

**§ 301.6326-1 Administrative appeal of the erroneous filing of notice of federal tax lien.**

(a) *In general.* Any person may appeal to the district director of the district in which a notice of federal tax lien was filed on the property or rights to property of such person for a release of lien alleging an error in the filing of notice of lien. Such appeal may be used only for the purpose of correcting the erroneous filing of a notice of lien, not to challenge the underlying deficiency that led to the imposition of a lien. If the district director determines that the Internal Revenue Service has erroneously filed the notice of any federal tax lien, the district director shall expeditiously, and, to the extent practicable, within 14 days after such determination, issue a certificate of release of lien. The certificate of release of such lien shall include a statement that the filing of notice of lien was erroneous.

(b) *Appeal alleging an error in the filing of notice of lien.* For purposes of paragraph (a) of this section, an appeal of the filing of notice of federal tax lien must be based on any one of the following allegations:

(1) The tax liability that gave rise to the lien, plus any interest and additions to tax associated with said liability, was satisfied prior to the filing of notice of lien;

(2) The tax liability that gave rise to the lien was assessed in violation of the deficiency procedures set forth in section 6213 of the Internal Revenue Code;

(3) The tax liability that gave rise to the lien was assessed in violation of title 11 of the United States Code (the Bankruptcy Code); or

(4) The statutory period for collection of the tax liability that gave rise to the lien expired prior to the filing of notice of federal tax lien.

(c) *Notice of federal tax lien that lists multiple liabilities.* When a notice of federal tax lien lists multiple liabilities, a person may appeal the filing of notice of lien with respect to one or more of the liabilities listed in the notice, if the notice was erroneously filed with respect to such liabilities. If a notice of federal tax lien was erroneously filed with respect to one or more liabilities listed in the notice, the district direc-

tor shall issue a certificate of release with respect to such liabilities. For example, if a notice of federal tax lien lists tax liabilities for years 1980, 1981 and 1982, and the entire liabilities for 1981 and 1982 were paid prior to the filing of notice of lien, the taxpayer may appeal the filing of notice of lien with respect to the 1981 and 1982 liabilities and the district director must issue a certificate of release with respect to the 1981 and 1982 liabilities.

(d) *Procedures for appeal*—(1) *Manner.* An appeal of the filing of notice of federal tax lien shall be made in writing to the district director (marked for the attention of the Chief, Special Procedures Function) of the district in which the notice of federal tax lien was filed.

(2) *Form.* The appeal shall include the following information and documents:

(i) Name, current address, and taxpayer identification number of the person appealing the filing of notice of federal tax lien;

(ii) A copy of the notice of federal tax lien affecting the property, if available; and

(iii) The grounds upon which the filing of notice of federal tax lien is being appealed.

(A) If the ground upon which the filing of notice is being appealed is that the tax liability in question was satisfied prior to the filing, proof of full payment as defined in paragraph (e) of this section must be provided.

(B) If the ground upon which the filing of notice is being appealed is that the tax liability that gave rise to lien was assessed in violation of the deficiency procedures set forth in section 6213 of the Internal Revenue Code, the appealing party must explain how the assessment was erroneous.

(C) If the ground upon which the filing of notice is being appealed is that the tax liability that gave rise to the lien was assessed in violation of title 11 of the United States Code (the Bankruptcy Code), the appealing party must provide the following:

(1) The identity of the court and the district in which the bankruptcy petition was filed; and

(2) The docket number and the date of filing of the bankruptcy petition.

(3) *Time.* An administrative appeal of the erroneous filing of notice of federal

tax lien shall be made within 1 year after the taxpayer becomes aware of the erroneously filed tax lien.

(e) *Proof of full payment.* As used in paragraph (d)(2)(iii) of this section, the term “proof of full payment” means:

(1) An internal revenue cashier’s receipt reflecting full payment of the tax liability in question prior to the date the federal tax lien issue was filed;

(2) A canceled check to the Internal Revenue Service in an amount which was sufficient to satisfy the tax liability for which release is being sought; or

(3) Any other manner of proof acceptable to the district director.

(f) *Exclusive remedy.* The appeal established by section 6326 of the Internal Revenue Code and by this section shall be the exclusive administrative remedy with respect to the erroneous filing of a notice of federal tax lien.

(g) *Effective date.* The provisions of this section are effective July 7, 1989.

[T.D. 8250, 54 FR 19569, May 8, 1989. Redesignated at 56 FR 19948, May 1, 1991]

SEIZURE OF PROPERTY FOR COLLECTION  
OF TAXES

**§ 301.6330-1T Notice and opportunity  
for hearing prior to levy (tem-  
porary).**

(a) *Notification*—(1) *In general.* Except as specified in paragraph (a)(2) of this section, the district directors, directors of service centers, and the Assistant Commissioner (International), or their successors, are required to provide persons upon whose property or rights to property the IRS intends to levy on or after January 19, 1999, notice of that intention and to give them the right to, and the opportunity for, a pre-levy Collection Due Process hearing (CDP hearing) with the Internal Revenue Service Office of Appeals (Appeals). This Collection Due Process Hearing Notice (CDP Notice) must be given in person, left at the dwelling or usual place of business of such person, or sent by certified or registered mail, return receipt requested, to such person’s last known address. For further guidance regarding the definition of last known address, see § 301.6212-2.

(2) *Exceptions*—(i) *State tax refunds.* Section 6330 does not require the IRS to provide the taxpayer a notification

of the taxpayer’s right to a CDP hearing prior to issuing a levy to collect State tax refunds owing to the taxpayer. However, the district director, the service center director, and the Assistant Commissioner (International), or their successors, are required to give notice of the right to, and the opportunity for, a CDP hearing with Appeals with respect to the tax liability for the tax period for which the levy on the State tax refund was made on or after January 19, 1999, within a reasonable time after the levy has occurred. The notification required to be given following a levy on a State tax refund is referred to as a post-levy CDP Notice.

(ii) *Jeopardy.* Section 6330 does not require the IRS to provide the taxpayer a notification of the taxpayer’s right to a CDP hearing prior to levy when there has been a determination that collection of the tax is in jeopardy. However, the district director, the service center director, and the Assistant Commissioner (International), or their successors, are required to provide notice of the right to, and the opportunity for, a CDP hearing with Appeals to the taxpayer with respect to any such levy issued on or after January 19, 1999, within a reasonable time after the levy has occurred. The notification required to be given following a jeopardy levy is also referred to as post-levy CDP Notice.

(3) *Questions and answers.* The questions and answers illustrate the provisions of this paragraph (a) as follows:

Q-A1. Who is the “person” to be notified under section 6330? A-A1. Under section 6330(a)(1), a pre-levy or post-levy CDP Notice is only required to be given to the person whose property or right to property is intended to be levied upon, or, in the case of a levy made on a State tax refund or in the case of a jeopardy levy, the person whose property or right to property was levied upon. The person described in section 6330(a)(1) is the same person described in section 6331(a). Pursuant to section 6331(a), notice is to be given to the person liable to pay the tax due after notice and demand who refuses or neglects to pay (hereinafter referred to as the taxpayer).

Q-A2. Will the IRS notify a known nominee of, a person holding property