

Sec.

AMENDMENTS

1966—Pub. L. 89-719, title I, §104(j), Nov. 2, 1966, 80 Stat. 1138, inserted “and return property” in item 6343.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 38 sections 1970, 5301.

§ 6331. Levy and distraint**(a) Authority of Secretary**

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.

(b) Seizure and sale of property

The term “levy” as used in this title includes the power of distraint and seizure by any means. Except as otherwise provided in subsection (e), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).

(c) Successive seizures

Whenever any property or right to property upon which levy has been made by subsection (a) is not sufficient to satisfy the claim of the United States for which levy is made, the Secretary may, thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property liable to levy of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid.

(d) Requirement of notice before levy**(1) In general**

Levy may be made under subsection (a) upon the salary or wages or other property of any person with respect to any unpaid tax only after the Secretary has notified such person in writing of his intention to make such levy.

(2) 30-day requirement

The notice required under paragraph (1) shall be—

(A) given in person,

(B) left at the dwelling or usual place of business of such person, or

(C) sent by certified or registered mail to such persons’s last known address,

no less than 30 days before the day of the levy.

(3) Jeopardy

Paragraph (1) shall not apply to a levy if the Secretary has made a finding under the last sentence of subsection (a) that the collection of tax is in jeopardy.

(4) Information included with notice

The notice required under paragraph (1) shall include a brief statement which sets forth in simple and nontechnical terms—

(A) the provisions of this title relating to levy and sale of property,

(B) the procedures applicable to the levy and sale of property under this title,

(C) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals,

(D) the alternatives available to taxpayers which could prevent levy on the property (including installment agreements under section 6159),

(E) the provisions of this title relating to redemption of property and release of liens on property, and

(F) the procedures applicable to the redemption of property and the release of a lien on property under this title.

(e) Continuing levy on salary and wages

The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released under section 6343.

(f) Uneconomical levy

No levy may be made on any property if the amount of the expenses which the Secretary estimates (at the time of levy) would be incurred by the Secretary with respect to the levy and sale of such property exceeds the fair market value of such property at the time of levy.

(g) Levy on appearance date of summons**(1) In general**

No levy may be made on the property of any person on any day on which such person (or officer or employee of such person) is required to appear in response to a summons issued by the Secretary for the purpose of collecting any underpayment of tax.

(2) No application in case of jeopardy

This subsection shall not apply if the Secretary finds that the collection of tax is in jeopardy.

(h) Cross references

(1) For provisions relating to jeopardy, see subchapter A of chapter 70.

(2) For proceedings applicable to sale of seized property see section 6335.

(3) For release and notice of release of levy, see section 6343.

(Aug. 16, 1954, ch. 736, 68A Stat. 783; Nov. 2, 1966, Pub. L. 89-719, title I, §104(a), 80 Stat. 1135; Dec. 10, 1971, Pub. L. 92-178, title II, §211(a), 85 Stat. 520; Oct. 4, 1976, Pub. L. 94-455, title XII, §1209(d)(1), (2), (4), title XIX, §1906(b)(13)(A), 90

Stat. 1710, 1711, 1834; Sept. 3, 1982, Pub. L. 97-248, title III, §349(a), 96 Stat. 639; July 18, 1984, Pub. L. 98-369, div. A, title VII, §714(o), 98 Stat. 964; Nov. 10, 1988, Pub. L. 100-647, title VI, §6236(a), (b), (d), 102 Stat. 3737, 3739.)

AMENDMENTS

1988—Subsec. (d)(2). Pub. L. 100-647, §6236(a)(1), (2), substituted “30-day” for “10-day” in heading and “30 days” for “10 days” in text.

Subsec. (d)(4). Pub. L. 100-647, §6236(a)(3), added par. (4).

Subsec. (e). Pub. L. 100-647, §6236(b)(1), amended subsec. (e) generally. Prior to amendment, subsec. (e) consisted of two pars. relating to effect of continuing levy on salary and wages and release and notice of release of levy.

