a NFTL will be filed, but say a letter will be issued confirming that fact. Send Correspondex letter.
A CP501 or equivalent has been issued less than 31 days ago	Suspend account for the balance of the 31 days.
A CP501 or equivalent has been issued 31 days or more ago	<ol style="list-style-type: none"> 1. Verify the correct liability if following-up after the account has been suspended. 2. Complete Form 12636 3. For each tax module to be included on the NFTL, list the MFT, Tax Period, assessment date(s) and the unpaid balance due for each tax module next to the most recent assessment date. Enter .00 next to any earlier assessment dates that appear on the same module. This requires a careful review of each TXMOD as there may be partial payments. If so, interim payments apply to the older assessment. Reminder: Do not include any individual SRP modules, MFT35/MFT65 on the Form 12636. 4. If the requesting employee is NOT a GS-6 or higher (GS-8 if other than Compliance/Collection), forward the Form 12636 to a manager or designated employee for approval. Print the names of the requesting employee or manager (if needed) to ensure legibility, include the requesting employee number in the box titled ICS Assignment/T-Sign Number, and provide a telephone number. 5. Forward completed forms to the Centralized Lien Processing Operation (CLO). The address for the lien unit may be found under the who/where tab on SERP, http://serp.enterprise.irs.gov/databases/who-where.dr/ccp-lien-teams.html

Note: A directory of Automated Lien System contacts, including telephone and fax numbers is on SERP, listed in the Who/Where Directory under the title: Automated Lien System (ALS) Units – Contacts.

- (2) For status 22 accounts where you have access to ACS, 15 or fewer tax modules will be on the NFTL request, no modules contain an unreversed TC470, and the case does not require manager approval for other reasons, e.g., a hardship CNC, input History Code FM 10. In other situations,

- a. When the case requires manager approval, e.g., a hardship CNC, reassign to a manager for approval. Only input History Code FM10 after managerial approval is received and documented in ACS Comments or AMS History by approving manager.
- b. If there are more than 15 tax modules on the NFTL request, the automated system cannot process it. Handle it manually using Form 12636 per (1) above.
- c. Accounts that have modules with an unreversed TC470 require manual NFTL filing. Prepare Form 12636 per (1) above.

Reminder: Do not include any individual SRP modules, MFT35/MFT65 on the Form 12636.

- (3) When NFTL filing requires managerial approval:
 - a. Document ACS Comments or AMS History.
 - b. Reassign case TOCO,,APRLREQ
 - c. The approving manager must document ACS Comments or AMS History.
 - d. Only input FM10 after managerial approval is received.
- (4) If the account contains both notice status and Status 22 modules and you have access to ACS, there are options for filing the NFTL. It depends on if and when the taxpayer had been issued an CP504 Notice or equivalent.

If	Then
<p>A CP501 or equivalent has not been issued on each module to be included on the NFTL or a CP501 or equivalent has been issued less than 31 days ago</p>	<p>Issue a Correspondex letter referring to NFTL filing, e.g., 2603C,2271C or 4624C. Show that payment is required 17 days from today's date. Create a suspense file, following-up in 31 days to request NFTL filing, and immediately dispose of the case. If a written notice was sent less than 31 days ago, create a suspense file to follow-up 31 days after the written notice to request NFTL filing, and immediately dispose of the case.</p> <p>Note: Another option is to accelerate the notice modules to ACS and schedule a follow-up to request FM10 and dispose of the case after all modules are in Status 22. Key is to ensure the NFTL is filed, but not prematurely.</p>

If	Then
<p>A CP501 or equivalent has been issued 31 days or more ago</p>	<p>Input History Code FM10 twice, and identify in comments the notice modules to be included in the NFTL. If you need approval for NFTL filing, recommend this action to a manager or designated employee. NOTE: If there are more than 15 tax modules on the NFTL request or the account contains modules with an unreversed TC470, the automated systems cannot process it. Handle it manually using Form 12636 per (1) above.</p> <p>Reminder: Do not include any individual SRP modules, MFT35/ MFT65 on the Form 12636.</p>

Reminder: The taxpayer MUST have been warned of the NFTL filing for EACH module included on the NFTL

5.19.4.6.2
(06-01-2020)
Special NFTL Filing Considerations

- (1) There are certain conditions which require special procedures when filing a NFTL. Cases meeting the criteria as listed below require the input of History Code FM10 twice and ACS Comments or AMS History must be documented accordingly. The duplicate FM10 entries cause ACS Comments or AMS History to be researched for unique filing instructions.

Note: A second FM10 will generate when there is a CAF indicator present on the account. This does not eliminate the requirement to document AMS history with appropriate information as described in (5) below.

Note: When updating AMS histories with special NFTL filing conditions, employees must enter those comments using the issue code for “Liens”.

