

(b) *Copy as evidence.* A copy of such record, or any part thereof, certified by the district director shall be evidence in any court of the truth of the facts therein stated.

**§ 301.6341-1 Expense of levy and sale.**

The district director shall determine the expenses to be allowed in all cases of levy and sale. Such expenses shall include the expenses of protection and preservation of the property during the period subsequent to the levy, as well as the actual expenses incurred in connection with the sale thereof. In case real and personal property (or several tracts of real property) are sold in the aggregate, the district director shall properly apportion the expenses to the real property (or to each tract).

**§ 301.6342-1 Application of proceeds of levy.**

(a) *Collection of liability.* Any money realized by proceedings under subchapter D, chapter 64, of the Code or by sale of property redeemed by the United States (if the interest of the United States in the property was a lien arising under the provisions of the Internal Revenue Code), is applied in the manner specified in subparagraphs (1), (2), and (3) of this paragraph (a). Money realized by proceedings under subchapter D, chapter 64, of the Code includes money realized by seizure, by sale of seized property, or by surrender under section 6332 (except money realized by the imposition of a 50 percent penalty pursuant to section 6332(c)(2)).

(1) *Expense of levy and sale.* First, against the expenses of the proceedings or sale, including expenses allowable under section 6341 and amounts paid by the United States to redeem property.

(2) *Specific tax liability on seized property.* If the property seized and sold is subject to a tax imposed by any internal revenue law which has not been paid, the amount remaining after applying subparagraph (1) of this paragraph (a), shall then be applied against such tax liability (and, if such tax was not previously assessed, it shall then be assessed);

(3) *Liability of delinquent taxpayer.* The amount, if any, remaining after applying subparagraphs (1) and (2) of this paragraph (a), shall then be ap-

plied against the liability in respect of which the levy was made or the sale of redeemed property was conducted.

(b) *Surplus proceeds.* Any surplus proceeds remaining after the application of paragraph (a) of this section shall, upon application and satisfactory proof in support thereof, be credited or refunded by the district director to the person or persons legally entitled thereto. The delinquent taxpayer is the person entitled to the surplus proceeds unless another person establishes a superior claim thereto.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7180, 37 FR 7320, Apr. 13, 1972]

**§ 301.6343-1 Requirement to release levy and notice of release.**

(a) *In general.* A district director, service center director, or compliance center director (*director*) must promptly release a levy upon all, or part of, property or rights to property levied upon and must promptly notify the person upon whom the levy was made of such a release, if the director determines that any of the conditions in paragraph (b) of this section (conditions requiring release) exist. The director must make a determination whether any of the conditions requiring release exist if a taxpayer submits a request for release of levy in accordance with paragraph (c) or (d) of this section; however, the director may make this determination based upon information received from a source other than the taxpayer. The director may require any supporting documentation as is reasonably necessary to determine whether a condition requiring release exists.

(b) *Conditions requiring release.* The director must release the levy upon all or a part of the property or rights to property levied upon if he or she determines that one of the following conditions exists—

(1) *Liability satisfied or unenforceable—*  
(i) *General rule.* The liability for which the levy was made is satisfied or the period of limitations provided in section 6502 (and any period during which the period of limitations is suspended as provided by law) has lapsed. A levy is considered made on the date on which the notice of seizure provided in section 6335(a) is given. A levy that is