



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.11.4

FEBRUARY 15, 2018

EFFECTIVE DATE

(02-15-2018)

PURPOSE

- (1) This transmits revised IRM 5.11.4, Notice of Levy, Bank Levies.

MATERIAL CHANGES

- (1) IRM 5.11.4.1 is revised to include internal controls information.
- (2) IRM 5.11.4.2 is revised to replace the word send with surrender to clarify meaning.
- (3) IRM 5.11.4.4(1) is revised to remove reference to property exempt from lien because Treas. Reg. § 301.6331-1(a)(5) exempts the same property from levy.
- (4) IRM 5.11.4.4(2) is revised to delete last sentence because this statement is not always true.
- (5) IRM 5.11.4.4.1(1) is revised to replace paid with surrendered.
- (6) IRM 5.11.4.9(1) is revised to update the type of reimbursement covered by Policy Statement 5-39 and match criteria on Form 8546.
- (7) IRM 5.11.4.9.1(1) is revised to note claim is limited to \$1,000.00.
- (8) IRM 5.11.4.9.2 is revised to add note for small claims not discussed in this section.
- (9) IRM 5.11.4.9.3 is revised to update reference to Bureau of the Fiscal Services.
- (10) IRM 5.11.4.9.3(3) is revised to link to web site for copy of FS Form 197.
- (11) IRM 5.11.4.10 is revised to cite revenue ruling.
- (12) IRM Exhibit 5.11.4-1 is revised to update the addresses for Department of Education Regional Offices.
- (13) Editorial changes made throughout.

EFFECT ON OTHER DOCUMENTS

IRM 5.11.4 dated September 26, 2014 is superseded.

AUDIENCE

SB/SE Revenue Officers and Collection Advisors

Kristen E. Bailey
Director, Collection Policy

5.11.4

Bank Levies

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5.11.4.1
(02-15-2018)
Program Scope and Objectives

- (1) **Purpose:** This Internal Revenue Manual (IRM) section describes the process and procedures for serving notices of levy on delinquent taxpayers' bank accounts. Specifically, the IRM section:
 - a. Describes the holding period established to settle disputes regarding ownership of bank accounts before money is remitted to IRS.
 - b. Provides guidance regarding the amount the bank must remit to IRS from the taxpayer's account and rules governing interest and fees.
 - c. Outlines procedures for handling income deposited into a bank account and special considerations for mortgage-escrow accounts and schools' bank accounts.
 - d. Establishes procedures for requesting reimbursement of bank charges resulting from an erroneous levy.
 - e. Provides guidance on super-priority for financial institutions that take deposit secured loans.
 - f. Describes banks' requirements for complying with the levy process and tips on banks' identification of taxpayers' property and rights.
- (2) **Audience:** This IRM is designed for use by revenue officers, collection advisors, and their managers.
- (3) **Policy Owner:** Director, Collection Policy. Collection Policy is an organization under Small Business/Self-Employed Division (SBSE), Collection.
- (4) **Program Owner:** SBSE Collection Policy, Enforcement.
- (5) **Primary Stakeholders:** SBSE revenue officers and collection advisors.
- (6) **Program Goals:** Enforcement is a necessary component of a voluntary assessment system, see IRM 1.2.14.1.1, *Policy Statement 5-1*. While we will actively assist taxpayers to comply, we will also take appropriate enforcement actions when warranted to resolve the delinquency. Levies are an important enforcement tool. By following the procedures in this IRM, revenue officers will be able to follow the unique requirements for levies on bank accounts.

5.11.4.1.1
(02-15-2018)
Background

- (1) Internal Revenue Code IRC 6332(c), *Surrender of property subject to levy* provides special rules when a levy is served on money in banks, credit unions, savings and loans, and similar institutions. This IRM provides guidance on these special rules.
- (2) On January 13, 2011, the Deputy Commissioner for Services and Enforcement amended *Policy Statement 5-39, Reimbursement of Bank Charges Due to Erroneous Levy and Service Loss or Misplacement of Taxpayer Checks, or Direct Debit Installment Agreement Processing Errors*. The amendment to Policy Statement 5-39 (P-5-39) added claims for reimbursement of bank charges incurred due to IRS processing errors on *Direct Debit Installment Agreements* (DDIA). See IRM 1.2.14.1.11, Policy Statement 5-39 (Rev. 1). The Commissioner revised *Delegation Order (DO) 1-4 (Rev. 1)* to allow first level managers in IRS Operating Divisions to consider, ascertain, adjust and determine under 31 USC § 3723 claims for reimbursement of bank charges arising out of DDIA processing errors. See IRM 1.2.40.5.