- (2) If the taxpayer owns real property other than the primary residence (e.g., vacation or rental property) and the NFTL filing is required, request an additional NFTL if the property is located in a county other than that of the primary residence.
 - a. If you are requesting NFTL filing for notice status tax years, fill out additional Forms 12636 indicating address, including county, of the additional property. Obtain manager or designated employee approval, if necessary, then forward to the Centralized Lien Processing Operation (CLO). The address for the lien unit may be found under the who/where tab on SERP, <http://serp.enterprise.irs.gov/databases/who-where.dr/als.dr/case-processing-lien-units.htm> .

Reminder: Do not include any individual SRP modules, MFT35/MFT65 on the Form 12636.

- b. If you are requesting a NFTL filing for tax years that are in Status 22 (ACS), enter address of the property, including county, in comments. Input History Code FM10 twice. If you need approval for NFTL filing, recommend this action to a manager or designated employee.
- (3) If the taxpayer has a new address , and a NFTL is required, only enter the new address on IDRS using CC ENREQ in accordance with Rev. Proc. 2010-16, otherwise use the last known address, LKA, and document AMS history that the LKA was used because the criteria outlined in Rev. Proc 2010-16 was not met.

If	And	Then
Account contains only notice status modules	N/A	Complete Form 12636 per IRM 5.19.4.6.1(1) with the new address and fax to the . Centralized Lien Processing Operation (CLO). The address for the lien unit may be found under the who/where tab on SERP, http://serp.enterprise.irs.gov/databases/who-where.dr/ccp-lien-teams.html Reminder: Do not include any individual SRP modules, MFT35/MFT65 on the Form 12636.
Account contains at least one Status 22 module	Address was updated via CC ENREQ	1. Document new address in ACS Comments or AMS History. 2. Input History Code FM10 twice.
Account contains at least one Status 22 module	Address was NOT updated via CCENREQ	1. Document new address in ACS Comments or AMS history and provide explanation as to why address wasn't updated. 2. Input History Code FM10

- (4) Where the address is a P.O. Box, attempt to obtain a street address, if possible, from the taxpayer or from a third party with current knowledge about the taxpayer. In ACS, consider an LP47, Address Information Request, to the post office, or call the current employer. Otherwise, use the P.O. Box rather than an uncorroborated street address.

Reminder: Prior to contacting a third party ensure the advance third party contact notification requirements are met.

If	Then
A street address is obtained	Complete Form 12636 per IRM 5.19.4.6.1(1) with the new address and fax to the Centralized Lien Processing Operation (CLO). The address for the lien unit may be found under the who/where tab on SERP, http://serp.enterprise.irs.gov/databases/who-where.dr/ccp-lien-teams.html Reminder: Do not include any individual SRP modules, MFT35/MFT65 on the Form 12636.
P. O. Box address is the only address available	Request lien filing under that address, per IRM 5.19.4.6.1, How to File a NFTL

- (5) IRC 6320 gives taxpayers the right to request a hearing after the filing of a Notice of Federal Tax Lien. The taxpayer must request a CDP hearing no later than 30 days after the expiration of five business days after the date the NFTL is filed. The date the NFTL is filed is the date the NFTL is received by the recording office. Because the Service does not ordinarily obtain this date from the recording office, the Service uses an estimated filing date on the Letter 3172 to provide the taxpayer with a "must file" date (the date by which the IRC 6320 hearing request must be submitted). The estimated filing date is calculated by adding 3 business days to the NFTL mailing date. In other words, the Service assumes that the recording office will receive the NFTL 3 business days after it is mailed. The "must file" date on the letter is then determined by adding 5 business days plus 30 calendar days to the estimated filing date. Letter 3172 is used to notify the taxpayer of their appeal rights and deadline for response. This letter MUST be issued to all taxpayers identified on the NFTL **and** to their authorized representatives.

Note: History Code FM10 must be entered twice when filing a NFTL when a Letter 3172 is sent to someone other than an authorized third party already listed on the CAF.

- a. Employees MUST identify situations where the Letter 3172 (DO) must be sent to someone OTHER THAN the primary taxpayer at the entity address. For example, a secondary taxpayer on a joint liability who does not reside at the primary taxpayer entity address.

Note: When ACSWeb Case Overview and AMS Account Summary shows an SDS alert, check the Spouse Data Screen as it may have a different address for a liable spouse.

Reminder: Individuals who are jointly liable may have different POAs. It is the requestor's responsibility to ensure information about all authorized POA's is included with the NFTL request.

- b. Employees MUST enter the name(s) and address(es) of each person identified who is not the primary taxpayer in ACS comments or on the NFTL request document, Form 12636, to be sent to the Centralized Lien Processing Operation (CLO). The address for the lien unit may be found under the who/where tab on SERP, <http://serp.enterprise.irs.gov/databases/who-where.dr/als.dr/case-processing-lien-units.htm>
- c. If a NFTL will be filed only on notice status modules per IRM 5.19.4.6.1(1), How to File a NFTL, enter on the NFTL request document, Form 12636, the literals LETTER 3172 followed by the name and address of each ADDITIONAL person who must be issued the Letter 3172(DO).
- d. If a NFTL will be filed on status 22 (ACS) modules per IRM 5.19.4.6.1(2), How to File a NFTL, or on both notice and ACS modules per IRM 5.19.4.6.1(3), How to File a NFLT, enter in AMS History the literal LETTER 3172 followed by the name and address of each ADDITIONAL person who must be issued the Letter 3172(DO). Enter FM10 twice, alerting ACS Support in the service center to check ACS Comments or AMS History for additional information. If you need approval for NFTL filing, recommend this action to a manager or designated employee. In perfecting the NFTL for filing, ACS support will forward the information to the lien unit.

