

Depositories Requested to Adhere to Levy Compliance Rules

In 2004, the number of levies issued by the Internal Revenue Service exceeded 2 million – triple the number in 2001. As IRS enforcement efforts continue to increase, the IRS is asking depositories (banks, credit unions, savings and loans, and similar institutions) to review and understand their responsibilities with regard to processing levies.

Method of Delivery

Treas. Reg. § 301.6331-1(c) authorizes the IRS to provide depositories notices of levy by mail. However, the regulation does not preclude in-person delivery of a levy to a local branch or office by a revenue officer. Additionally, depositories may not designate a specific branch or location for service of hand-delivered levies.

No matter how a levy is received, by mail or hand delivered, depositories are expected to adhere to IRS guidelines by immediately processing the levy and freezing all affected accounts for the 21-day period required by [Internal Revenue Code \(IRC\) Section 6332\(c\)](#). A levy becomes effective the date signed and noted by a representative acting on behalf of the depository or the date it is hand-delivered in person by a revenue officer.

Requests for Account Balance

When the IRS has served a levy or is about to serve a levy, the IRS may make immediate demand for information about the balance in accounts maintained by the taxpayer. The 21-day waiting period does not apply to such requests and the information should be provided to the duly authorized and credentialed IRS employee as soon as possible. ([IRC Section 6333](#))

Research

The IRS has observed that some depositories have overlooked easily identifiable accounts. The instructions on Form 668-A, *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 some cases, it may be reasonable to identify an account based on a single matching identifier. In other cases, it may be appropriate to corroborate one matching identifier by matching one or more additional identifiers.

Examples:

1. A levy is served against:

Ziegfried A. Baderhoffer (fictitious name)
d/b/a Courtesy Motors
123 First St., Anywhere, US 11111
EIN: 10-1234567

The depository has an account under:

Ziegfried A. Baderhoffer
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.

2. 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.

3. 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

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.

4. A levy is served against:

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

The depository has an account under:

John Doe
Solarium 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 to call the contact number on the levy for clarification.

Processing Fees

All of the funds in a taxpayers' account up to the amount of the levy should be turned over to the IRS. The levy instructions state:

You may not subtract a processing fee from the amount you send us.

Any fees due to the depository must be paid from funds remaining, if any, after the levy has been satisfied.

Personal Liability

In cases where the IRS learns a depository overlooked or misreported information in response to a levy, the IRS may serve a summons to obtain the balance of the account at the time of the levy. The IRS will demand payment of that amount from the depository regardless of the current availability of funds in the account.

If payment is not received, the IRS may file suit to ask the court to determine whether the depository's failure to identify the account was reasonable and whether personal liability and a 50 percent penalty should be imposed for failure to honor the levy. There is no statute of limitations for bringing a levy enforcement suit against a third party depository. ([IRC Section 6332\(d\)](#))

Summary

The IRS wants to avoid wrongful levies just as much as depositaries want to protect depositors and appreciates that depositaries must carefully balance competing interests and legal duties when processing levies. However, if an error is made, the aggrieved depositor has recourse only against the IRS. In these rare cases, the IRS provides the complying depositaries with explicit indemnification from liability.

Any depositary in doubt about any aspect of processing a levy is encouraged to call the contact number on the levy for clarification.

Additional Information:

[Enforced Collection Actions](#)