5.11.4.1.2
(02-15-2018)
Authority

- (1) IRC 408(n) - Bank
- (2) IRC 6323 - Validity and priority against certain persons.
- (3) IRC 6331 - Levy and distraint.
- (4) IRC 6332 - Surrender of property subject to levy.
- (5) IRC 6333 - Production of books.
- (6) Treasury Regulations § 301.6332-1 - Surrender of property subject to levy.
- (7) Treasury Regulations § 301.6332-3 - The 21-day holding period applicable to property held by banks.
- (8) IRM 1.2.14.1.11, *Policy Statement 5-39 (Rev. 1)*, Reimbursement of Bank Charges Due to Erroneous Levy and Service Loss or Misplacement of Taxpayer Checks, or Direct Debit Installment Agreement Processing Errors.
- (9) IRM 1.2.40.5, *Delegation Order 1-4 (Rev. 1) (formerly DO-23, Rev. 15)*, Settlement of Tort Claims, Claims under the Small Claims Act, and Claims Made by an Employee of the Internal Revenue Service for Damage to or Loss of Personal Property Incident to Service.

5.11.4.1.3
(02-15-2018)
Responsibilities

- (1) The Director, Collection Policy is responsible for all policies within the levy program.
- (2) The National Program Manager, Enforcement is responsible for development and delivery of policies within the levy program.
- (3) Managers of employees who issue levies are responsible for ensuring these procedures are followed and employee actions are timely and accurate.
- (4) Revenue officers and collection advisors are responsible for following the procedures in this IRM.

5.11.4.1.4
(02-15-2018)
Program Management and Review

- (1) Integrated Collection System (ICS) is used by field revenue officers as a method for generating levy documents that are issued to third party levy sources.
- (2) The Collection Activity Reports (CAR) report number 5000-24 records the total number of levies issued. Total Levies are the sum of Field, SB/SE ACS and W & I ACS (monthly and cumulative). The data sources are the ACS Customer Service Activity Reports (CSAR) - Monthly Support Site Report (ACS Levies) and ICS (Field Levies). See IRM 5.2.4.11, *Levy and Seizure Report (Report Symbol NO-5000-24)*. The IRS has determined that levy data may be made available as national statistics, provided that such data will never be used to evaluate any employee or to suggest or impose production quotas or goals. See IRM 1.5.2, *Managing Statistics in a Balanced Measurement System, Uses of Section 1204 Statistics*.
- (3) Levy program numbers are published yearly in the *IRS Data Book, Enforcement: Collections, Penalties & Criminal Investigation*, in Table 16 at <https://www.irs.gov/uac/enforcement-collections-penalties-criminal-investigation>.
- (4) Targeted program reviews are periodically performed by Collection Policy to determine whether IRM guidance requires clarification or revision.

- (5) Management will ensure program effectiveness through managers' case reviews, operational reviews conducted by the territory, Area, and Field Collection Director, and NQRS reviews.

5.11.4.1.5
(02-15-2018)
Program Controls

- (1) National Quality Review System (NQRS), attribute 417, Managerial Approvals for Enforcement provides independent collection review information from which management may draw inferences regarding overall case quality for this attribute. See IRM 5.13.1, *Embedded Quality Administrative Guidelines*.
- (2) Embedded Quality Review System (EQRS), Collection managers use EQRS, attribute 416, Appropriate Enforcement Tools, and attribute 607, Taxpayer Rights to complete all case reviews for revenue officers.
- (3) Reimbursement of Bank Charges Due to Erroneous Levy must be approved by managers. See IRM 1.2.40.5, *Delegation Order 1-4 (Rev. 1) (formerly DO-23, Rev. 15)* for Claims under the Small Claims Act.
- (4) Programming safeguards are built into the ICS system to prevent a levy from being generated on a module where the required notices have not been issued. The ICS system also has controls to reflect the status of the levy, i.e, open, closed etc.

5.11.4.1.6
(02-15-2018)
**Terms/Definitions/
Acronyms**

- (1) Terms and acronyms associated with the field levy program include:

Word	Definition
Automated Levy	Automated levies are levies issued through the Automated Levy Programs. These levies are transmitted electronically. The proceeds are also received electronically.
Manual Levy	A manual ICS levy is a paper levy that is manually prepared and issued by an RO.
Paper levy	Either a manual or systemic levy on Form 668-A(C)(DO), Form 668-W(C) (DO), that is prepared and issued by an RO.
Systemic Levy	ICS systemic levies are initiated by ROs resulting in levy preparation and issuance by the ICS system.

