

TITLE 26 - INTERNAL REVENUE CODE**Subtitle F - Procedure and Administration****CHAPTER 64 - COLLECTION****Subchapter D - Seizure of Property for Collection of Taxes****PART II - LEVY****§ 6343. Authority to release levy and return property****(a) Release of levy and notice of release****(1) In general**

Under regulations prescribed by the Secretary, the Secretary shall release the levy upon all, or part of, the property or rights to property levied upon and shall promptly notify the person upon whom such levy was made (if any) that such levy has been released if—

- (A)** the liability for which such levy was made is satisfied or becomes unenforceable by reason of lapse of time,
- (B)** release of such levy will facilitate the collection of such liability,
- (C)** the taxpayer has entered into an agreement under section 6159 to satisfy such liability by means of installment payments, unless such agreement provides otherwise,
- (D)** the Secretary has determined that such levy is creating an economic hardship due to the financial condition of the taxpayer, or
- (E)** the fair market value of the property exceeds such liability and release of the levy on a part of such property could be made without hindering the collection of such liability.

For purposes of subparagraph (C), the Secretary is not required to release such levy if such release would jeopardize the secured creditor status of the Secretary.

(2) Expedited determination on certain business property

In the case of any tangible personal property essential in carrying on the trade or business of the taxpayer, the Secretary shall provide for an expedited determination under paragraph (1) if levy on such tangible personal property would prevent the taxpayer from carrying on such trade or business.

(3) Subsequent levy

The release of levy on any property under paragraph (1) shall not prevent any subsequent levy on such property.

(b) Return of property

If the Secretary determines that property has been wrongfully levied upon, it shall be lawful for the Secretary to return—

- (1)** the specific property levied upon,
- (2)** an amount of money equal to the amount of money levied upon, or
- (3)** an amount of money equal to the amount of money received by the United States from a sale of such property.

Property may be returned at any time. An amount equal to the amount of money levied upon or received from such sale may be returned at any time before the expiration of 9 months from the date of such levy. For purposes of paragraph (3), if property is declared purchased by the United States at a sale pursuant to section 6335 (e) (relating to manner and conditions of sale), the United States shall be treated as having received an amount of money equal to the minimum price determined pursuant to such section or (if larger) the amount received by the United States from the resale of such property.

(c) Interest

Interest shall be allowed and paid at the overpayment rate established under section 6621—

NB: This unofficial compilation of the U.S. Code is current as of Jan. 2, 2006 (see <http://www.law.cornell.edu/uscode/uscript.html>).

- (1) in a case described in subsection (b)(2), from the date the Secretary receives the money to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days, or
- (2) in a case described in subsection (b)(3), from the date of the sale of the property to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days.

(d) Return of property in certain cases

If—

- (1) any property has been levied upon, and
- (2) the Secretary determines that—
 - (A) the levy on such property was premature or otherwise not in accordance with administrative procedures of the Secretary,
 - (B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the levy was imposed by means of installment payments, unless such agreement provides otherwise,
 - (C) the return of such property will facilitate the collection of the tax liability, or
 - (D) with the consent of the taxpayer or the National Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer (as determined by the National Taxpayer Advocate) and the United States,

the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon, except that no interest shall be allowed under subsection (c).

(e) Release of levy upon agreement that amount is not collectible

In the case of a levy on the salary or wages payable to or received by the taxpayer, upon agreement with the taxpayer that the tax is not collectible, the Secretary shall release such levy as soon as practicable.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 89–719, title I, § 104(i), Nov. 2, 1966, 80 Stat. 1138; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–167, § 4(a), Dec. 29, 1979, 93 Stat. 1275; Pub. L. 99–514, title XV, § 1511(c)(10), Oct. 22, 1986, 100 Stat. 2745; Pub. L. 100–647, title VI, § 6236(f), Nov. 10, 1988, 102 Stat. 3740; Pub. L. 104–168, title V, § 501(b), July 30, 1996, 110 Stat. 1460; Pub. L. 105–206, title I, § 1102(d)(1)(B), title III, § 3432(a), July 22, 1998, 112 Stat. 704, 759.)

Amendments

1998—Subsec. (d)(2)(D). Pub. L. 105–206, § 1102(d)(1)(B), substituted “National Taxpayer Advocate” for “Taxpayer Advocate” in two places.

Subsec. (e). Pub. L. 105–206, § 3432(a), added subsec. (e).

1996—Subsec. (d). Pub. L. 104–168 added subsec. (d).

1988—Subsec. (a). Pub. L. 100–647 inserted “and notice of release” after “levy” in heading and amended text generally. Prior to amendment, text read as follows: “It shall be lawful for the Secretary, under regulations prescribed by the Secretary, to release the levy upon all or part of the property or rights to property levied upon where the Secretary determines that such action will facilitate the collection of the liability, but such release shall not operate to prevent any subsequent levy.”

1986—Subsec. (c). Pub. L. 99–514 substituted “the overpayment rate established under section 6621” for “an annual rate established under section 6621”.

1979—Subsec. (c). Pub. L. 96–167 added subsec. (c).

1976—Pub. L. 94–455 struck out “or his delegate” after “Secretary” wherever appearing.

1966—Pub. L. 89–719 inserted “and return property” in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

Effective Date of 1998 Amendment

Amendment by section 1102 of Pub. L. 105–206 effective July 22, 1998, see section 1102(f) of Pub. L. 105–206, set out as a note under section 7803 of this title.

Pub. L. 105–206, title III, § 3432(b), July 22, 1998, 112 Stat. 759, provided that: “The amendment made by this section [amending this section] shall apply to levies imposed after December 31, 1999.”

Effective Date of 1988 Amendment

Amendment by Pub. L. 100–647 applicable to levies issued on or after July 1, 1989, see section 6236(h)(1) of Pub. L. 100–647, set out as a note under section 6331 of this title.

Effective Date of 1986 Amendment

Amendment by Pub. L. 99–514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99–514, set out as a note under section 47 of this title.

Effective Date of 1979 Amendment

Section 4(c)(1) of Pub. L. 96–167 provided that: “The amendment made by subsection (a) [amending this section] shall apply to levies made after the date of the enactment of this Act [Dec. 29, 1979].”

Effective Date of 1966 Amendment

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114 (a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.