Note: If a representative is not authorized to receive information on all of the tax modules included on the NFTL, the specific tax modules for which that person is authorized must be shown in ACS Comments or AMS History comments or on the Form 12636.

Reminder: Strict adherence to these procedures is the only way that all persons are notified timely of their statutory right to request a hearing. Failure to do so can have serious consequences in processing the affected accounts.

5.19.4.6.3
(02-11-2022)

**Perfecting Entity
Name/TIN Before NFTL
Filing**

- (1) There may be instances where the name on the NFTL does not agree with what is listed on the balance-due account.
 - a. Avoid the use of initials.
 - b. If the taxpayer's name on the balance-due account is incorrect, correct the Master File.
- (2) If the entity has an invalid TIN, i.e., there's an asterisk after the TIN, and a valid TIN is found, correct the Master File before filing a NFTL. An account with the corrected TIN should merge with the existing ACS case; then, file the NFTL. If a valid TIN is not found, use the invalid TIN and asterisk.
- (3) When it is evident that the NFTL is intended to reach an individual or corporate taxpayer operating under a trade name, both the individual and trade name should appear as the taxpayer's name.
 - a. Use "d/b/a" for "doing business as" as a second name line when an individual is actually doing business as a sole proprietor under a trade name.
 - b. Use t/a for "trading as" where a partnership or corporation operates under a trade name other than the partnership or corporate name.
- (4) See IRM 5.12.7.5.3, Limited Liability Companies, when filing an NFTL on a Limited Liability Company (LLC).

- (5) If multiple tax periods are present, but name line is different for each assessment, list each assessment separately with its related name line, so separate NFTLs are filed. This situation occurs frequently on IMF liabilities where taxpayers have divorced and remarried.
- (6) The names of third parties that may be shown on the Balance Due Notice (e.g., an accountant, “c/o”, etc.) should never appear on the NFTL. Do not enter the names of officers on an NFTL against a corporation.

Reminder: Care is needed when requesting a NFTL on an account where the taxpayer is deceased. Neither a fiduciary’s name nor the fiduciary’s address is to appear on the NFTL. If a fiduciary’s address has been added to the account follow the procedures as outlined in IRM 5.19.1.5.3(1)f, Deceased Taxpayer.

- (7) When the taxpayer is a corporation, prepare the NFTL showing the words “a corporation” after the corporate name. When preparing the NFTL through ALS, “a corporation” will automatically appear on the printed NFTL when the entity type of corporation is selected during input. File the NFTL only in the personal property filing location unless it is known that the taxpayer owns real property in which case file an NFTL in the recording office where the real property is located.
- (8) When a taxpayer is a partnership, the NFTL should show the words “a partnership” after the partnership name AND list the names of all known general partners. When preparing the NFTL through ALS, “a partnership” will automatically appear on the printed NFTL when the entity type of partnership is selected during input. File an NFTL in the personal property filing location for the partnership. File in other locations if there is evidence that either the partnership or one or more of its general partners owns real property there.

Note: Many states permit the formation of a limited liability partnership that has no general partners. In these states, no partners should be listed on the NFTL

5.19.4.6.4
(02-11-2022)
**Post-NFTL Filing Calls
and NFTL Withdrawals**

- (1) IRC 6323(j) gives the Service the authority to withdraw a Notice of Federal Tax Lien (NFTL) under the following conditions:
 - a. the filing of the notice was premature or otherwise not in accordance with the Service’s administrative procedures (IRC 6323(j)(1)(A));
 - b. the taxpayer entered into an agreement under IRC 6159 to satisfy the tax liability for which the NFTL was imposed by means of installment payments, unless such agreement provides otherwise (IRC 6323(j)(1)(B));
 - c. withdrawal of such notice will facilitate the collection of the tax liability (IRC 6323(j)(1)(C)); or
 - d. with the consent of the taxpayer or the National Taxpayer Advocate, the withdrawal of such notice would be in the best interest of the taxpayer (as determined by the National Taxpayer Advocate) and the United States (IRC 6323(j)(1)(D)).
- (2) Taxpayers may call in response to the NFTL filing CDP Letter 3172. Despite previous notices and other contact and collection actions, the taxpayer may feel that Letter 3172 is the first and only notification issued about the NFTL.

This perception is not a basis for lien withdrawal. The text of Letter 3172 and enclosures are available on the Electronic Publishing website: <http://publish.no.irs.gov/catlg.html>.