Note: ACS methods of levy issuances are discussed in IRM 5.19.4.3.10(1), *Levy Types*.

- (2) See Exhibit 5.11.4-2 for list of Acronyms.

5.11.4.1.7
(02-15-2018)

Related Resources

- (1) The *ICS User Guide, Chapter 10 - Levy* details all the functions necessary to maintain levy sources, issue levies and final demands, and close or release levies. See http://icsweb.web.irs.gov/Docs/HTML/user_guide.htm.
- (2) The *National Levy Source Look-Up* web page provides up-to-date levy source name and address information. See <https://acsweb.enterprise.irs.gov/nlsweb/pages/nl08.xhtml>.
- (3) The *MySB/SE, Enforcement* web page provides access to various information and job aids related to the levy program. See <http://mysbse.web.irs.gov/Collection/toolsprocesses/Enforcement/default.aspx>.
- (4) The *Taxpayer Bill of Rights (TBOR)* links to listing of those rights that already existed in the tax code, putting them in simple language and grouping them into 10 broad categories. See <https://www.irs.gov/taxpayer-bill-of-rights>. For additional information see IRM 1.2.10.37, *Policy Statement 1-236*.
- (5) Below are recommended resources, which can be used to address questions on levy guidance.

IRM	Title	Guidance On
IRM 5.11.1 through IRM 5.11.7	Notice of Levy	<ul style="list-style-type: none"> • <i>Notice of Levy, Background, Pre-Levy Actions, Restrictions on Levy & Post-Levy Actions</i> • <i>Serving Levies, Releasing Levies and Returning Property</i> • <i>Jeopardy Levy without a Jeopardy Assessment</i> • <i>Bank Levies</i> • <i>Levy on Wages, Salary, and Other Income</i> • <i>Notice of Levy in Special Cases</i> • <i>Automated Levy Programs</i>

IRM	Title	Guidance On
IRM 5.17.3	<i>Legal Reference Guide for Revenue Officers, Levy and Sale</i>	This section discusses how the IRS administratively enforces the tax lien using its power to levy on and sell property of the taxpayer or property encumbered with a federal tax lien.

5.11.4.2
(02-15-2018)
Holding Period

- (1) Under IRC 6332(c) a bank must wait 21 calendar days after a levy is served before surrendering the funds in the account (including interest thereon) held by the bank, subject to extension. On the next business day after the holding period expires, the bank must surrender the funds in the account, up to the amount of the levy. The depositor(s) can waive this waiting period. The bank will not surrender money that is subject to attachment or execution under judicial process. "Bank" includes credit unions, savings and loan associations, trust companies, and others described in IRC 408(n) and Treas. Reg. §301.6332-3(b).
 - (2) During the holding period, a levy might be released, or the amount owed could decrease.
- Note:** If the bank receives no release, it must surrender the funds in the account after the holding period. No additional notice is required.
- (3) Consider the holding period when deciding how long to project the accruals on a bank levy.

5.11.4.3
(09-26-2014)
**Multiple Signature
Authority for a Bank
Account**

- (1) A levy served to a bank attaches to funds in a bank account for which the taxpayer has an unrestricted right to withdraw funds (signature authority) - even if multiple persons have signature authority for that bank account. As noted in Treasury Regulation 301.6332-1(c)(4) the unrestricted right to withdraw funds is an interest which is subject to levy.

Example: A bank is served with a notice of levy for an unpaid tax liability due from the taxpayer in the amount of \$2,000. The bank holds \$2,000 in a checking account in the names of a taxpayer and a third party. Although all of the deposits into the account were made by the third party, the taxpayer has an unrestricted right to withdraw the funds from the account. The bank may send the Service the entire account balance at the end of the 21 day holding period. The bank is not liable to the third party for any amount, even if the third party proves that the funds in the account did not belong to the taxpayer, because the taxpayer's unrestricted right to withdraw the funds is an interest which is subject to levy. The third party may, however, seek the return of the funds from the United States by making an administrative wrongful levy claim under IRC 6343(b) or file a suit under IRC 7426(a)(1).

- (2) A non-liable third party may claim ownership of funds in a bank account when multiple people hold signature authority for that bank account. Treat this dispute as a potential wrongful levy. A wrongful levy is a levy that improperly attaches property belonging to a third party in which the taxpayer has no rights. See IRM 5.11.2.3.2, *Wrongful and Erroneous Levies*, for the procedures to follow in these situations.

