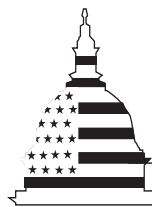


November 1999

IRS SEIZURES

Needed for Compliance but Processes for Protecting Taxpayer Rights Have Some Weaknesses



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United States General Accounting Office
Washington, D.C. 20548

General Government Division

B-278956

November 29, 1999

The Honorable William V. Roth, Jr.
Chairman, Committee on Finance
United States Senate

Dear Mr. Chairman:

This report discusses the Internal Revenue Service's (IRS) use of seizure authority, including which taxpayers were targeted for seizure; whether appropriate discretion was exercised in conducting seizures and protecting taxpayer rights; whether IRS properly managed and disposed of seized assets; and whether IRS' implementation of the IRS Restructuring and Reform Act of 1998 will address any weaknesses found in the pre-Restructuring Act process.

This report was prepared at your request because of concerns over the adequacy of taxpayer protections during the seizure process that were identified during hearings held by the Committee in September 1997.

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to Senator Daniel P. Moynihan, Ranking Minority Member, Committee on Finance, and to other congressional committees as appropriate. We will also send copies of this report to the Honorable Charles O. Rossotti, Commissioner of Internal Revenue, and we will make copies available to others upon request.

This work was done under the direction of Thomas M. Richards. Other major contributors to this report are acknowledged in appendix IV. If you have any questions, please call me or Mr. Richards on (202) 512-9110.

Sincerely yours,

James R. White
Director, Tax Policy and
Administration Issues

Executive Summary

Purpose

To collect unpaid taxes, in fiscal year 1997, Internal Revenue Service revenue officers seized property from about 8,300 delinquent taxpayers who owed the federal government about \$1.1 billion. In making these seizures, revenue officers were required to follow statutory and IRS procedural requirements established to protect taxpayer interests.

Although a relatively small number of delinquent taxpayers are affected by seizures, the impact on these taxpayers can be severe. Delinquent taxpayers have lost their homes and businesses for nonpayment of taxes.

Because of concerns over the adequacy of taxpayer protections during the seizure process, the Senate Finance Committee held a series of hearings beginning in September 1997. These hearings, at which GAO testified,¹ contributed to the passage of the IRS Restructuring and Reform Act of 1998. In part, the act was designed to better protect taxpayers from unwarranted collection actions, such as the seizure of their property, if other collection alternatives were available. IRS has begun implementing these additional protections.

Given congressional concerns over taxpayer protections, the Chairman asked GAO to review IRS' use of seizure authority as documented in a random sample of closed collection case files predating the Restructuring Act and to gather information that could indicate whether IRS' implementation of Restructuring Act process changes would fully address any weaknesses found. Accordingly, the objectives of GAO's review were to

- determine whether IRS, in exercising seizure authority, (1) targeted the most noncompliant taxpayers, (2) brought affected taxpayers into compliance, and (3) exercised appropriate discretion in conducting seizures;
- assess IRS' pre-Restructuring Act processes, and any departures from those processes, for protecting taxpayer rights and interests in planning and conducting seizures; and
- determine if the changes being made to the seizure process pursuant to the Restructuring Act would address any weaknesses found in IRS' pre-Restructuring Act seizure process.

GAO reviewed a representative sample of seizures initiated in fiscal year 1997 with assets sold or returned to the taxpayers by mid-1998. As agreed

¹See *Tax Administration: IRS' Use of Enforcement Authorities to Collect Delinquent Taxes* (GAO/T-GGD-97-155, Sept. 23, 1997).

with the Committee staff and IRS, these cases were selected because they were the most recent closed cases available for this review.

Results in Brief

IRS' use of seizure authority produced mixed results in terms of targeting the most noncompliant taxpayers and then bringing them into compliance. GAO's review of a sample of fiscal year 1997 seizures showed the following:

- Seizures targeted the more noncompliant taxpayers—statistically, the greater the amount of unpaid taxes or the number of outstanding tax delinquencies, the greater the likelihood of seizure.
- The likelihood of seizure varied by location—seizures were as much as 17 times more likely for delinquent individual taxpayers in some IRS district offices than others. Investigating the causes for the variation was outside the scope of this report.
- Many seizures improved compliance with the tax laws—for example, 42 percent of taxpayers had their full tax liability resolved after having assets seized, largely by the taxpayers producing funds to pay all of their outstanding tax liabilities and having their property returned.
- Some seizures produced little—for 22 percent of affected taxpayers, the seizures produced little revenue to the government and contributed little to resolving the taxpayers' delinquencies.

In reviewing 115 sample seizure cases, GAO found examples in which IRS revenue officers' use of discretion in deciding whether and how to conduct a seizure was questionable. GAO recognizes that some revenue officer discretion is necessary and that the adversarial nature of seizure cases can limit the information available to revenue officers when making seizure decisions. Nevertheless, some of the decisions made by revenue officers were questionable. For example, in one case IRS seized two assets from a taxpayer, both of which were disproportionately greater in value than the outstanding tax liability. Given that identifying questionable decisions is inherently subjective, GAO noted some clear-cut cases but did not attempt to estimate the overall number of questionable decisions.

IRS' use of seizure authority is in transition while IRS adapts to the Restructuring Act requirements. Revenue officers have expressed concerns about a lack of guidance on when to make seizures in light of the act, and the number of seizures has declined by about 98 percent, from roughly 10,000 per year (1990-97) to about 200 for fiscal year 1999. IRS officials expect the number of seizures to rebound as changes to the seizure program are implemented and revenue officers adapt to the new requirements.

GAO's review of IRS' processes for protecting taxpayer rights and interests in planning and conducting seizures identified implementation breakdowns and, in some instances, inadequate process requirements. Specifically, GAO identified departures from requirements in IRS' preseizure processes for controlling the use of seizure authority where, for example, an estimated 9 percent of taxpayers with seized assets were not sent all of the required written notices. Breakdowns and inadequate processes were also identified in the postseizure processes for controlling assets, selling assets, and reviewing actions taken. One example is that about one-half of asset sales attracted no more than one bidder.

Because of the severe impact that seizures may have on taxpayers, GAO views any breakdown in the seizure process as a weakness. Additionally, GAO found numerous instances of incomplete documentation in seizure files. The lack of documentation did not allow managers to properly review revenue officer actions, leaving the potential that taxpayer protections were not fully considered.

GAO's comparison of the weaknesses found in the pre-Restructuring Act seizure program with the changes IRS is making shows that some significant weaknesses were not being fully addressed. With respect to controlling the use of seizure authority, it is unclear whether continued reliance on manual reviews of revenue officer case files, which failed to prevent process departures in the past, would be sufficient to prevent departures from process requirements in the future. In addition, only limited guidance is being provided to revenue officers on how to carry out and document some of the new seizure guidelines.

With respect to controlling and selling assets after seizure, existing and proposed controls do not establish accountability over seized assets nor have processes been put in place to provide assurance that assets are sold for the maximum possible price.

With respect to management review of seizure actions, changes being made to implement the act will not give IRS' management the information it needs to monitor seizure results, including the uniform use of seizure authority across the country, appropriate use of discretion in seizure decisionmaking, or resolution of taxpayer complaints.

Because the impact of seizures on taxpayers can be severe and the number of seizures are likely to increase in the future, GAO is making recommendations to deal with weaknesses that persist in IRS' collection process.

Background

IRS has long operated a graduated collection process (i.e., sending taxpayers written notifications requesting payment, followed by telephone contacts and personal visits). Under IRS procedures, for taxpayers who were unwilling to pay their tax debts in a manner that was commensurate with their ability to pay, IRS was to initiate enforced collection actions. The actions could culminate in the seizure of the taxpayers' property by IRS revenue officers—IRS' field staff responsible for collecting taxes from delinquent taxpayers.

IRS policies defined the general conditions that were to be met before a seizure action was considered appropriate. The policies specified that all taxpayers were expected to pay their taxes in full. If that was not possible, taxpayers were to be required to pay an amount that was determined by IRS to be reasonable. However, if taxpayers resisted complying or did not show a good-faith effort to comply, enforced collection action, up to and including asset seizure, was to be promptly taken. The IRS policy recognized that "good judgment" was needed to make such decisions.