Note: If the case left ACS after NFTL filing, e.g., reassignment to the queue, research the archived account, refer to IRM 5.19.5.4.7, Requesting ACS Archives.

- (3) Letter 3172 provides an ACS telephone number so we can explain the basics: why we file NFTLs, why we did so in this case if information is available, and its effect. This may resolve some taxpayers' concerns and avoid unnecessary appeals. If detailed ACS information is not available, most often we filed using the routine criteria in IRM 5.19.4.5.2, Do Not File Decisions. Why we file NFTLs and their effect are mentioned in IRM 5.19.4.5.1, Notification of Federal Tax Lien Determinations and Filing Criteria, as is a list of IDRS notices and ACS letters that refer to NFTL filing.

Reminder: See Delegation Order 5-4 for information on who has the authority to approve withdrawal of the NFTL. Refer to Publication 4235, Collection Advisory Group Numbers and Addresses, for the proper routing of a request for Withdrawal of Notice of Federal Tax Lien.

- (4) Determine from the taxpayer contact whether the NFTL filing was erroneous, or whether the taxpayer is requesting the withdrawal for other reasons. If the NFTL filing appears to have been erroneous on the Service's part, or if there is a significant urgency to the taxpayer's request, reassign the case TOR0 and alert your manager. Access the case immediately, contact the Advisory for guidance or assistance if necessary, and call the taxpayer within 48 hours
- (5) Examples of erroneous NFTL filing are

Note: See IRM 5.12.3.9, Erroneously Filed Notice of Federal Tax Lien, for more information on erroneously filed NFTLs.:

- The NFTL must be withdrawn immediately if the taxpayer has filed for bankruptcy and the NFTL was filed when the automatic stay was in effect (filing not in compliance with Bankruptcy Code)
- The entity is a Limited Liability Company (LLC) that the taxpayer tells us is owned by one person and is a disregarded entity, i.e., it elected not to be taxed as a corporation. The Federal tax liability pertains to a taxable period for which the entity was disregarded and pertains to this entity. In this case, the owner is liable, not the company, even though the assessment is in the name of the LLC.

Note: Amendments to the Treasury Regulations changed the rules with respect to the assessment and collection of employment taxes and certain excise taxes. A single-member LLC that is disregarded for federal tax purposes is regarded and treated as a separate entity for purposes of certain excise taxes and employment taxes. The amendments are effective for excise tax periods beginning on or after January 1, 2008 and for wages paid on or after January 1, 2009 with respect to employment taxes. See IRM 5.1.21.7.6, Notice of Federal Tax Lien. For these liabilities, therefore, the Service should list the name of the single-member LLC, not the owner, on the NFTL.

- (6) A taxpayer who had a NFTL filed after being granted an installment agreement may allege that such filing was not a condition of the agreement. Documentation including the Form 433D and history should be reviewed to determine if withdrawal should be recommended. See IRM 5.12.9.3.2(2), Withdrawals in Installment Agreements Situations, for additional information whether withdrawal should be recommended.
- (7) Denying the taxpayer's request for NFTL withdrawal can be appealed under the Collection Appeals Program (CAP). See IRM 5.19.8.4.16, Collection Appeals Program (CAP) Procedures, for detailed information about how to process CAP requests.
- (8) Taxpayers have the right to appeal the filing of a Notice of Federal Tax Lien under Collection Due Process. See IRM 5.19.8, Collection Appeals Program, for detailed information about taxpayer appeal rights and how requests are submitted and processed. To help avoid a formal appeal, consider having the taxpayer discuss the issue with your manager. In filing an appeal:
- a. Letter 3172 is mailed to the taxpayer's last known address, enclosures included Form 12153, Request for a Collection Due Process or Equivalent Hearing, and related publications, and the address where to file the appeal.
 - b. If the taxpayer became aware of the NFTL through other means, e.g., being turned down for a loan, the window to request a CDP or equivalent hearing may have expired. The 30-day period to request a CDP hearing on NFTL filing begins the day after the fifth business day after the NFTL is filed (delivered to the recording office).
- Note:** Ensure the Letter 3172 has been sent to the taxpayer's LKA.
- c. Taxpayers who do not request a CDP hearing within the 30-day period may request an equivalent hearing using Form 12153 or other written statement. The taxpayer must indicate they wish an equivalent hearing if their request for a Collection Due Process hearing is not timely. The taxpayer may indicate this request by marking the "Equivalent Hearing" box on Form 12153. See IRM 5.1.9.3.2, Request for CDP Hearing Rights, for additional information regarding the requirements for filing CDP and equivalent hearings.
 - d. If the taxpayer does not have the Letter 3172, the taxpayer should file the CDP hearing request with the office identified on the NFTL. If the taxpayer does not have a copy of the NFTL, file the appeal with ACS Support in the campus for the taxpayer's filing jurisdiction and BOD, i.e., Fresno/Kansas City for W & I, or Cincinnati/Philadelphia for SB/SE.
- (9) See IRM 5.12.9 for more detailed information about NFTL withdrawals.