Reminder: For bank levies if additional time is needed beyond the 21 day hold period to determine ownership, request the bank hold the funds. Provide the potentially wrongfully levied party a deadline date for providing substantiation and provide the bank with a specific extension date to forward the funds.

Reminder: Provide the potentially wrongfully levied party Publication 4528, *Making an Administrative Wrongful Levy Claim Under Internal Revenue Code (IRC) Section 6343(b)*.

5.11.4.4
(02-15-2018)
**Amount that Must be
Surrendered**

- (1) The bank must send the amount in the taxpayer's accounts. A bank levy attaches to any property or rights to property that belong to the taxpayer or on which there is a Federal tax lien, unless it is exempt. See IRC 6331, *Levy and Distraint*, for legal authority to levy. However, it must send no more than the amount shown on the notice of levy.

Note: By law, banks cannot immediately honor the IRS levy. See IRM 5.11.4.2, *Holding Period*, for guidance on the holding period after a bank levy.

Caution: Normally, a levy attaches to the same property that the taxpayer's IRC 6321 statutory lien attaches. There are situations where a levy may attach where there is no statutory lien because the statutory lien has been inadvertently released. See IRM 5.12.3.14, *Revocation of Lien Release*.

- (2) The notice of levy only reaches the amount on deposit when the levy is received. Money deposited later is not surrendered, including deposits during the holding period. Another levy must be served to reach this money.
- (3) Levy proceeds must not be reduced by any fee charged by the bank for processing the levy. See IRM 5.11.4.4.3 below.

5.11.4.4.1
(02-15-2018)
**Interest on Levy
Proceeds**

- (1) The bank must turn over the interest earned on the account(s) during the holding period using the same method for figuring the interest it normally would. Even so, the amount surrendered is no more than the amount shown on the levy.

If	And	Then
A bank levy for \$10,000 is served.	The taxpayer has \$5,000 in the bank.	The bank sends \$5,000 plus interest earned during the holding period.
A bank levy for \$10,000 is served.	The taxpayer has \$25,000 in the bank.	The bank sends \$10,000. No interest is sent. Only \$10,000 is frozen during the holding period.
A bank levy for \$10,000 is served.	The taxpayer has \$9,999 in the bank.	The bank sends \$10,000 if at least \$1 of interest is earned on the account during the holding period.

- (2) The date the bank normally credits interest to accounts does not matter. If interest is earned, it must be paid over as shown in (1).
- (3) To compute the interest, the bank treats the Service as though:
 - The Service is the depositor.
 - The money is left on deposit during the holding period.
 - On the day the money is being sent, the depositor closes the account.

5.11.4.4.2
(09-26-2014)
**Bank Methods Used to
Avoid Paying Interest**

- (1) Before interest was paid on levies, some banks:
 - Moved the levied money from the depositor's account to another account while the depositor was notified, and
 - Paid the depositor no interest while the money was in this "holding" account.
- (2) Some banks have rules that they will not pay interest to depositors during holding periods for levies.
- (3) Both of these methods may result in a change to the terms of the account and not treating the Service as the depositor because of the levy. These are not grounds to avoid paying interest on levy proceeds.

5.11.4.4.3
(09-26-2014)
**Fees for Processing
Levies**

- (1) Many banks charge their customers a fee for processing levies. The bank is not entitled to reduce the levy proceeds to collect the fee.

If	And	Then
A levy is served for \$1000.	The taxpayer has \$1500 in the bank.	The bank must send \$1000 and collect its fee from the other \$500.
A levy is served for \$1000.	The taxpayer has \$800 in the bank.	The bank must send \$800 (plus interest).

- (2) Letter 4030(CG), *Letter to Bank to Remit Service Charge*, is available for use when you learn that the levy proceeds have been reduced by a processing fee. The letter informs the financial institution that a charge against levy proceeds is contrary to the provisions of the Internal Revenue Code and failure to remit an amount equal to the service charge may result in the Service filing a suit for failure to honor a levy.

5.11.4.5
(09-26-2014)
**Crediting Levy
Payments**

- (1) Credit the levy payment on the date it is received.
- (2) Credit the money in the most advantageous way to the government. Generally, apply the money to the oldest assessment first. The taxpayer can not designate how the money is applied because this is not a voluntary payment.
- (3) Use designated payment code (DPC) 05 for levy payments received from a third party in response to a Notice of Levy that do not include payments from the taxpayer as a result of a levy.

Example: A bank levy is served. The bank remits the levy amount after holding for the required 21 day period. Use DPC 05.

