

# Making an Administrative Wrongful Levy Claim Under Internal Revenue Code (IRC) Section 6343(b)



## **What is an administrative wrongful levy claim under IRC section 6343(b)**

– An administrative wrongful levy claim under IRC section 6343(b) is a request, made by a person other than the taxpayer who owes the taxes, for the return of property believed to be wrongfully levied upon or seized. Generally, the person making the request believes that the levy or seizure is wrongful because the property levied or seized belongs to them, or they believe they have a superior claim to the property that is not being recognized by the IRS.

## **Who may make an administrative wrongful levy claim**

– Any person (other than the person who owes the taxes and for which the IRS levied or seized property to collect) may make an administrative wrongful levy claim. If you believe the property levied or seized belongs to you and not the person against whom the tax is assessed, or if you believe you have a superior claim against the property that is not being recognized by the IRS, you may make an administrative wrongful levy claim.

## **How does a person make an administrative wrongful levy claim**

– You can submit a written request that the IRS return the levied or seized property, recognize your superior claim to the property, or return to you any proceeds the IRS received from the levy or from the sale of the seized property.

**NOTE:** As an alternative to making an administrative wrongful levy claim, IRC section 7426(a)(1) provides that a third party may bring a civil action against the United States in a district court of the United States seeking the same relief. If you file an administrative wrongful levy claim and the IRS rejects it, you can still bring a civil action in district court. While you can file a suit under section 7426(a)(1) without first filing an administrative claim, you may not seek damages under section 7426(h) unless you have exhausted all administrative remedies by filing an administrative claim prior to filing suit. If you choose to bring a civil action, you should consult with an attorney to determine the proper procedure.

## **Is there a time limit for making an administrative wrongful levy claim**

1. If the United States has not yet sold specific seized property, a wrongful levy claim may be made at any time.
2. If seized tangible property has been sold, a wrongful levy claim must be made before the expiration of 9 months from the date the notice of seizure (Form 2433) is given to the owner or possessor of the property.
3. If cash has been or will be turned over to the IRS by the person upon whom a levy was served, a wrongful levy claim must be made before the expiration of 9 months from the date the notice of the levy, (Form 668-A(c)(DO), Form 668-B, or Form 668-W(c)(DO)) is delivered.

**NOTE:** If you choose to bring a civil action in district court, you must do so before the expiration of 9 months from the date of the notice of seizure or notice of levy is delivered. If you make an administrative wrongful levy claim within 9-month period, the 9-month period for bringing a civil action will be extended for the shorter of the following two periods

1. A period of 12 months from the date of filing your request, or
2. A period of 6 months from the date a notice of disallowance is mailed to you by registered or certified mail.

## **Where should an administrative wrongful levy claim be filed**

– Your claim should be in the form of a letter addressed to the Internal Revenue Service, and marked for the attention of the Advisory Group Manager for the area where the levy or seizure was made. Publication 4235, *Collection Advisory Group Addresses*, provides the mailing address for the appropriate Advisory Group Manager.

**What information should be included with an administrative wrongful levy claim** – Your claim should include the following:

1. The name and address of the person making the claim.
2. A detailed description of the levied or seized property.
3. A detailed description of your basis for claiming an interest in the levied or seized property.
4. The name and address of the person against whom the tax was assessed.
5. The IRS office that issued the levy or made the seizure.
6. The date of the levy, as shown on the notice of seizure (Form 2433), or as shown on the notice of levy (Form 668-A(c)(DO) or Form 668-W(c)(DO)).
7. A statement why any of the information requested in items 4 through 6 above is not available.
8. Any documents that support your claim.

## **If the IRS decides to reject your administrative wrongful levy claim, may the determination be appealed**

– If your claim is rejected, you have the right to appeal this determination through the Collection Appeals Program (CAP), as explained in Publication 1660, *Collection Appeal Rights*.