5.19.4.6.4.1
(08-04-2014)
**Withdrawal of NFTL for
Direct Debit Installment
Agreements**

- (1) This section provides procedural direction for withdrawing NFTLs for taxpayers entering into Direct Debit Installment Agreements (DDIAs) or electing to convert existing installment agreements into DDIAs for the purpose of obtaining NFTL withdrawals.
- (2) On April 7, 2011, the policy regarding withdrawals under IRC 6323(j)(1)(B) was expanded to address situations in which a taxpayer enters a direct debit installment agreement (DDIA) to satisfy the liability.

- (3) A taxpayer making payments under any other type of installment agreement does not qualify for consideration for withdrawal under this IRM provision unless he converts to a DDIA and meets the conditions specified below.

Note: Taxpayers are not precluded, however, from requesting a withdrawal under any provision of the IRC 6323(j) .

- (4) Qualifying taxpayers are identified as
- Individual Master File (IMF);
 - Business Master File (BMF) (income tax only; or
 - BMF out of business (any type of tax).
- (5) These taxpayers will generally receive a withdrawal of the NFTL if the following conditions in (6) through (10) are met:
- (6) The aggregate unpaid balance of assessments on the DDIA is \$25,000 or less at the time of the request.
- a. The unpaid balance of assessments includes tax, assessed penalty and interest, and all other assessments on the tax modules. It does not include accrued (i.e., unassessed) penalty and interest.
 - b. If pre-assessed taxes are included, the pre-assessed liability (including tax, penalty, and interest up to the date of expected assessment) plus unpaid balance of other assessments must be \$25,000 or less.
- (7) The taxpayer is in compliance with other filing and payment requirements.
- (8) The total tax liability will be fully paid in 60 months or the agreement will be fully paid prior to the Collection Statute Expiration Date (CSED), whichever comes first.

Note: For liabilities consisting of multiple assessments with different CSEDs, the agreement must fully pay each assessment before its respective CSED or within 60 months, whichever comes first.

Note: Use Integrated Data Retrieval System (IDRS) Command Code (CC) ICOMP to determine the pay off time frame.

- (9) The taxpayer requests the withdrawal in writing. Form 12277, Application for Withdrawal of Filed Notice of Federal Tax Lien, is the preferred format for the taxpayer's request; however, any written request that provides sufficient information may be used for processing (see IRM 5.12.9.4, Taxpayer Requests for Withdrawal)
- (10) The DDIA is active and at least three consecutive electronic payments (generally received on a monthly basis) have been processed under the DDIA. Also, there have been no defaults in payment under this, or any previous, DDIA or any such default was not caused by the taxpayer.
- (11) The taxpayer did not previously have a withdrawal of NFTL for any of the modules included in the DDIA (e.g., TC 583 dc 03 on module). This excludes previous withdrawals for improper filing under IRC 6323(j)(1)(A) (e.g., TC 583 dc 02 on module).

- (12) A DDIA is normally indicated by a 03 in the Agreement Locator Number (ALN). A regular IA that is converted to a DDIA will have the ALN updated. If a taxpayer states they have a DDIA but the ALN does not show 03, request the taxpayer provide documentation of the DDIA (e.g., an acknowledgement letter from the IRS, copies of bank statements showing the withdrawals, etc.).
- (13) If a taxpayer defaults on making payment under the DDIA after the NFTL is withdrawn, a new notice of NFTL may be filed, if appropriate.

Note: The above criteria apply only to a taxpayer’s eligibility for withdrawal consideration. They do not impact the criteria for a taxpayer’s eligibility for a DDIA.

- (14) If the taxpayer discontinues the DDIA and/or requests it be converted to a regular IA after the NFTL is withdrawn, a new NFTL may be filed.

5.19.4.6.4.2
(02-18-2015)
Withdrawal of Notice of Federal Tax Lien after Release

- (1) This section provides procedural direction for withdrawing NFTLs IRC 6323(j)(1)(A) and IRC 6323(j)(1)(D) after the underlying lien has been released.
- (2) Requests for withdrawal of NFTLs on liens that have been released may be considered if the conditions in IRM 5.19.4.6.4.2.1, Post-release NFTL Withdrawals Under IRC 6323(j)(1)(A), and IRM 5.19.4.6.4.2.2, Post-release NFTL Withdrawals Under IRC 6323(j)(1)(D)), are met.
- (3) Requests will be reviewed by the employee assigned other balance due modules of the taxpayer. If the taxpayer owes no other modules or the case is not assigned, the request is to be forwarded to the CLO for review.
- (4) Since this withdrawal occurs after the original tax liability was satisfied, no adjustments will be made to the taxpayer’s account to abate the Transaction Code (TC) 360 lien fees previously assessed. Also, no additional lien fee will be charged to the taxpayer’s account for the cost of the withdrawal filing.