5.11.4.6
(09-26-2014)
**Income Deposited in a
Bank Account**

- (1) Part of taxpayer's income is exempt from levy. See IRM 5.11.5.4 *Exempt Amount*. Once income is deposited in a bank, there is no exempt amount. On the other hand, unlike a levy on wages and salary, a bank levy is not continuous.
- (2) When an entire paycheck is deposited, an economic hardship may exist because all of the money is levied. If this happens, release the levy in whole or in part, as appropriate, to avoid creating an economic hardship.

Note: See IRM 5.11.2.3.1.4, *Economic Hardship*, for assistance in determining when a release of levy is required due to economic hardship. A levy is required to be released when the Service determines the levy is creating an economic hardship, i.e., the levy will cause the individual to be unable to pay their reasonable necessary living expenses.

Note: Refer taxpayers to the Taxpayer Advocate Service (TAS) (see IRM Part 13, *Taxpayer Advocate Service*) when the contact meets TAS criteria (IRM 13.1.7, *Taxpayer Advocate Service (TAS) Case Criteria*) and you can't resolve the taxpayer's issue the same day. The definition of "same day" is within 24 hours. "Same day" cases include cases you can completely resolve in 24 hours, as well as cases in which you have taken steps within 24 hours to *begin* resolving the taxpayer's issue. Do not refer "same day" cases to TAS unless the taxpayer asks to be transferred to TAS *and* the case meets TAS Criteria. Refer to IRM 13.1.7.4 *Same-Day Resolution by Operations*.

When you refer cases to TAS, use Form 911 or an e911, *Request for Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order)*, and forward to TAS.

5.11.4.7
(09-26-2014)
**Mortgage Escrow
Accounts**

- (1) Banks generally require a portion of property taxes and insurance to be paid with each mortgage payment. This is held in escrow until the tax and insurance are paid. As long as the taxpayer can not withdraw money in these accounts, a levy can not reach it.
- (2) Sometimes the account is overpaid. The taxpayer may have the option to get this refunded. A levy can reach this.
- (3) Also, when property is sold, there may be escrow money that will be refunded to the taxpayer. A levy can reach this, too.

5.11.4.8
(09-26-2014)
Schools' Bank Accounts

- (1) Bank accounts may be levied to collect taxes that colleges, universities, and other schools owe. These schools' accounts may include money belonging to the Department of Education (ED). ED gives money to some schools for student aid. This is not the school's money.
- (2) If the bank honors the levy process the payment and take the following actions:
 - a. Call the regional ED office, and tell them about the levy. See Exhibit 5.11.4–1. Mail a copy of the levy to the regional office.
 - b. Allow ED 60 days to look into this and certify its interest in the money. Another time period can be agreed on, as well.
 - c. ED will send a notice of the amount and nature of its money in the account. The letter will explain how it determined this.
 - d. Refund ED's money.
- (3) If the bank does not honor the levy because of ED funds in the account, take the following actions:
 - a. Call the regional ED office, and tell them about the levy. Mail a copy of the levy to the regional office.
 - b. Allow ED at least 60 days to look into this.
 - c. Release or enforce the levy after ED certifies its interest in the account.
- (4) A bank might not honor a levy on a school official because of ED's interest in an account. Handle this as in (3).

5.11.4.9
(02-15-2018)
**Reimbursing Bank
Charges Because of
Erroneous Levies**

- (1) Policy Statement P–5–39 (Rev. 1) IRM 1.2.14.1.11, *Reimbursement of Bank Charges Due to Erroneous Levy and Service Loss or Misplacement of Taxpayer Checks, or Direct Debit Installment Agreement Processing Errors*. says taxpayers may be reimbursed for bank charges caused by erroneous levies.
 - The Service must have caused the error.
 - Taxpayers must not have contributed to continuing or compounding the error.
 - Prior to the levy, the taxpayer did not refuse (either orally or in writing) to timely respond to Service inquiries or provide information relevant to the liability for which the levy was made.

Example: The taxpayer paid the amount owed, but the payment was not posted timely.

Example: An installment agreement was secured, but it was not loaded on IDRS timely.

(2) Reimburse the taxpayer for fees the bank charged for

- Processing the levy, and
- Bad check charges directly caused by the levy

Reminder: See IRM 3.17.10.5, *Reimbursement of Bank Charges Due to Service Loss or Misplacement of Taxpayer Checks*.