IRS policies specify that decisions to seize were the most sensitive decisions that revenue officers were called upon to make. As such, the Internal Revenue Manual emphasized that revenue officer decisions regarding the taxpayers' ability to pay (as determined by an analysis of their income and expenses and equity in assets²) and taxpayers' efforts to resolve their tax liabilities should be reviewed by collection managers. Also, before taking seizure action, the Internal Revenue Manual required that all relevant statutory and procedural requirements be met.

With enactment of the IRS Restructuring Act in July 1998, additional taxpayer protections were incorporated into the graduated collection process that IRS had operated for years. For example, IRS was mandated to make a number of changes to the seizure process. These changes included requiring IRS to

- notify taxpayers of newly established rights to appeal collection issues and
- discipline revenue officers and collections managers, including terminating their employment, for not adhering to statutory or IRS procedural requirements.

²Under the Internal Revenue Code, IRS' seizure authority only extends to a taxpayer's actual ownership interest (i.e., equity) in an asset. For example, a delinquent taxpayer may "own" a relatively expensive car. However, the taxpayer may owe almost as much to a secured creditor as the car's fair market value, perhaps owing \$23,000 on a \$25,000 car. Given that a prospective purchaser of such property from IRS would be responsible for resolving the secured debt, the maximum that IRS could expect to realize from the sale of such an automobile would be \$2,000, the taxpayer's equity in the car.

Principal Findings

IRS' Use of Seizure Authority Produced Mixed Results and Was Questionable in Some Cases

IRS' use of seizure authority and processes for protecting taxpayers' interests and rights produced mixed results in terms of targeting the most noncompliant taxpayers and bringing taxpayers into compliance with the tax law.

- GAO's analyses of seizure data showed that seizures were targeted, on average, to the more noncompliant taxpayers. Individuals whose assets were seized, on average, owed about 2.6 times more unpaid taxes than those whose assets were not seized. In a statistical analysis, GAO determined that each additional outstanding tax debt increased an individual taxpayer's odds of seizure by 13 percent, while each \$1,000 of unpaid taxes increased the odds by 1 percent.
- After controlling for noncompliance and other factors, such as income, the likelihood of a delinquent taxpayer's assets being seized varied substantially by IRS district office. For individual taxpayers, the likelihood of a seizure was as much as 17 times higher in some district offices than others. Investigating the causes for the variation was outside the scope of this report.
- GAO estimates that 42 percent of taxpayers in seizure cases had their full tax liability resolved after having their assets seized. Almost 9 out of 10 of these taxpayers produced funds to fully pay their total tax liabilities and thus had their property returned. The funds were produced after the seizure and after the taxpayers had been unresponsive to other pre-seizure tax collection efforts, including letters, personal visits, and levies of bank accounts and wages.
- GAO estimates that the seizure of property from 22 percent of the affected taxpayers contributed little to reducing their tax debt. The seizure of these taxpayers' property produced less than IRS' estimate of the overall administrative cost of making a seizure (about \$2,000³) and resolved less than 5 percent of each taxpayer's outstanding tax debt. Moreover, these seizures had little or no prospect for inducing further payments because the taxpayers' delinquent accounts were classified as "currently-not - collectible" after the seizure.

³IRS has data on out-of-pocket costs, such as third-party moving and storage costs, but does not have data on the overall costs associated with making a seizure. IRS Internal Audit has estimated the total costs of a seizure at about \$2,000, which includes revenue officer time, indirect overhead, and processing costs.

In addition, in reviewing 115 sample seizure cases, GAO identified examples where IRS revenue officers' use of discretion in deciding whether and how to conduct a seizure was questionable. These cases included

- seizure of property with a value disproportionate to the tax debt,
- unwillingness to work with a taxpayer to resolve the delinquency,
- superficial investigative work before seizure,
- little advance warning of seizure, and
- non-arms-length sale of assets.

For example, a revenue officer seized taxpayer property valued at about \$90,000 from a taxpayer who owed about \$9,000 in unpaid taxes and then subsequently seized another piece of property valued at about \$38,000.⁴ The taxpayer fully paid the liability, and IRS returned the property. Given the unique characteristics of seizure cases and the subjective nature of determining what constitutes a "questionable" seizure, GAO did not attempt to estimate the number of questionable actions in the entire population of seizures.

IRS' use of seizure authority is in transition while it adapts to Restructuring Act requirements for providing greater taxpayer protections. During this transition, the number of seizures has declined by about 98 percent, from roughly 10,000 seizures per year (1990-97) to about 200 for fiscal year 1999. Revenue officers in the four district offices visited by GAO said that seizures have nearly stopped because of their uncertainty regarding the Restructuring Act's new and what they viewed as complex rules with potentially severe penalties for not following those rules. The revenue officers were concerned that unintentional errors in implementing the act's provisions related to seizures could possibly lead to disciplinary actions, including termination of employment.

Collection officials in IRS' National Office indicated that they expect the number of seizures to rebound as changes to the program are implemented and revenue officers adapt to the new requirements. However they indicated that the anticipated level would be less than the previous level of about 10,000 seizures per year. Anticipating a rebound is consistent with GAO's analyses of fiscal year 1997 seizures. For example, GAO estimates that about 3,000 taxpayers waited until after a seizure to fully pay their tax

⁴Values cited are the taxpayer's ownership rights to the property (i.e., equity in the property) as determined by IRS.

liability despite numerous collection contacts by revenue officers over extended periods of time.⁵

Pre-Restructuring Act Process Weaknesses

GAO's review of fiscal year 1997 cases identified a number of weaknesses in IRS' pre-Restructuring Act processes for protecting taxpayer rights and interests. Weaknesses appear in the preseizure processes for controlling the use of seizure authority and in the postseizure processes for controlling and selling assets and for reviewing the actions taken.

Before seizure, most but not all taxpayers were given numerous warnings of possible seizure action. GAO estimates that, on average, delinquent taxpayers received 15 written notices in the 3 years before seizure and 5 personal contacts by revenue officers in the year before seizure. However, IRS' controls did not prevent departures from notification requirements. For example, GAO estimates that about 9 percent of taxpayers whose assets were seized were not sent all required written notices. Also, GAO estimates that revenue officers did not attempt to personally contact about 4 percent of taxpayers before seizing their property.

GAO's file review also showed that seizures were frequently made without all the information required to justify the seizure. For example, GAO estimates that 39 percent of seizures were made without complete information on the expected financial results of the seizure—18 percent lacked estimates of asset fair market value, 20 percent lacked estimates of asset encumbrances necessary for estimating taxpayer equity in the assets, and 32 percent lacked estimates of seizure and sale costs. GAO recognizes that, because of the adversarial nature of seizure proceedings, estimates of expected financial results from seizures may be uncertain. IRS did routinely ask taxpayers for financial information before seizure, however, GAO estimates that approximately 90 percent of the taxpayers did not provide complete and accurate information when asked. Nevertheless, such information is required to comply with the tax code's prohibition on uneconomical seizures.

With respect to postseizure controls, GAO found weaknesses in IRS' asset control system.

- First, the asset control information documented by revenue officers in their case files was not as comprehensive as the control information

⁵GAO estimates that the fiscal year 1997 seizures resolved about \$235 million (about 22 percent) of the taxpayers' outstanding tax debts. Because IRS generally has up to 10 years to collect delinquent taxes and because some seizures did not bring in significant revenue, it is unclear what the transition to a new seizure program means in terms of tax collections.

required by federal financial management guidelines. For example, GAO estimates that asset description and asset custody information was incomplete for about 25 percent and 47 percent of the seizure files, respectively.

- Second, GAO estimates that for 12 percent of the seizures involving assets requiring security, such as jewelry, the case files did not document whether any security arrangements were made.
- Third, IRS' automated inventory control system did not capture some of the basic asset control information documented by revenue officers, was not always accurate, was not always updated in a timely manner, and was not periodically reconciled to revenue officer files or actual assets-on-hand through physical inventories. In one case, taxpayer equity as shown in the automated system and revenue officer files differed by more than \$2 million.

GAO's review showed that IRS had little assurance that it sold seized assets for the maximum possible price. An estimated 51 percent of the asset sales attracted no more than one bidder. Nor, absent strong competition, did IRS controls establish an adequate basis for evaluating the reasonableness of sales proceeds or guard against self-interest sales. IRS' basic control, the minimum acceptable sales price, was frequently computed in an arbitrary manner. GAO estimates that values for only about 4 percent of the seized assets were based on a professional appraisal.