5.19.4.6.4.2.1
(01-03-2012)
Post-release NFTL Withdrawals Under IRC 6323(j)(1)(A)

- (1) A request for withdrawal of a NFTL under IRC 6323(j)(1)(A) will generally be granted when the following conditions apply:
 - The taxpayer requests the withdrawal in writing

Note: Form 12277, Application for Withdrawal of Filed Notice of Federal Tax Lien, is the preferred format for the taxpayer’s request; however, any written request that provides sufficient information may be used for processing. See IRM 5.12.9.4, Taxpayer Requests for Withdrawal; and

 - The taxpayer demonstrates that the original NFTL filing was improper or otherwise not in accordance with IRS procedures. A withdrawal under this provision may be issued whether a certificate of release was issued or the NFTL self-released.

5.19.4.6.4.2.2
(01-03-2012)
Post-release NFTL Withdrawals Under IRC 6323(j)(1)(D)

- (1) A request for withdrawal of a NFTL under IRC 6323(j)(1)(D) where the underlying lien has been released will be considered if the following conditions apply:
 - The taxpayer requests the withdrawal in writing;

Note: Form 12277, Application for Withdrawal of Filed Notice of Federal Tax Lien, is the preferred format for the taxpayer’s request;

however, any written request that provides sufficient information may be used for processing. See IRM 5.12.9.4, Taxpayer Requests for Withdrawal.

- The taxpayer fully satisfied the liabilities on the NFTL;
 - A certificate of release was issued; and
 - The taxpayer is in compliance with filing requirements.
- (2) For purposes of this section, “fully satisfied” includes:
- Tax liability was fully resolved by payment or credit offset;
 - Most circumstances where the tax assessment was abated because the taxpayer is no longer liable for the tax (e.g., amended return filed, reconsideration of additional assessment, innocent spouse determination, or judicial ruling);
 - Abatement of penalty and/or interest due to reasonable cause resulted in zero balance; or
 - The taxpayer completed terms of an offer in compromise, including any related collateral agreements.
- (3) “Fully satisfied” generally does not include:
- Expiration of the statutory period for collection;
 - Discharge of taxes in bankruptcy; or
 - NFTLs that were improvidently or erroneously released and are subject to revocation.
- (4) For purposes of this section, “in compliance with filing requirements” includes:
- All required Individual Master File (IMF) and Business Master File (BMF) returns, including information returns, for the prior three years have been filed;
 - Current Estimated Tax Payments and Federal Tax Deposits (FTDs) have been paid.
- (5) If the taxpayer has an unfiled return during any of the past three years, or appears to be delinquent with FTDs or Estimated Tax Payments, further investigation may be necessary as determined on a case-by-case basis. The taxpayer will be considered to be in compliance if the return was, or can be, closed for one of the following reasons:
- Not liable for the tax period;
 - Income below the filing requirement;
 - No longer liable for filing.

Note: The taxpayer may be requested to supply additional information, as necessary, to complete this determination.

- (6) Generally, withdrawals will not be granted for self-released liens under IRC 6323(j)(1)(D) unless extenuating circumstances are present. The determination to grant such request will be made on a case-by-case basis and with managerial approval. Examples of possible extenuating circumstances are as follows:

Example: A taxpayer is attempting to secure a license required for their vocation (e.g., realtor, insurance sales), but the record of the self-released NFTL is impeding their ability to obtain the license. A review of the account shows the tax liabilities listed on the NFTL were reported as uncollectible

due to economic hardship of the taxpayer for most of the ten-year collection period, and the taxpayer had no assets of value. The statutory period for collection on the liabilities has expired. The taxpayer is in compliance with current and the prior three years' tax obligations. Withdrawal of the NFTL on the self-released lien may be granted.

Example: The taxpayer has tentatively been offered an employment position if the NFTL on the self-released lien is withdrawn. The lien self-released due to statute expiration, and the taxpayer is in compliance with all current filing requirements. There is no indication the taxpayer had the ability to make payments, had any assets, or paid unsecured creditors instead of the IRS. Withdrawal of the NFTL on the self-released lien may be granted.

Example: The taxpayer owes tax liabilities that were not included on the self-released lien and are not on any open NFTL. The taxpayer is now in a position to restructure a loan to pay the open liabilities but the NFTL on the self-released lien is hindering that process. The taxpayer is in compliance with current filing requirements. A withdrawal of the NFTL on the self-released lien may be granted.

(7) To consider self-released liens for withdrawal, the taxpayer must be in compliance with filing requirements, as stated above, and the statutory period(s) for collection for the liability(ies) on the NFTL must have expired. Liens that self-released in error and are subject to revocation do not qualify for withdrawal under these procedures. NFTLs that are comprised of a mix of fully satisfied and expired liabilities should be evaluated on a case-by-case basis. NFTLs that contain liabilities that have not been satisfied or expired are not subject to withdrawal under these procedures; however, taxpayers may receive consideration of the withdrawal by following established procedures for requesting a withdrawal of a filed NFTL.