5.11.4.9.1
(02-15-2018)
Filing the Claim

- (1) The claim must be filed within one year after the fees are charged and is limited to \$1,000.
- (2) The claim is filed on Form 8546, *Claim for Reimbursement of Bank Charges*.

Note: Joint bank accounts levied must include both taxpayers' signatures on Form 8546.

5.11.4.9.2
(02-15-2018)
Processing the Claim

- (1) Approving officials are shown in IRM 1.2.40.5, *Delegation Order Number 1–4 (Rev. 1) (formerly DO-23, Rev. 15)*. Authority is delegated to Compliance Territory Managers and Compliance Technical Support Managers (second level).
- (2) The approving official may ask for a memorandum to explain what happened. This may not be needed if:
 - The case file is readily available.
 - An employee familiar with the case can orally brief the approving official.
 - The claim is too small to warrant a memorandum.
- (3) A claim may be missing some of the required information. Rather than just rejecting it, try to get the missing information from the taxpayer.

Example: Proof of the bank charges must be included with the claim.

- (4) If the claim does not meet all of the criteria in IRM 5.11.4.9, send a brief disallowance letter to the taxpayer indicating the reason for the disallowance.

Note: There are no Appeal Rights for denial of Claim for Reimbursement of Bank Charges.

Note: Claims not covered under Policy Statement 5-39 can be considered under the discretionary authority of the Small Claims Act (SCA) by the IRS Claims Manager. See IRM 3.17.10.5(19), *Reimbursement of Bank Charges Due to Service Loss or Misplacement of Taxpayer Checks*.

5.11.4.9.3
(02-15-2018)
**After the Claim is
Approved**

- (1) If the amount that the taxpayer claims is approved, send Letter 2180, *Claim for Bank Charge - Amount Requested Approved* to the Beckley Finance Center (BFC), and enclose Form 8546, *Claim for Reimbursement of Bank Charges*, and Bureau of the Fiscal Services, Fiscal Service (FS) Form 197. Form 8546 needs to be sent so BFC has a signed agreement from the taxpayer accepting the payment as settlement for the claim.
- (2) If the claim is approved for an amount that is different from what the taxpayer claimed, send Letter 2179, *Claim for Bank Charge - Approved Amount Different* to the taxpayer. Enclose three copies of FS Form 197 with the letter. The Fiscal Service form includes a place for the taxpayer to sign accepting the amount as settlement of the claim. After the signed copies are received from the taxpayer, send Letter 2180 to BFC, and enclose the FS Forms 197.
- (3) The FS forms are available at the web site <https://www.fiscal.treasury.gov/fsservices/gov/pmt/jdgFund/forms.htm> or IRM 3.17.10-15, *FS Form 197, Judgment Fund Voucher for Payment*.
- (4) If the claim will be paid by check, rather than electronic funds transfer (EFT), enter the taxpayer's address in the space on FS Form 197 for, "Agency/Office Mailing Address."

Note: Remind the taxpayer, payment by EFT is faster, safer, and more convenient.

- (5) **Each** FS Form 197 will be sent for payment on a Form 3210, *Document Transmittal*, and have a unique claim number. The number will be the first initial of the Business Operating Division that issues the number, then the Area Office Number, followed by the fiscal year (FY) the claim is approved and a sequential number.

Example: The first claim approved in SBSE Area Office 23 during FY 2014 is S-23-2014-1.

- (6) At the Area Director's discretion, claim numbers can be issued by each territory. If that is done, the territory number will be added after the Area Office Number, so each claim will have a unique number.

Example: The first claim approved in Territory 01 of SBSE Area Office 23 during FY 2014 is S-23-01-2014-1.

5.11.4.10
(02-15-2018)
Deposit Secured Loans

- (1) In many situations, the IRS will release a levy on a bank account if the bank proves that it has a superior lien interest in the account. Rev. Rul. 2006-42, 2006-35 IRB 337. IRC § 6323(b)(10) provides a super-priority status for a financial institution as described in IRC sections 581 or 591 that takes a deposit, share, or other account, to the amount of the loan made by the institution, provided the following conditions exist,
 - The loan is made to a depositor;
 - The depositor pledged an account as collateral;
 - The institution making the loan and the institution holding the account are one and the same;
 - Even though a Notice of Federal Tax Lien has been filed, the lien shall not be valid unless the financial institution had actual notice or knowledge of the existence of the lien; and
 - The loan is a commercial loan.