GAO's review also showed that IRS' seizure monitoring systems did not provide senior management with information useful for overseeing the use of seizure authority. The systems did not provide information on (1) seizure results, including the uniformity of seizure use across the country, and costs; (2) seizure quality, such as compliance with process requirements and appropriateness of seizure decisionmaking; and (3) the resolution of taxpayer complaints.

Comparing Pre-Act Weaknesses to Post-Act Changes

GAO's comparison of pre-Restructuring Act weaknesses in IRS' processes for protecting taxpayer rights and interests to changes being made to implement the act shows that not all significant weaknesses have been fully addressed.

Because IRS' controls were not sufficient to prevent departures from pre-act process requirements, it is unclear whether the continued reliance on manual reviews of revenue officer case file information would be sufficient to prevent future departures from requirements. GAO looked for a relatively "fail-safe" check that could stop a collection case from advancing

to seizure if a requirement was not met. An IRS automated field collection system was identified that could be modified to make such checks and thus allow managers to focus their reviews on judgmental areas, such as revenue officer's use of discretion.

Given the Restructuring Act's requirement for IRS to make judgments regarding taxpayer's ability to pay and the expected seizure proceeds and the difficulty of collecting the needed information from uncooperative taxpayers, GAO expected to see clearly delineated preseizure procedures and documentation requirements. To implement the act, IRS is requiring revenue officers before a seizure to make a risk analysis that would consider such factors as the taxpayer's financial condition. However, only limited guidance has been provided on how to carry out the risk analysis. For example, the guidance does not specify the lengths that revenue officers are expected to go to obtain and document financial information for uncooperative taxpayers. GAO found that IRS' new procedures regarding seizure decisionmaking did not clearly depict conditions under which a seizure would be warranted or specify senior management's responsibilities for ensuring seizure authority was appropriately exercised.

With respect to controlling and selling assets after seizure, the Restructuring Act requires IRS to remove revenue officers from any participation in the sale of seized assets and consider "outsourcing" asset sales. IRS has convened a study group to develop plans and guidance for removing revenue officers from the asset sale process and to consider outsourcing. The group's decisions were not finalized at the time we published our report but were expected by late 1999.

Regardless of who sells the assets, controls must be sufficient to establish accountability and safeguard assets and to provide assurance that assets are sold for the maximum amount possible. However, IRS' existing and proposed controls do not provide such assurance. For example, proposed asset controls do not require the use of receipts to document responsibility for asset custody.

The Restructuring Act mandated a number of changes to improve oversight of the seizure program, such as an annual review of seizure cases by the Department of the Treasury's Inspector General for Tax Administration to ensure compliance with statutory requirements. However, changes being made to implement the act will not give IRS management the information it needs on seizure results and costs, the appropriate use of discretion by revenue officers and their supervisors in

deciding whether and how to conduct a seizure, and the resolution of taxpayer complaints.

Recommendations

The tax system depends on taxpayers voluntarily paying their taxes, a practice dependent on taxpayers having confidence that their neighbors or competitors are also complying. The use of seizure authority is a necessary part of a tax enforcement program that is intended to provide this confidence. Taxpayers with substantial amounts of delinquent taxes, long-standing delinquencies, repeated failures to respond to nonseizure collection actions, and substantial assets cannot be allowed to evade payment without putting the credibility and fairness of the tax system at risk. However, the protection of taxpayers' rights and interests is also crucial to a credible and fair tax system. In this regard, IRS' seizure process has a number of weaknesses—weaknesses that are not all addressed by changes being made pursuant to the Restructuring Act.

- To strengthen IRS' processes for ensuring that seizure authority is appropriately exercised and when warranted is exercised, GAO is making four recommendations aimed at clarifying when seizure actions ought to be taken, preventing departures from process requirements established to protect taxpayer interests, and delineating senior managers' responsibilities for ensuring that seizures are made when justified.
- To improve IRS' process for controlling assets after seizure, GAO is making four recommendations for improving accountability and safeguards over seized assets, including periodic physical inventories.
- To strengthen the sales process for assuring that the maximum prices are obtained from seized asset sales, GAO is making two recommendations for promoting reasonable competition at sales and improving methodologies for determining the minimum acceptable prices.
- To strengthen the oversight of seizure activities, GAO is making two recommendations for providing IRS senior managers with useful information to monitor the use of seizure authority and resolution of taxpayer complaints.

The recommendations appear at the end of chapter 4.

Agency Comments

In written comments on a draft of this report, IRS generally agreed with the report's findings and recommendations, although it said that some recommendations appeared impractical to implement at this time. IRS also said it will use the report to help improve the seizure process. In its letter, IRS emphasized three points made in the report.

- First, while additional guidance needs to be provided to IRS employees about how to conduct seizures, that guidance needs to allow room for employees to exercise judgment to address individual taxpayer situations.
- Second, predicting seizure results is extremely difficult.
- Third, the wide variation in the use of seizure authority by district offices can be attributable to a number of factors.

IRS further said that the procedural changes being implemented were expected to eliminate a number of seizures that would otherwise provide little or no proceeds.

In an enclosure to the letter, IRS commented on each recommendation. With respect to the two recommendations to strengthen oversight of seizure activities, IRS commented that, at this time, it appeared impractical to monitor the appropriateness of seizure decisionmaking. IRS' comments indicated that existing case file handling and selection criteria preclude seizure cases from entering IRS' overall program for assessing work quality and that feedback from required Inspector General reviews was more comprehensive. GAO agrees that current IRS procedures preclude seizure cases from entering the review process established to assess the quality of collection work, including the appropriateness of decision-making. But, because of the impact that seizures may have on taxpayers, GAO believes that the procedures should be reconsidered so that an appropriate number are selected for review. Moreover, as discussed in the report, the Inspector General reviews have focused on compliance with seizure process requirements and not on the quality of seizure work in terms of the appropriateness of seizure decisionmaking. This reinforces the need for seizure cases to be included in the quality review process.

In comments on the oversight recommendation for monitoring seizure results (e.g., use of seizure authority by district offices and resolution of taxpayer complaints), IRS commented that useful information could only be developed through detailed case-by-case analyses. In part, GAO agrees, and that is why GAO had recommended that IRS' quality review of collection cases include seizures. Also, GAO continues to believe that effective oversight is necessary for IRS to have assurance that collection authority is both appropriately and uniformly applied across the country. To this end, a monitoring system comprised of seizure results data (including data on the use of seizure authority by district offices and the resolution of taxpayer complaints) together with quality indicators could provide senior management with the kind of data that would be useful in identifying potentially troublesome areas that may need management's attention. The information on complaints resolved in the taxpayers' favor

may be particularly useful. But, contrary to IRS' comments, GAO sees no need to channel all complaints through a single process in order to have complaint resolution information reported to management.

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Introduction

To collect unpaid taxes in fiscal year 1997, IRS revenue officers seized property (e.g., residences, automobiles, and business assets) from about 8,300 taxpayers who owed the federal government about \$1.1 billion.¹ In making these seizures, revenue officers were required to follow statutory and procedural requirements established to protect taxpayer interests.

Because of concerns over the adequacy of taxpayer protections, the Senate Finance Committee held a series of hearings beginning in September 1997. These hearings, at which we testified,² contributed to the passage of the IRS Restructuring and Reform Act of 1998.³ In part, the act was designed to better protect taxpayers from unwarranted collection actions (e.g., the seizure of taxpayer property when other collection alternatives were available). IRS has begun implementing these additional protections.

Given congressional concerns over taxpayer protections, the Chairman asked us to review IRS' use of seizure authority as documented in a random sample of closed collection case files and to determine whether IRS' adoption of Restructuring Act process changes would fully address any problems found. Accordingly, the objectives of this review were to

- determine whether IRS, in exercising seizure authority, (1) targeted the most noncompliant taxpayers, (2) brought affected taxpayers into compliance, and (3) exercised appropriate discretion in conducting seizures;
- assess IRS' pre-Restructuring Act processes, and any departures from those processes, for protecting taxpayer rights and interests in planning and conducting seizures; and
- determine if the changes being made to the seizure process pursuant to the Restructuring Act would address any weaknesses found in IRS' pre-Restructuring Act seizure process.