5.19.4.6.5
(08-04-2014)
Lien Releases

(1) Under IRC 6325(a) a lien release must be issued within 30 days after determining that the taxpayer's outstanding obligation covered by the NFTL (including any interest, additional amount, addition to the tax, or assessable penalty, together with any additional costs that may have accrued) is fully satisfied, unenforceable or supported with a bond.

Reminder: See IRM 5.12.3.3.1.2, Liability Satisfied by Adjustment/Abatement, regarding the necessity of a manual lien release. Employees of functions with access to the Automated Lien System (ALS) will input lien release requests in these situations. For those functions that do not have access to ALS, determine the Centralized Lien Processing Operation (CLO) lien release contact on the intranet by going to:

- IRS Homepage;
- SERP;
- Who/Where;
- Lien-Centralized Lien Processing

An internal use only telephone number is also provided along with the contact information provided on the CLO website. Ensure all E-mail communications regarding liens are via secure E-mail.

- (2) The lien is not released until the liability is satisfied in some form (e.g., payment or tax abatement), becomes legally unenforceable, e.g., beyond Collection Statute Expiration Date - CSED, or the Service (under IRC 6325(a)(2) accepts a bond furnished by the taxpayer to ensure payment of liability.
- (3) When all accounts on the NFTL are satisfied, a record of satisfaction is downloaded to ALS which generates a lien release. This information then downloads to IDRS where a TC583 is posted to all affected accounts.
- (4) Answer general questions about lien releases and withdrawals, and requirements for each as it applies to the specific entity. For issues of a very technical or complex nature, or where the taxpayer/third party seeks an immediate lien release in exchange for payment, advise the taxpayer/third party to call the Lien Payoff/Release number found in the POD Listing on SERP.
- (5) See IRM 5.12.3.6 for information on partial release of liens. Refer all partial lien requests to CLO.

5.19.4.6.6
(12-12-2008)

Tax Lien Discharges and Subordinations

- (1) Inquiries may be received through correspondence or calls requesting information on what they need to do to get a lien 'released' or discharged in order to refinance their mortgage or perhaps they are selling their property and need the lien released to complete the sale. Employees can assist callers by providing them with information on how to apply for a Certificate of Discharge of Property from Federal Tax Lien or a Certificate of Subordination of Federal Tax Lien, depending on the circumstance. Additionally, the Advisory Unit Contact List is available on SERP, under the Who/Where tab by clicking on "Advisory Unit Contact List".

Note: Technical questions regarding tax lien discharges or tax lien subordination should be handled by Advisory.

5.19.4.6.6.1
(02-18-2015)

Tax Lien Discharge Information

- (1) Taxpayers should apply for a certificate of discharge of a tax lien if they are giving up ownership of the property, such as selling the property, and are willing to pay the value of the lien interest to the Service. Without a tax lien discharge, the taxpayer may be unable to complete the home ownership change and the ownership title will remain clouded. A taxpayer may also request a discharge if the value of the taxpayer's remaining property encumbered by the tax lien is equal to at least twice the amount of the federal tax liability secured by the lien and any encumbrance with priority over the tax lien.
- (2) To apply for a tax lien discharge, taxpayer's must follow directions in Publication 783, Instructions on how to apply for a Certificate of Discharge from Federal Tax Lien. Taxpayers should be encouraged to complete the Form 14135 when applying for a Certificate of Discharge. The request should be mailed to the appropriate Collection Advisory Group. See Publication 4235, Collection Advisory Group Numbers and Addresses.

5.19.4.6.6.2
(02-18-2015)

Tax Lien Subordination

- (1) In some cases, a federal tax lien can be made secondary to another lien, such as a lending institution's. That process is called subordination. Taxpayers should apply for a subordination of a lien if they are refinancing or restructuring their mortgage and cannot full pay the lien. Without lien subordination, taxpayers may be unable to borrow funds. Lending institutions generally want their lien to have priority on the home being used as collateral.

- (2) To apply for a certificate of lien subordination, taxpayers must follow directions in Publication 784, How to Prepare an Application for a Certificate of Subordination of Federal Tax Lien. Taxpayers should be encouraged to complete the Form 14134 when applying for a Certificate of Lien Subordination. The request should be mailed to the appropriate Collection Advisory Group. See Publication 4235, Collection Advisory Group Numbers and Addresses.
- (3) For Information regarding Purchase Money Mortgages and/or Purchase Money Security Interests refer taxpayers to Publication 785, available on irs.gov web site. For additional inquiries refer the taxpayer to Advisory.