- (2) The bank is not required to have exclusive control over the deposit account; therefore, the debtor may have access to funds in the account, but the bank retains a super-priority interest to the extent of the funds on deposit.
- (3) Despite their similarity to checking accounts, cash management accounts held by a broker are specifically excluded from provisions relating to deposit secured loans. See IRM 5.17.3.9.4(4)(a), *Bank Accounts*.
- (4) The bank's super-priority is not a defense to a levy. However, the levy may be released in whole or in part if the bank satisfactorily proves the bank meets the state requirement for having a security interest and alleges that it had no actual notice or knowledge of the existence of the Federal tax lien when the loan was made. If the bank fails to honor the levy and does not prove the above points, then consider initiating a suit for failure to honor a levy.

5.11.4.11

(09-26-2014)

Bank Compliance and the Levy Process

- (1) While banks may request all notices of levy by mail be sent to a centralized address, this does not mean a notice of levy cannot be served in person at a local branch or office. A notice of levy may be served in person upon a person authorized to accept receipt. The representative of a financial institution who signs the acknowledgement for receiving the levy is considered an authorized recipient. The expectation is the authorized person will acknowledge receipt, immediately process the levy and freeze the affected accounts. If a bank employee refuses to accept service, leave the levy at the bank and inform the employee that the bank will be liable for all funds on deposit as of that date and time. See IRM 5.11.2.2.3, *Serving Notices of Levy in Person*.

Note: "Bank" includes credit unions, savings and loan associations, trust companies, and other entities described in IRC 408(n).

- (2) If a levy has been served or is about to be served and the bank employee refuses to provide account balance information or other records as provided by IRC 6333, consider following up the levy with a summons for information to determine if the correct amount of levy proceeds were remitted. See IRM 25.5.2.4, *Description of Information Requested*. If a lesser amount was remitted, the bank will be liable for the difference. See IRM 5.17.4.12, *Action to Enforce a Levy*.
- (3) A summons may also be used to obtain relevant information to determine if the bank did a thorough search for all accounts belonging to the taxpayer.
- (4) When serving a notice of levy by certified mail, return receipt requested, the date of delivery on the receipt is considered the date the levy is made.
- (5) When serving a notice of levy by regular mail, the date and time the authorized person signs the levy form is considered the date and time the levy is made in the absence of proof to the contrary.
- (6) Collection Field function local management should attempt to resolve recurrent compliance problems with a local bank.

5.11.4.11.1

(09-26-2014)

Bank Identification of Property and Rights to Property

- (1) The instructions on Form 668-A(c)(DO), *Notice of Levy*, require the recipient to:

“Make a reasonable effort to identify all property and rights to property belonging to this person. At a minimum, search your records using the taxpayer’s name, address, and identifying number(s) shown on this form.”

The instructions do not require a perfect match of all information. In the event there is a question regarding what the levy attaches, the bank should contact the revenue officer or IRS employee whose name appears on the levy.

Note: A bank levy attaches to the property of the taxpayer named on the levy; even though the TIN on the bank account does not match the TIN on the levy. The TIN is not the sole indicator of the taxpayer’s property or right to property in a bank account. Multiple factors may be considered to validate ownership, including similar names, addresses, entity types and other identifying characteristics.

- (2) In some cases, it may be reasonable for the depository to identify an account based on a single matching identifier. In other cases, it may be appropriate for the depository to corroborate one matching identifier by matching one or more additional identifiers. In the following examples, it would be reasonable for the depository to call the contact number on the levy for guidance.

Example: A levy is served against:
Ziegfried A. Corundum (fictitious name)
d/b/a Trout Motors
123 First St.,
Anywhere, US 11111
EIN: 10-1234567

The depository has an account under:
Ziegfried A. Corundum
d/b/a Ziggy’s Pizza
456 B Ave.,
Anywhere, US 11111
EIN: 11-4567890

Reasonable Determination: The unusual name alone is sufficient for a match. If there is a question such as whether the name is a “junior” or a “senior” or whether the lack of any middle initial makes a difference, the depository should call the contact number on the levy for guidance.

Example: A levy is served against:
B & Z Enterprises, Inc. (fictitious name)
123 First St.,
Anywhere, US 11111
EIN: 10-1234567

The depository has an account under:
B & Z Enterprises, Inc.
123 First St.,
Anywhere, US 11111
EIN: 11-3456789

Reasonable Determination: The different EIN numbers do not invalidate a positive identification where the name is uncommon and the address is

the same. If the depository still needs additional guidance, a call should be made to the contact number on the levy.