The random sample of 1997 seizure cases that we selected for this review were drawn from cases in which IRS seizure action was initiated in fiscal

¹As described in the Objectives, Scope, and Methodology section of this report, the results of our analyses of the random sample of taxpayers whose assets were seized by IRS are presented as estimates within certain intervals computed at the 95-percent confidence level. The estimates are cited in the report text and the confidence intervals in footnotes. For example, regarding the amount of taxes owed by these taxpayers, we can be 95-percent confident that the interval of \$1.1 billion plus or minus about \$300 million contains the actual value of taxes owed. The format adopted for reporting confidence intervals in this report follows: 95-percent confidence interval: \$800 million to \$1.4 billion.

²See *Tax Administration: IRS' Use of Enforcement Authorities to Collect Delinquent Taxes* (GAO/T-GGD-97-155, Sept. 23, 1997).

³P.L. 105-206, July 22, 1998.

year 1997 and collection action was completed, including the sale of the seized assets, by mid-1998. This was the most recent year of closed collection case files available at the time we started our review.

Background

To collect delinquent taxes, IRS has long operated a graduated process that could culminate in the seizure of taxpayer assets. With passage of the Restructuring Act, the graduated process was retained, but a number of taxpayer protections were added. These protections included requiring IRS to redefine its mission statement to place greater emphasis on meeting taxpayer needs; establishing “due process” in collections by requiring IRS to provide taxpayers with notice and opportunity for a hearing before seizure; expanding the availability and consideration to be given to alternative collection methods, such as installment agreements; requiring more senior level review and approval of seizure decisions; and mandating disciplinary actions against IRS employees, including revenue officers, for certain acts or omissions.

Overview of Pre- Restructuring Act Collection Process and Policies

The collection process started once IRS had identified taxpayers who had not paid the amount due as determined by their tax assessment and payment history. These tax assessments resulted from a number of actions, ranging from the self-assessment of taxes by a taxpayer on a tax return filed voluntarily to an IRS assessment of a tax deficiency identified in an audit.

After determining that a tax was due and unpaid, IRS was required to send the taxpayer a notice of deficiency. This notice gave the taxpayer 90 days (150 days for a taxpayer outside the United States) to file a petition with the Tax Court contesting the deficiency. Upon expiration of the 90 days or a determination by the Tax Court that the deficiency existed, IRS was authorized to officially assess the tax and within 60 days send the taxpayer a notice and demand for payment of the tax. If these requirements were met and the tax was still unpaid, IRS was authorized to initiate enforced collection action.

The collection process was grounded on the principle that a tax system based on voluntary assessment and payment of taxes would not be viable without enforcement processes to ensure compliance. Accordingly, IRS was responsible for taking all appropriate actions provided by law, including the seizure of taxpayer property, to compel noncompliant taxpayers to pay their taxes.

Stages of the Process

In the first stage of the collection process, IRS service centers were required to send a series of notices demanding payment from the

delinquent taxpayers. Collectively, these notices also were to provide the taxpayers with statutorily required notifications of their tax liabilities, IRS' intent to levy⁴ assets if necessary, and information on the taxpayers' rights.

Under the Internal Revenue Code, if the taxpayers did not pay after being notified of their tax delinquencies, a federal tax lien⁵ was automatically established on the taxpayers' property to protect the government's interest over other creditors and purchasers of the taxpayers' property. The lien, however, was not generally enforceable until IRS recorded it in the jurisdiction where the property resided.⁶

In the second stage of the collection process, which included the Automated Collection System, IRS employees were to make telephone contact with the delinquent taxpayers. During this stage, if taxpayers did not make arrangements to pay their taxes and information was available on the taxpayers' assets, IRS was authorized to record the liens on the taxpayers' property and send notices to levy the taxpayers' wages, bank accounts, and other financial assets held by third parties. Unresolved tax delinquencies exceeding certain thresholds were to be referred to the third and final stage of the collection process. Also, tax delinquencies exceeding certain thresholds were generally to be referred directly to the final stage, bypassing the second stage.

In the final stage of the collection process (known as field collections), information about the tax delinquencies was referred to IRS' field offices for possible face-to-face contact with the delinquent taxpayers and for possible in-depth investigation of the taxpayers' ability to pay their tax debts. To compel compliance, field offices were authorized to seize taxpayers' property when a number of specific requirements were met. For example, IRS was prohibited from making uneconomical seizures in which the amount of the expenses estimated at the time of seizure exceeded the fair market value of the property at the time of seizure. (See chs. 3 and 4 for detailed analyses of taxpayer protection requirements.) The field offices were also authorized to record liens on taxpayer property or levy wages, bank accounts, and other financial assets held by third parties,

⁴Under the Internal Revenue Code, levy is defined as the seizure of a taxpayer's assets to satisfy a tax delinquency. IRS differentiates between the levy of assets in the possession of the taxpayer (referred to as a seizure) and the levy of assets, such as bank accounts and wages, that are in the possession of third parties, such as banks and employers (referred to as a levy). Before seizing or levying taxpayer property, however, IRS must give the taxpayer 30 days' notice of its intent.

⁵A lien is a legal claim that attaches to property to secure the payment of a debt.

⁶The recording of a lien would prevent the taxpayer from selling an asset to an unrelated party, with clear title, without payment of the tax debt.

depending on the need for such actions following those taken during the second stage of the collection process.

At any stage in the collection process, IRS might find that taxpayers cannot pay what is owed or do not owe what IRS records show as the unpaid tax assessment. In such situations, IRS could abate erroneous assessments, enter into installment agreements with the taxpayers for full payment of the assessments, compromise for amounts less than the delinquent assessments, and suspend or terminate the collection actions.

Also, if a taxpayer was having a problem reaching agreement on a collection action with the initiating IRS office, the taxpayer could have contacted IRS' Taxpayer Advocate or IRS' Collection Appeals Program for resolution. The Taxpayer Advocate had the authority to order relief if the enforced collection would be a hardship for the taxpayer. If an enforcement action involved a reckless or intentional disregard of taxpayer rights by an IRS employee, a taxpayer could sue for damages.

Property that had been seized by IRS may in turn have been sold once IRS had given notice to the taxpayer and advertised the sale. In preparing to sell the property, IRS was required to set a minimum price for which the property may be sold. If no person offered the minimum price, IRS could have bought the property at that price or returned the property to the taxpayer. Taxpayers could also have had their property returned by paying the amount of the tax due together with IRS' expenses. Also, for real property, taxpayers had up to 180 days after the sale to buy back their property at a price equal to the sales amount plus interest.

IRS Seizure Policies

IRS' seizure authority only extended to a taxpayer's actual ownership interest (i.e., equity) in an asset. For example, a delinquent taxpayer may have a relatively expensive car, but the taxpayer may owe almost as much to a secured creditor as the car's fair market value, perhaps owing \$23,000 on a \$25,000 car. Given that a prospective purchaser of such property from IRS would be responsible for resolving the secured debt, the maximum that IRS could expect to realize from the sale of such an automobile would be \$2,000, the taxpayer's equity in the car.

IRS policies defined the general conditions that must be met before seizing taxpayer assets could be considered appropriate. The policies specified that all taxpayers were expected to pay their taxes in full. If that was not possible, taxpayers were to be required to pay an amount that was reasonable. However, if taxpayers resisted complying or did not show a good-faith effort to comply, enforced collection action, up to and including

asset seizure, was to be promptly taken. The IRS policy recognized that “good judgment” was needed to make a decision to seize assets.

The authority for initiating the decision to seize was vested in IRS’ frontline collection employees (i.e., revenue officers), subject to certain management reviews. The revenue officers, working out of IRS field offices, were responsible for day-to-day collection actions. This included contacting taxpayers by phone or in writing; making field visits to the taxpayers; advising taxpayers of their rights and obligations; demanding payment of taxes; requesting financial statements; investigating the completeness of those statements, if appropriate; and if warranted, negotiating settlements or initiating enforced collection actions. This was to be done under the supervision of a group manager.

