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From: [REDACTED]
Sent: Friday, February 17, 2017 2:07:33 PM
To: [REDACTED]
Cc: [REDACTED]
Bcc:
Subject: RE: Levy service method

This is in response to your request for assistance concerning service of notices of levy ("levies") by eFax, and whether certain levies served by eFax on [REDACTED] and [REDACTED] must be re-served. You have also asked about the protocol for confirming whether the banks will consent to service by eFax. For the reasons set forth below, it is our view that the Service must re-serve the levies using non-eFax methods, that is, service by mail, in person or by (traditional) fax. Regular mail may be used; certified mail is not required. The only "protocol" required to confirm that banks consent to service by eFax is to consult the list on the IRS SBSE website, set forth in a link below.

Under the Code, regs, and IRM, the Service can serve a levy in person, by mail, by fax under certain circumstances, and by eFax under certain circumstances. Before the Service serves levies by eFax on a bank, the bank must have agreed to accept levies by that method. The National Levy Source Database mentioned by the Revenue Officer (<https://acsweb.enterprise.irs.gov/nlsweb/pages/mainmenu.xhtml>), referred to in IRM 5.11.2.2.5, *Addresses for Mailing Notices of Levy*, is a *general* database of levy source information. The database screenshots provided show bank information, including fax numbers. The fact that a bank's name and fax number are listed on that database does not mean that the bank has consented to service by eFax.

There is, however, a list of banks that have agreed to accept levies by eFax on the SBSE website. Here is the link to that list:

<http://mysbse.web.irs.gov/collection/toolsprocesses/Enforcement/Levy/elevy/resources/34961.aspx>.

I spoke with the National Office levy analyst working on eFax [REDACTED]. He said that the Service is working on adding more banks as participants (with written confirmation of participation) in accepting service of levies by eFax. He also confirmed that the sources listed on the eFax website are the only sources accepting eFax levies at this time. [REDACTED] and [REDACTED] are not on the eFax list. The fact that [REDACTED] or [REDACTED] may have accepted levies by eFax in the past is not adequate

confirmation of their agreement to accept all levies by eFax. Their refusal to accept service by eFax is within their rights, despite the fact that it is administratively burdensome to the Service. Accordingly, the levies must be re-served using methods other than eFax before the Service may issue a final demand.

Specifically, the Revenue Officer should serve the levies on those banks in person, by mail, or by fax. IRM 5.11.2.2.4(2), *Serving Notices of Levy by Mail or Fax*, provides: "When a levy must be served quickly, a fax can be used. First, confirm the person has a fax machine and will accept the levy this way. Document that the levy source agreed to accept the levy by fax." This confirmation can be done by telephone, with written documentation of the call placed in the file.

Finally, we note that [REDACTED] was incorrect in stating that a levy by mail must be sent by certified mail. See Treas. Reg. § 301.6331-1(c). Under IRM 5.11.2.2.9(5), *Refusing to Comply with a Levy*, if Form 668-C Final Demand for Payment is mailed, it must be sent by certified mail. There is no such requirement for the notice of levy. Accordingly, service by regular mail may be used as an alternative to personal service or service by fax (if agreed to by the bank).

If you would like to discuss this, please contact me.