Subsecs. (f), (g). Pub. L. 100-647, §6236(d), added subsecs. (f) and (g). Former subsec. (f) redesignated (h).

Subsec. (h). Pub. L. 100-647, §6236(b)(2), (d), redesignated subsec. (f) as (h) and added par. (3).

1984—Subsec. (b). Pub. L. 98-369 substituted “subsection (e)” for “subsection (d)(3)”.

1982—Subsec. (d). Pub. L. 97-248 inserted authority to levy upon property other than salary or wages, substituted “person” for “individual” wherever appearing, designated second sentence of former par. (1) as par. (2) and in par. (2)(C) as so designated substituted “certified or registered mail” for “mail”, and redesignated former par. (2) as (3) and former par. (3) as subsec. (e).

Subsec. (e). Pub. L. 97-248 redesignated former subsec. (d)(3) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 97-248 redesignated former subsec. (e) as (f).

1976—Subsec. (a). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (b). Pub. L. 94-455, §§1209(d)(2), 1906(b)(13)(A), substituted in second sentence “Except as otherwise provided in subsection (d)(3), a levy” for “A levy” and struck out “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (d)(1). Pub. L. 94-455, §§1209(d)(4), 1906(b)(13)(A), struck out provision that no additional notice shall be required in the case of successive levies with respect to such tax and “or his delegate” after “Secretary”.

Subsec. (d)(2). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (d)(3). Pub. L. 94-455, §1209(d)(1), added par. (3).

1971—Subsecs. (d), (e). Pub. L. 92-178 added subsec. (d) and redesignated former subsec. (d) as (e).

1966—Subsec. (b). Pub. L. 89-719 inserted sentence providing that a levy shall extend only to property possessed and obligations existing at the time thereof.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 6236(h) of Pub. L. 100-647 provided that:

“(1) IN GENERAL.—The amendments made by this section (other than subsection (g)) [amending this section and sections 6332, 6334, and 6343 of this title] shall apply to levies issued on or after July 1, 1989.

“(2) SUBSECTION (g).—The amendment made by subsection (g) [amending section 6335 of this title] shall apply to requests made on or after January 1, 1989.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 349(b) of Pub. L. 97-248 provided that: “The amendment made by subsection (a) [amending this sec-

tion] shall apply to levies made after December 31, 1982.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1209(d)(1), (2), (4) of Pub. L. 94-455 effective only with respect to levies made after Feb. 28, 1977, see section 1209(e) of Pub. L. 94-455 as amended by section 2(c) of Pub. L. 94-528, Oct. 17, 1976, 90 Stat. 2483, set out as a note under section 6334 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 211(b) of Pub. L. 92-178 provided that: “The amendments made by this section [amending this section] shall apply with respect to levies made after March 31, 1972.”

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.

CROSS REFERENCES

Collection by levy where assessment made within limitation period, see section 6502 of this title.

Levy, definition of, see section 7701 of this title.

Notice and demand for tax, see section 6303 of this title.

Penalty for sales to avoid tax, see section 7341 of this title.

Property—

Exempt from levy, see section 6334 of this title.

Subject to lien generally, see section 6321 of this title.

Punishment for removing, depositing, or concealing goods or commodities, see section 7206 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6332, 6335, 6651, 6656, 6851, 6861, 6862, 7206, 7429 of this title.

§ 6332. Surrender of property subject to levy

(a) Requirement

Except as otherwise provided in this section, any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made shall, upon demand of the Secretary, surrender such property or rights (or discharge such obligation) to the Secretary, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

(b) Special rule for life insurance and endowment contracts

(1) In general

A levy on an organization with respect to a life insurance or endowment contract issued by such organization shall, without necessity for the surrender of the contract document, constitute a demand by the Secretary for payment of the amount described in paragraph (2) and the exercise of the right of the person against whom the tax is assessed to the advance of such amount. Such organization shall pay over such amount 90 days after service of notice of levy. Such notice shall include a certification by the Secretary that a copy of such notice has been mailed to the person against whom the tax is assessed at his last known address.