

CC-2016-001

December 7, 2015

Subject: Levy on Thrift Savings Plan Accounts **Cancel Date:** CCDM Upon Incorporation into CCDM

The purpose of this notice is to supersede Chief Counsel Notice CC-2013-007 (February 4, 2013), incorporated into the CCDM at 34.6.2.4 (07-16-2014), in light of the new regulations issued and procedures implemented with respect to levies on Thrift Savings Plan (TSP) accounts.

On January 14, 2013, Congress amended 5 U.S.C. § 8437(e)(3) to provide that moneys due and payable from the Thrift Savings Fund to any individual, and the balance in the individual's account, is subject to a Federal tax levy under I.R.C. § 6331. Section 8437(e)(3) authorizes turnover of all funds in a taxpayer's TSP account pursuant to a levy regardless of whether the taxpayer is eligible to make withdrawals from that account or has elected to make withdrawals. Subsequent to the amendment to section 8437(e)(3), while our office was working with the Federal Retirement Thrift Investment Board (FRTIB) on implementation issues, we issued Chief Counsel Notice CC-2013-007 (February 4, 2013), requiring coordination of proposed TSP levies with Procedure and Administration.

On September 10, 2014, the FRTIB published final regulations in the Federal Register to implement the statutory mandate, detailing the procedures for complying with Federal Tax Levies. 5 CFR § 1653.31-.36, 79 FR 53603 (Sept. 10, 2014).

The regulations require that the notice of levy expressly refer to the TSP and include a signature certifying that it attaches to a retirement plan. It must be issued in the name of the plan participant and must require an immediate payment of a stated dollar amount from the participant's account. Section 1653.32(b). The levy cannot require payment at a future date, nor can it request a series of periodic payments. Section 1653.32(c). The Small Business/Self-Employed Division has published procedures in IRM 5.11.6.2.1, Thrift Savings Plan, dated July 17, 2015, which incorporate the requirements in the FRTIB regulations.

Pursuant to the IRM procedures, the determination of whether to levy a TSP account will continue to be made based upon the same factors that are applied with respect to other retirement accounts. In light of these developments, coordination of TSP levies with Procedure and Administration is no longer necessary, and Chief Counsel Notice CC-2013-007 is superseded. CCDM 34.6.2.4 will also be revised to eliminate the coordination requirement for TSP levies.

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	All Personnel	X	Electronic Reading Room

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