IRS recognized that decisions to seize were the most sensitive decisions that revenue officers were called upon to make. As such, the Internal Revenue Manual emphasized that revenue officer decisions should be reviewed regarding the taxpayers’ (1) ability to pay as determined by an analysis of their income and expenses, (2) equity in assets, and (3) efforts to resolve their tax liabilities. Also, before taking seizure action, the Internal Revenue Manual required that all relevant statutory and procedural requirements be met (e.g., those established to ensure that taxpayers have been provided with opportunities to resolve their tax delinquencies) and that appropriate approvals within IRS be obtained. (These are discussed in detail in chs. 3 and 4.)

The 1998 Act Mandated Changes in the Collection Process

The Senate Committee on Finance held a series of hearings on taxpayer abuse beginning in September 1997, at which we testified.⁷ Following those hearings, Congress enacted the IRS Restructuring and Reform Act of 1998—in part to better protect taxpayers from inappropriate IRS use of collection enforcement actions. The act also codified in law some protections already required under IRS procedures.

The act retained the graduated collection process that IRS had operated for years, but a number of taxpayer protections were added. The act included the following provisions.

- **Redefined IRS’ overall mission.** The act required IRS to review and restate its mission to place greater emphasis on serving the public and meeting taxpayer needs.

⁷See *Tax Administration: IRS’ Use of Enforcement Authorities to Collect Delinquent Taxes* (GAO/T-GGD-97-155, Sept. 23, 1997).

- Established “due process” in collections. The act required IRS to provide taxpayers with additional notifications of IRS’ intent to take enforced collection actions and expanded taxpayer rights to appeal such decisions. The act required that IRS give the taxpayer written notice within 5 business days after filing a lien and an additional notice 30 days before initiating a levy or seizure action. The act also required these notices to state that taxpayers are entitled to a hearing before IRS’ Capitol Office of Appeals. At these hearings, the act authorized taxpayers to raise relevant issues related to the unpaid tax, including the appropriateness of collection actions and collection alternatives, such as whether an installment agreement would be a more appropriate collection alternative than a seizure. Further, if the dispute could not be resolved within IRS, the act established the right for the taxpayer to appeal IRS’ determination to the Tax Court or to a U.S. district court.
- Increased supervision of enforced collection actions. The act emphasized the importance of IRS staff complying with procedures for reviewing proposed enforced collection actions. Under the act, an IRS supervisor is required, where appropriate, to review any proposed lien, levy, or seizure of property. As part of this review process, the act also stated that IRS employees may certify that they have reviewed the taxpayer’s information, verified the balance due, and affirmed that the collection action proposed is appropriate considering the taxpayer’s circumstances, the amount due, and the value of the property.
- Required investigation and consideration of collection alternatives before seizure. The act prohibited any levy on property, including seizure, until IRS has verified the taxpayer’s liability and determined that the expenses of seizing the property do not exceed the property’s fair market value; the taxpayer’s equity in the property is sufficient to yield net proceeds to apply to the tax liability; and alternative collection methods were considered. Additionally, the act codified existing IRS procedures guaranteeing the availability of installment agreements to individuals for satisfying tax delinquencies of less than \$10,000 provided that a number of other requirements are met, such as payment of all taxes during the previous 5 years.
- Increased review of residence and business property seizures. The act established additional reviews of seizures for residences and businesses. Seizures of a principal residence were to be allowed only if the taxpayer’s delinquency exceeded \$5,000 and a U.S. district court judge or magistrate approved the seizure in writing. Seizures of certain business assets were to be allowed if an IRS district director or assistant district director approved the seizure in writing. In order to approve the seizure of business assets, the IRS official was required to determine that the taxpayer’s other assets

subject to collection were insufficient to pay the taxes due plus the expenses of the proceedings.

- Expanded rights to damages for unauthorized collection actions. The act allowed taxpayers and third parties to sue IRS if its employees negligently disregarded Internal Revenue Code provisions when collecting taxes due. Both taxpayers and third parties must exhaust their administrative remedies within IRS before suing for damages.
- Mandated disciplinary actions against IRS employees. The act required that the Commissioner terminate the employment of an IRS employee if there is a final administrative or judicial determination that the employee committed any 1 of 10 acts or omissions. These acts include the willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets or violations of the Internal Revenue Code, Treasury regulations, or IRS policies for the purpose of retaliating against or harassing a taxpayer, taxpayer representative, or other IRS employee.

Most provisions were effective on enactment, July 22, 1998. However, provisions for appeal rights and asset sales were delayed until February 1999 and July 2000, respectively. (The effect of the Restructuring Act changes on IRS' use of seizure authority is discussed in ch. 4.)

Objectives, Scope, and Methodology

As mentioned above, the objectives of this review were to

- determine whether IRS, in exercising seizure authority, (1) targeted the most noncompliant taxpayers, (2) brought affected taxpayers into compliance, and (3) exercised appropriate discretion in conducting seizures;
- assess IRS' pre-Restructuring Act processes, and any departures from those processes, for protecting taxpayer rights and interests in planning and conducting seizures; and
- determine if the changes being made to the seizure process pursuant to the Restructuring Act would address any weaknesses found in IRS' pre-Restructuring Act seizure process.

As part of our work, the Chairman asked that we review (1) the basis for the tax assessments that lead to seizures; (2) the timing of seizures, including when taxpayers were notified of impending seizures and provided with opportunities to resolve their tax debts; (3) whether key procedures were followed by IRS district offices; (4) how seized assets were protected, managed, returned to taxpayers, or sold; (5) the dollar amount recovered by IRS when seized assets were sold compared to the value of the assets and the taxpayers' tax liabilities; (6) when taxpayers

were notified of the sale of their assets and the amount credited to their accounts; (7) any problems associated with IRS' use of seizure authority; (8) whether some district offices used seizure authority more than others; and (9) whether there are any trends regarding the use of seizure authority against certain taxpayers.

To respond to the Committee's request, we reviewed the statutory and regulatory requirements governing IRS' use of seizure authority and interviewed IRS National Office and district office officials regarding the implementation of those requirements. We identified and reviewed relevant seizure statistics maintained by IRS. We also identified the databases within IRS that contained seizure-related information and ascertained the practicality of extracting data from those systems. Also, given the changing nature of seizure requirements initiated after the start of this assignment, we interviewed National Office and district office officials and reviewed procedural changes so that any conclusions drawn on case file information could also take those changes into consideration.

Given the limited availability of quantitative data on IRS' use of seizure authority and the absence of qualitative data, we determined that it was necessary to do extensive file reviews to develop the type of data necessary to respond to the Committee. We also determined that since the data should be national in scope, we would employ statistical sampling techniques, given the impracticability of reviewing the population of cases. The starting point for selecting seizure cases was IRS' Automated Workload Control System—an inventory of IRS seizure cases. We also made arrangements to augment the case information with data that were extractable from other IRS' automated files, including IRS' individual and business masterfiles.

Although we used data from IRS automated systems to identify seizure cases for analyses and to obtain data on the affected taxpayers, we did not make an assessment of the reliability of those information systems, except for certain aspects of the Automated Workload Control System. On that system, we tested the reliability of data related to the value and type of assets seized and seizure outcomes. The results of our analyses are reported in chapter 3, and recommendations for system improvements are in chapter 4.

As described in the following paragraphs, we selected six random samples and developed standardized data collection instruments that we could use to extract data in a consistent form. The first, our overall sample, was designed to provide the primary baseline data for responding to all

objectives in the Chairman's request, except for responding to the seizure targeting issue, which was addressed by our taxpayer characteristics sample. The remaining samples were selected to provide information to augment our overall sample and provide insights into (1) seizures that produced little proceeds, (2) problems that taxpayers were experiencing as indicated by complaints they raised to the Taxpayer Advocate or Collection Appeals, (3) IRS district office use of seizures and types of taxpayers affected, and (4) accountability over assets in IRS' possession.

Overall Sample

First, we selected a random sample from a population of about 8,300 taxpayers who had property seized by IRS in fiscal year 1997 because of unpaid taxes. About 9,700 seizures were associated with these 8,300 taxpayers. The population of taxpayers was identified by taxpayer identification number and type of taxpayer (e.g., individual or business) from IRS' automated workload control system. The random sample of seizure cases was chosen from fiscal year 1997 because it was the most recent year that the case file information would be available on the disposition of the assets seized and files would be available to us at the time we started our review of them in late 1998.