This Page Intentionally Left Blank

Exhibit 5.19.4-1 (08-01-2005)
Levy Enforcement Action Flow Chart

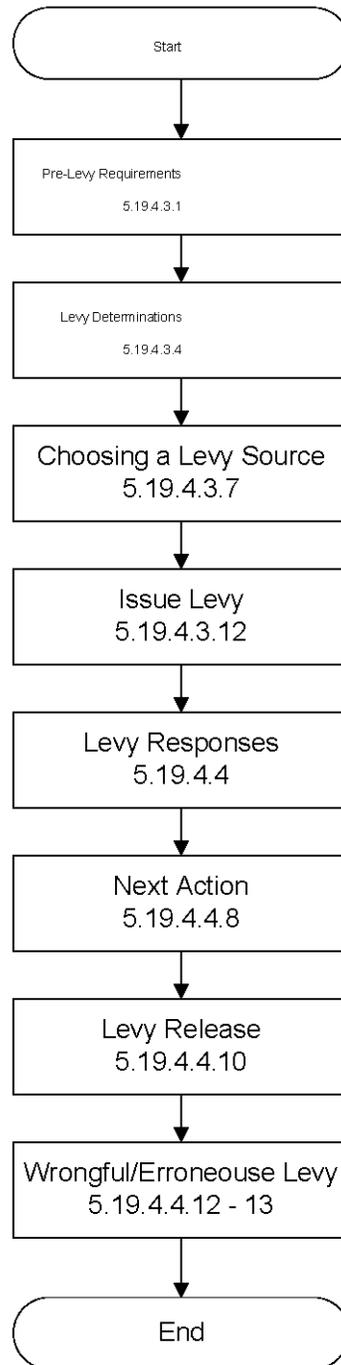


Exhibit 5.19.4-2 (08-01-2005)
Lien Enforcement Action Process Flowchart

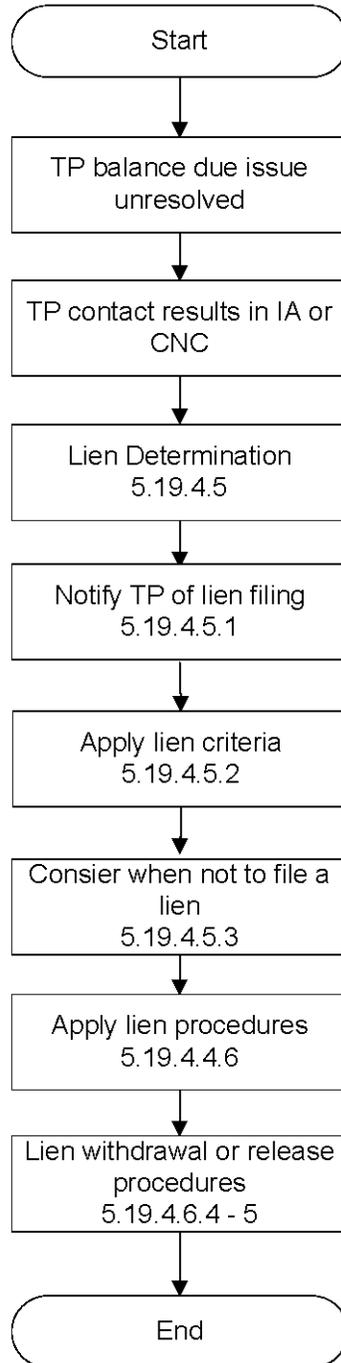


Exhibit 5.19.4-3 (01-12-2007)
IDRS Input of CTLV

Establish a continuous wage levy, CTLV, on IDRS by using CC IAGRE. Be sure to input the following:

1. Use Agreement Locator Number, ALN, XX08. This identifies the account as a continuous wage levy on the Installment Agreement Account Listing (IAAL).
2. Suppress all reminder notices.
3. Suppress the default notice.
4. Turn off auto skip.
5. Do not charge a user fee
6. Date payments will be received (monthly).
7. Amount that will be received (monthly). If the levy source sends payments on a weekly or bi-weekly basis, calculate the monthly total of these payments.
8. Frequency of payments [i.e. monthly, bi-weekly (every two weeks) or weekly]
9. Agreement Review Date (Cycle) - as directed in IRM 5.19.4.4.6(7)
10. Name, address and phone number of levy source.

Note: Do not input a TC971 AC 063 on balance due accounts included in continuous levies.

Note: During weekend processing TC 971 AC 898 will be systemically generated on all modules included in the CTLV.

Exhibit 5.19.4-4 (01-12-2009)
C1P/C1G/C1Z Values and Meanings

N/A	C1P – Valid values:
0	Unconfirmed
1	Matched (Record matched – address found)
2	No match (Record could not be matched – no address match)
3	Invalid Zip (Record contains invalid zip code)
4	Foreign
N/A	C1G – Reflects the address hygiene software zip general return code.
-	Address match is successful (value is blank.)
A	Apartment number is required but is missing or invalid.
B	Address information is blank.
E	External match- matched on the auxiliary file.
H	House number not found on street.
M	Multiple matches were found – note that if the zip return code is 'C' this is a successful match.
S	Street name not in zip code.
X	Code-1 master file is expired.
Z	Zip code not found in database.
N/A	C1Z – Reflects the address hygiene software zip code return code.
A	Altered – the zip code was changed due to an address match.
B	Blank – the zip code was blank and could not be calculated from the address.
C	Confirmed – the zip code input matches the address input – match successful.
I	Invalid – the zip code is not valid and a valid zip code could not be computed from the address
O	Original – the input zip code is valid but the address could not be determined uniquely.