Example: A levy is served against:

X & Z Enterprises (fictitious name)
123 First St., Anywhere, US 11111
EIN: 10-1234567

The depository has an account under:
X & Z Enterprises, Inc. (fictitious name)
123 First St., Anywhere, US 11111
EIN: 10-1234567

< br/>Reasonable Determination: The presence of “Inc.” on the account should not invalidate a match without a telephone call to the contact number on the levy for clarification.

Example: A levy is served against:

Calcite Magic Cleaners (fictitious name)
123 First St.,
Anywhere, US 11111
EIN: 10-1234567

The depository has an account under:
John Doe
Calcite Magic Cleaners
P.O. Box 456,
Anywhere, US 11112
EIN: 10-1234567

Reasonable Determination: In light of the identical names of the business, it would be reasonable for the depository to call the contact number on the levy for clarification.

- (3) Consult with your manager, collection advisors, and/or area counsel if the taxpayer's property or right to property in the bank account is in question. After consulting with your GM to determine the appropriate action, review IRM 5.11.2.2.9 , *Refusing to Comply with a Levy*, for guidance.

Exhibit 5.11.4-1 (02-15-2018)**Department of Education Regional Offices**

Region and States Serviced	Address	Phone Number
Region I : CT, MA, ME, NH, RI, VT	Regional Director/Institutional Review Branch Chief, U. S. Department of Education, Federal Student Aid, POCH Building, 5 Post Office Square, 9th Floor, Room 24, Boston, MA 02110-1491	(617) 289-0100
Region II: NJ, NY, PR, VI	Regional Director/Institutional Review Branch Chief, U. S. Department of Education, Federal Student Aid, 32 Old Slip, 25th Floor, New York, NY 10005-2500	(646) 428-3906
Region III: DE, DC, MD, PA, VA, WV	Regional Director/Institutional Review Branch Chief, U. S. Department of Education, Federal Student Aid, The Wanamaker Building, 100 Penn Square East, Suite 505, Philadelphia, PA 19107-3323	(215) 656-6010
Region IV: AL, FL, GA, KY, MS, NC, SC, TN	Regional Director/Institutional Review Branch Chief, U. S. Department of Education, Federal Student Aid, 61 Forsyth Street, SW, Suite 19T40, Atlanta, GA 30303	(404) 974-9450
Region V: IL, IN, MI, MN, OH, WI	Regional Director/Institutional Review Branch Chief, U. S. Department of Education, Federal Student Aid, 500 W Madison, Room 1427, Chicago, IL 60661-4544	(312) 730-1700
Region VI: AR, LA, NM, OK, TX	Regional Director/Institutional Review Branch Chief, U. S. Department of Education, Federal Student Aid, 1999 Bryan Street, Suite 1510, Dallas, TX 75201-3136	(404) 974-9450
Region VII: IA, KS, MO, NE	Regional Director/Institutional Review Branch Chief, U. S. Department of Education, Federal Student Aid, 1010 Walnut, Suite 452, Kansas City, MO 64106-2103	(816) 268-0404

Exhibit 5.11.4-1 (Cont. 1) (02-15-2018)**Department of Education Regional Offices**

Region and States Serviced	Address	Phone Number
Region VIII: CO, MT, ND, SD, UT,	Regional Director/Institutional Review Branch Chief, U.S. Department of Education, Federal Student Aid, 1244 Speer Boulevard, Suite 615, Denver, CO 80204-3582	(303) 844-3544
Region IX: AZ, CA, HI, NV, the Pacific Islands of Guam, Micronesia, Marshall Islands, Northern Marianas, Palau, American Samoa	Regional Director/Institutional Review Branch Chief U.S., Department of Education, Federal Student Aid, 50 Beale Street, Suite 9700, San Francisco, CA 94105-1863	(415) 486-5700
Region X: AK, ID, OR, WA	Regional Director/Institutional Review Branch Chief, U.S. Department of Education, Federal Student Aid, 915 2nd Avenue, Room 3362, Seattle, WA 98174-1099	(206) 607-1655

Exhibit 5.11.4-2 (02-15-2018)**Acronyms**

List of acronyms and their definitions	
Acronym	Definition
ACS	Automated Collection System
BFS	Bureau of the Fiscal Service
DPC	Designated Payment Codes
ED	Education Department
EFT	Electronic Fund Transfer
EQRS	Embedded Quality Review System
ICS	Integrated Collection System
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
NFTL	Notice of Federal Tax Lien
NQRS	National Quality Review System
SBSE	Small Business/Self-Employed
TAS	Taxpayer Advocate Service
TBOR	Taxpayer Bill of Rights
TC	Transaction Code
TIN	Taxpayer Identification Number