In designing the sample, we partitioned the population of taxpayers into groups, or strata. This was done to ensure that the final sample included both high-dollar and low-dollar seizures in terms of the value of the assets seized and the proceeds from the sale or other disposition of the assets. The dollar threshold separating the strata was \$2,000. We used this amount based on estimates made by IRS' Internal Audit that the average cost of making a seizure and disposing of the assets, taking into account staff time and expenses, was roughly about \$2,000. We also included strata to cover seizures that produced no proceeds. The data obtained from the sampled seizures was then weighted to reflect their appropriate representation in the population.

This first sample yielded sufficiently complete information on which to evaluate IRS' use of seizure authority to collect delinquent taxes from 115 taxpayers who had experienced 139 seizures. These were collection cases for which IRS had completed collection actions against the taxpayers or had suspended further collection action as of the time we were selecting case files for review in mid-1998.⁸

⁸To compensate for the selection of IRS collection files that might not be located, we oversampled, requesting files on 219 taxpayers. From this request, IRS was able to locate sufficiently complete files for us to analyze collections from 115 taxpayers.

To review this sample, we developed a standardized data collection instrument designed to (1) profile the taxpayers, (2) document the extent of IRS' preseizure collection efforts, and (3) document seizure results and IRS' compliance with key pre-Restructuring Act taxpayer protection requirements governing the various phases in a seizure case. These phases include planning, approving, and conducting seizures; managing and disposing of seized assets; and crediting proceeds to taxpayer accounts. In short, the data collection instrument was designed to gather primary baseline data for responding to all objectives in the Chairman's request (except for responding to the seizure targeting issue) and the nine specific issues raised by the Committee.

The sample was designed to produce statistically reliable estimates on the characteristics of taxpayers subject to seizure actions in fiscal year 1997 and IRS' compliance with taxpayer safeguard requirements in effect at the time of the seizure. Given that IRS was only able to locate about 53 percent of the files we requested, we compared the characteristics of the seizure cases not located, using data available from IRS' information systems, to the characteristics of the located cases. These characteristics included the total dollar amount received from the sale of the assets, the expense of the sales, the net proceeds from the sales, the minimum sales price IRS set for the assets, and the type of assets seized. We found no significant difference in characteristics between the cases that we located and those that we did not locate. We also selected five other samples to augment the information collected in our overall sample.

Low-Dollar Sample

The low-dollar sample was selected to ensure that we had sufficient representation and analyses of low-proceed seizures to respond to the Committee's specific interest in the dollar amount recovered by IRS when assets were sold. The primary purpose for selecting this sample was to learn more about why IRS engaged in seizure actions that either involved property valued at less than \$2,000 or resulted in proceeds amounting to less than \$2,000. We used \$2,000 as the criterion for a low-dollar case because, according to IRS Internal Audit estimates, that is the approximate cost (i.e., revenue officer time, indirect overhead, and processing costs) of seizing and selling taxpayer property.

To make our analyses, first, we collected additional data about such seizures whenever they appeared in our overall random sample. Second, we supplemented this sample by collecting information about the same kinds of seizures from randomly selected taxpayers whose total seized property during fiscal year 1997 was valued at less than \$2,000 or for whom any one seizure yielded less than \$2,000 in proceeds.

This low-dollar sample yielded information on 120 taxpayers and 139 low-dollar seizures. As with the overall sample, we developed a standardized data collection instrument designed to ensure consistent data collection and provide for computer analysis of the collected data.

Taxpayer Complaint Samples

We randomly selected 83 case files from IRS' Office of the Taxpayer Advocate and 74 case files from IRS' Collection Appeals Program. These cases were selected from a population of 982 cases closed by the Taxpayer Advocate in fiscal year 1997 that carried a designator as a seizure-related case and from the entire population of 361 cases closed by Collection Appeals in fiscal year 1997. We selected these cases to obtain an understanding of the types of problems taxpayers were experiencing in fiscal year 1997 and the type of resolution they were getting to their complaints in order to more fully respond to the Committee's specific interests in the identification of any problems associated with IRS' use of seizure authority. As with the overall sample, we applied a standardized data collection instrument designed to ensure consistent data collection and computer analysis of the collected data.

Assets-on-Hand Sample

We randomly selected a total of 16 cases from 4 district offices (Atlanta, Chicago, St. Louis, and Oakland) from a population of 76 seizure cases in which these district offices had assets-on-hand—that is, assets were still in the district's possession. The primary purpose of this sample was to test-check the accuracy of information in IRS' Automated Control System on its seized asset inventory. As this involved examining the seized assets, which could be stored hundreds of miles from the district office visited, we established a maximum travel range of about 100 miles from our work location in making our random selections. Also, as with the overall sample, we developed a standardized data collection instrument designed to ensure consistent data collection and computer analysis of the collected data.

Taxpayer Characteristic Sample

From IRS' database on taxpayers who were in field collections at the end of fiscal year 1997, we selected a random sample of taxpayers whose assets had not been seized by IRS during fiscal year 1997 for comparison with taxpayers whose assets were seized during the year. We also used IRS databases to obtain information about these taxpayers' delinquencies, such as the number and total amount owed; about other taxpayer characteristics, such as income source and filing status; and the district office where the seizure took place. We selected this sample principally to provide the basis for meeting the objective of determining whether IRS, in exercising seizure authority, targeted the most noncompliant taxpayers and to respond to the Committee's specific interests in whether some

district offices use seizure authority more than others and the types of taxpayers affected. We did not determine the causes for any variations identified by this analysis as such work was outside the scope of the assignment.

To determine the likelihood that taxpayers would have property seized, we used logistic regression analysis. This statistical method measures the separate effect of each of the taxpayer's characteristics (e.g., noncompliance or district office location) on the likelihood of seizure while controlling for the effects of the other characteristics that we included in the analysis. We did not determine the causes for variations identified in this part of our analysis as such work was outside the scope of this assignment.

In summary, the logistic regression analyses enabled us to determine the extent to which the odds of seizure varied across taxpayers with different characteristics. A more detailed explanation of these analyses is described in appendix I.

Sampling Error

For our overall sample, low-dollar sample, and taxpayer complaint samples, we followed procedures to express our confidence in the precision of the results at a 95-percent confidence interval separately computed for each estimate. The sampling errors account for the stratified nature of sample design. For the sample results cited in the text, the sampling errors are reported as footnotes. For sample results cited in report tables, see appendix II.

For the taxpayer characteristic sample, we tested whether the characteristics had a statistically significant effect on the likelihood of seizure. In order to perform this test, we computed the 95-percent confidence interval for our estimate of the odds of seizure associated with each characteristic. Appendix I reports on the results of the test.

Work Locations

Our work was done principally in IRS district offices located in Atlanta, GA; Chicago, IL; St. Louis, MO; Oakland, CA; and the IRS National Office in Washington, D.C.

We performed our work between January 1998 and August 1999 in accordance with generally accepted government auditing standards.

Agency Comments

We obtained written comments from IRS on a draft of this report. We have summarized those comments at the end of chapter 4 and reprinted the written comments, in entirety, in appendix III.

Many Seizures Increased Compliance, But Use Varied by Location, and Some Were Questionable

In fiscal year 1997, IRS revenue officers seized the assets of about 8,300 taxpayers who owed the federal government an estimated \$1.1 billion¹ in unpaid taxes. The seizures resolved an estimated \$235 million² (about 22 percent³) of the taxpayers' tax debts. These affected taxpayers represented a small fraction of the taxpayers with unpaid tax debts. As of the end of fiscal year 1997, IRS revenue officers were working to collect about \$12.7 billion in unpaid taxes from about 463,000 delinquent taxpayers.

Our analyses of the characteristics of the taxpayers whose assets were seized by IRS revenue officers and those whose assets were not seized and the end results of the seizure actions showed that, in general, IRS' discretionary use of seizure authority

- targeted, on average, the more noncompliant taxpayers;
- was more likely to be used by some district offices than others;
- was instrumental in bringing into compliance (i.e., full-pay status) many delinquent taxpayers who had been unresponsive to other tax collection efforts; and
- produced little revenue to the government and contributed little to the resolution of the tax delinquencies for an estimated 22 percent⁴ of affected taxpayers.

Also, in reviewing 115 sampled seizure cases, we identified examples where IRS' use of discretionary authority was questionable. The questionable actions included seizure of taxpayer property disproportionate to the tax debt, unwillingness to work with the taxpayer, superficial investigation work, little advance warning provided to the taxpayer, and a non-arms-length sale of assets.

In summary, IRS' discretionary use of seizure authority was instrumental in ensuring tax compliance, but controls were not sufficient to prevent some questionable seizures. At the time our review concluded, IRS' discretionary use of seizure authority was in a period of transition as IRS adapted to Restructuring Act requirements for providing greater taxpayer protections. IRS officials expected the use of seizure authority to rebound from a 98-percent decline as changes to the program are implemented and revenue officers adapt to the new requirements.

¹95-percent confidence interval: \$800 million to \$1.4 billion.

²95-percent confidence interval: \$145 million to \$325 million.

³95-percent confidence interval: 12 to 32 percent.

⁴95-percent confidence interval: 13 to 32 percent.

Extent of Noncompliance and Location Were Determinants of Seizure Likelihood

Our analysis of the characteristics of taxpayers who had undergone collection actions as of the end of fiscal year 1997 showed that the extent of noncompliance and location were determinants of the likelihood of seizure. After controlling for other factors that might affect seizure likelihood, our statistical analysis showed that both delinquent individuals and businesses were more likely to have assets seized if they were more noncompliant than others as indicated by the number of tax delinquencies and the amount of unpaid taxes. Our analysis also showed that the likelihood of seizure varied by location, with individuals as much as 17 times more likely and businesses as much as 14 times more likely, to have property seized in some IRS districts than in others.

For Individuals, the Amount of Unpaid Taxes, Repeated Noncompliance, and Location Were Determinants of Seizure Likelihood

A comparison of delinquent individual taxpayers with and without seized assets shows that taxpayers with seized assets tended, on average, to be more noncompliant. As table 2.1 shows, taxpayers with seized assets had larger unpaid tax liabilities, larger amounts of penalties and interest, and a greater number of delinquencies. The table also shows that, while their delinquencies were not as old as those of taxpayers whose assets were not seized, taxpayers with seized assets spent more time in field collections. On average, delinquencies involving seizures spent 38 percent of the time since the original assessment in field collections, while the delinquencies not involving seizures spent 22 percent of the time in field collections.

Table 2.1: Delinquency Characteristics of Individual Taxpayers With and Without Seized Assets

Tax delinquency characteristic	Mean amount	
	Taxpayers with seized assets	Taxpayers without seized assets
Assessed taxes uncollected	\$67,547	\$25,961
Assessed penalties and interest uncollected ^a	\$81,087	\$30,359
Accrued penalties and interest uncollected ^b	\$56,942	\$23,848
Number of delinquencies	4.6	3.5
Days since original assessment	1,031	1,102
Days in field collections	396	246

^aPenalties and interest that have been assessed to the delinquent taxpayer's account.

^bPenalties and interest that have accrued but have not been assessed to the delinquent taxpayer's account.

Source: GAO analysis of IRS data.

In addition to this comparison, we analyzed seizures using a statistical technique that allowed us to measure the effect of a characteristic, such as the number of delinquencies, on the likelihood of seizure while controlling for the effects of other characteristics. Using this technique, we estimated the odds of seizure for taxpayers of a particular category relative to taxpayers of other categories, and we estimated how the odds change

when a particular characteristic changes. Tables I.1 and I.2 in appendix I contain detailed descriptions of the analysis and results.

Holding other characteristics constant, our analysis showed that individual taxpayers with larger unpaid tax delinquencies and with a greater number of delinquencies were more likely to have assets seized by IRS. We estimated that each additional delinquency increased the odds of seizure by 13 percent, and each additional \$10,000 of unpaid taxes increased the odds by 1 percent. After controlling for the amount of tax owed and the age of the delinquency, our analysis showed that the amount of penalties and interest owed by taxpayers had no separate effect on the likelihood of seizure.

The age of the tax delinquency affected the odds of seizure in two ways. On the one hand, delinquencies that ultimately involved seizures were moved more quickly into field collections. These delinquencies were “younger”—had less time elapse since the original assessment—than those of taxpayers without seized assets. Our analysis showed that each month that elapsed since original assessment decreased the odds of seizure by 2 percent. On the other hand, once these delinquencies were in field collections, they took longer to resolve. The delinquencies of taxpayers with seized assets spent more time in field collections than those of taxpayers without seized assets. Our analysis showed that each month that the delinquencies spent in field collections increased the odds of seizure by 4 percent.

Our analysis showed considerable variation across IRS districts in the likelihood that taxpayers would have assets seized. We estimated that taxpayers in the Boston district had the greatest likelihood of seizure. They were twice as likely to have property seized as taxpayers in St. Paul, and 17 times as likely as taxpayers in San Jose. Although Boston had the largest estimated odds of seizure, the odds of some other districts were not statistically different from Boston. These districts, which together with Boston formed the group of districts with the greatest likelihood of seizure, were Cincinnati, Indianapolis, Austin, and Oklahoma City. Because our analysis controls for other delinquency and taxpayer characteristics, it shows that taxpayers in these districts had a greater chance of having property seized than taxpayers with the same characteristics (the same number of delinquencies, the same amount of unpaid taxes, etc.) but who resided in other IRS districts.

Taxpayers who received their income from wages were less likely to have property seized than those with income from other sources. We estimated

that self-employed taxpayers were twice as likely as wage earners to have property seized, as were those with income classified as “other”—largely income from rents, royalties, partnerships, and other businesses. Those with income from dividends, interest, and capital gains were 50 percent more likely than wage earners to have assets seized. Wages differ from the other sources of income because, in many cases, they represent a more easily identifiable stream of income, which could be a candidate for levy rather than seizure. According to IRS officials, it is expected that the self-employed have the greater likelihood of seizure because alternatives to seizure, such as levies of wages, are frequently not available when dealing with the self-employed.

We also estimated how the odds of seizure were affected by other characteristics of taxpayers, such as their total income and filing status. Appendix I contains detailed descriptions of these estimates.

For Businesses, the Amount of Unpaid Taxes, Repeated Noncompliance, and Location Were Determinants of Seizure Likelihood

A comparison of delinquent business taxpayers with and without seized assets shows a pattern of greater noncompliance for taxpayers whose assets were seized that is similar to that of the individual taxpayers. As table 2.2 shows, business taxpayers with seized assets had, on average, larger unpaid tax liabilities, larger amounts of penalties and interest, and a greater number of delinquencies. They also had delinquencies that were not as old as those of taxpayers whose assets were not seized, and business taxpayers with seized assets spent more time in field collections. On average, delinquencies involving seizures spent 55 percent of the time since the original assessment in field collections, while the delinquencies not involving seizures spent 31 percent of the time in field collections.

Table 2.2: Delinquency Characteristics of Business Taxpayers With and Without Seized Assets

Tax delinquency characteristic	Mean amount	
	Taxpayers with seized assets	Taxpayers without seized assets
Assessed taxes uncollected	\$46,116	\$29,651
Assessed penalties and interest uncollected ^a	\$23,714	\$15,495
Accrued penalties and interest uncollected ^b	\$18,211	\$14,207
Number of delinquencies	8.3	6.5
Days since original assessment	546	881
Days in field collections	298	277

^aPenalties and interest that have been assessed to the delinquent taxpayer’s account.

^bPenalties and interest that have accrued but have not been assessed to the delinquent taxpayer’s account.

Source: GAO analysis of IRS data.

In addition to this comparison, we also analyzed business seizures using the same statistical technique that controls for the effects of other

Chapter 2**Many Seizures Increased Compliance, But Use Varied by Location, and Some Were Questionable**

characteristics on the likelihood of seizure as we used for individual taxpayers. Our analysis showed that, like the individual taxpayers, business taxpayers with larger unpaid tax delinquencies and with a greater number of delinquencies were more likely to have assets seized by IRS. We estimated that each additional \$10,000 of unpaid taxes increased the odds by 1 percent, and each additional delinquency increased the odds of seizure by 4 percent. Our analysis also showed that the amount of penalties and interest owed by taxpayers had no separate effect on the probability of seizure.

The age of the tax delinquency also affected the probability of seizure. In a pattern very similar to individual taxpayers, each month that the delinquency spent in field collections increased the odds of seizure by 4 percent, while each month that elapsed since the original assessment decreased the odds by 3 percent. Like the delinquencies of individuals, the delinquencies of business taxpayers with seized property had less time elapse since original assessment, but spent more time in field collections. The delinquencies that ultimately involve seizures were moved more quickly into field collections, but once there, took longer to resolve.

Our analysis shows considerable variation across IRS districts in the probability of seizure. For business taxpayers, Newark was the district with the greatest likelihood of seizure. We estimated that, controlling for other factors that affect the likelihood of seizure, taxpayers in Newark were 14 times more likely to have property seized than taxpayers in Fort Lauderdale, the district which had the smallest probability of seizure. Newark's greater likelihood of seizure may be due to a program it adopted during 1997 in which seizures were used in an attempt to increase collections of employment tax delinquencies from business taxpayers.

Finally, our analysis showed that the type of business had no effect on the probability of seizure. Corporations, partnerships, and other business types had no greater chance of having assets seized than sole proprietors.

Many Seizures Produced Taxpayer Compliance and Millions of Dollars

Many of the seizures IRS made in fiscal year 1997 brought delinquent taxpayers into tax compliance (i.e., full-pay status) or collected relatively large amounts of delinquent taxes. In general, we estimate that the seizures resulted in resolving about \$235 million⁵ or about 22 percent⁶ of the tax liabilities of those taxpayers whose assets IRS seized. Moreover, an estimated 42 percent⁷ of those taxpayers essentially became fully tax compliant.

Most compliance occurred in cases where following the seizures, the taxpayers produced funds to fully pay their total tax liabilities and thus had their property returned. Given the taxpayers' histories of not paying taxes before the seizures and given IRS' attempts to collect the unpaid taxes before the use of seizure authority, the tax delinquencies would likely not have been significantly resolved without the seizure actions. In addition, some of the compliance achieved was through the seizure of rather low-value assets that, by themselves, would not have resolved the taxpayer's tax debt.

Most Compliance Achieved Through Payments From Delinquent Taxpayers

As shown in table 2.3, we estimate that fiscal year 1997 seizures essentially resolved the full tax delinquencies of about 42 percent⁸ of the taxpayers whose assets IRS seized. Most of this compliance (an estimated 85 percent⁹) was attributable to taxpayers who, following the seizures, produced funds to fully pay their total tax liabilities and thus had their property returned.¹⁰ A much smaller portion (an estimated 6 percent¹¹) resulted from IRS' sale of the assets seized.

Also as indicated by table 2.3, the fiscal year 1997 seizures resolved more than an inconsequential portion of the tax delinquencies of an additional 26 percent of taxpayers¹² whose assets were seized. But for 32 percent of

⁵95-percent confidence interval: \$145 million to \$325 million.

⁶95-percent confidence interval: 12 to 32 percent.

⁷95-percent confidence interval: 32 to 51 percent.

⁸95-percent confidence interval: 32 to 51 percent.

⁹95-percent confidence interval: 75 to 95 percent.

¹⁰Additionally, IRS may release the property back to taxpayers when it cannot find a buyer for the property; when it determines that it is in the government's interest to return the property, such as if it may increase the likelihood of future payment; or when the taxpayer files for bankruptcy, and the assets become part of the bankruptcy settlement.

¹¹95-percent confidence interval: 1 to 17 percent.

¹²95-percent confidence interval: 18 to 34 percent.

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Many Seizures Increased Compliance, But Use Varied by Location, and Some Were Questionable

taxpayers,¹³ the seizures resolved a very small portion of their tax delinquencies.

Table 2.3: Percentage of Delinquencies Resolved Through Seizures

Seizure result	Percentage of taxpayers' debt resolved				Total
	Less than 5%	5 to 49%	50 to 94%	95% or more	
Taxpayers paid, and IRS returned the assets	4%	9%	0	36%	49%
Taxpayers did not pay, and IRS sold the assets	9	13	2%	3	26
Taxpayers did not pay but IRS could not sell the assets and returned them	7	0	0	0	7
Other ^a	12	1	1	4	17
Total	32	23	3	42	100

Note 1: Confidence intervals for the estimates in this table are found in table II.1 of app. II. Some of these confidence intervals may be large.

Note 2: Percentages may not add due to rounding.

^aThis covers taxpayers who could be categorized under more than one category because they had multiple assets seized or experienced multiple seizures and not all assets had the same disposition or payment status.

Source: GAO analysis of IRS case files.

Without Seizures, This Level of Compliance Would Likely Not Have Occurred

In general, the delinquent taxpayers whose assets were seized voluntarily paid very little on their tax liabilities before the seizure, and IRS had generally been unsuccessful in using its authority to levy wages or bank accounts to enforce their compliance, as shown in table 2.4. We estimate that about 15 percent¹⁴ of the dollar value of the taxpayers' delinquencies was resolved before seizure. Additionally we estimate that 24 percent¹⁵ of taxpayers resolved none of their delinquencies before seizure.

These collection results, taken together with the number of collection contacts, levies of taxpayer wages and bank accounts, and the amount of time that had elapsed (see table 2.4), indicate that if the seizure had not taken place, the tax delinquencies would likely not have been significantly resolved. For example, our review of collection case files showed the following:

- A taxpayer owed about \$81,000 in employment taxes, dating back over a 2-year period. The revenue officer seized the business assets, estimated to be worth about \$18,000, after making four unsuccessful collection attempts

¹³95-percent confidence interval: 23 to 40 percent.

¹⁴95-percent confidence interval: 9 to 21 percent.

¹⁵95-percent confidence interval: 16 to 32 percent.

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over a 7-month period. Within 2 hours of the seizure, the taxpayer fully paid the tax liability, and IRS released the assets back to the taxpayer.

- A taxpayer was a chronic delinquent, owing about \$24,000 in employment taxes from 1993 through 1996. Over a 12-month period, the revenue officer contacted the taxpayer 20 times and levied the taxpayer’s bank account. These collection efforts garnered about \$500. After seizing about \$2,000 of the taxpayer’s business property, however, the taxpayer fully paid the tax liability, making full payment on the same day as the seizure.
- A taxpayer was a chronic delinquent, owing about \$16,000 in employment taxes, some dating back to 1992. After repeated unsuccessful collection attempts over a 15-month period, the revenue officer seized a vehicle from the taxpayer in January 1997. The taxpayer subsequently fully paid the tax liability, and IRS returned the vehicle to the taxpayer.
- A taxpayer had self-reported a net worth of about \$850,000, wages of about \$140,000, and unpaid tax of about \$75,000 overdue about 2 years. After repeated—but unsuccessful—collection attempts over about a 1-year period to have the taxpayer fully pay the liability, the revenue officer seized one of the taxpayer’s vehicles (estimated value of about \$4,000). The taxpayer then fully paid his taxes, and IRS returned his automobile.

Table 2.4: Delinquency Amounts, Days in Collection, and Revenue Officer Collection Results

Seizure result	Percent of taxpayers	Average tax delinquency Amount	Days from first collection notice	Revenue officer collection results				
				Average number before seizure of		Percent of tax liability resolved		
				Collection contacts	Days in collection	Levies on wages, bank accounts	Preseizure	Through seizure
Taxpayers paid, and IRS returned the assets	49%	\$63,424	1,180	8	423	3	18%	60%
Taxpayers did not pay, and IRS sold the assets	26	214,775	1302	7	347	4	17	15
Taxpayers did not pay, but IRS could not sell the assets and returned them	7	259,201	1,091	8	328	3	10	0
Other ^a	17	113,399	1,033	10	403	6	9	5
Total	100	\$126,354	1,181	8	392	4	15	22

Note 1: Confidence intervals for the estimates in this table are found in table II.2 of app. II. Some of these confidence intervals may be quite large.

Note 2: Percentage of taxpayers does not add due to rounding.

^aThis covers taxpayers who could be categorized under more than one category because they had multiple assets seized or experienced multiple seizures and not all assets had the same disposition or payment status.

Source: GAO analysis of IRS case files.

Some Small Seizures Produced Large Results

In some instances, considerable compliance was also achieved when IRS seized delinquent taxpayer property worth relatively small amounts. About 30 percent¹⁶ of seizures involved property valued at \$2,000¹⁷ or less. About 57 percent¹⁸ of the taxpayers who had such property seized fully paid their tax liability. Specifically, an estimated 41 percent¹⁹ resolved liabilities that exceeded \$2,000, and another 16 percent²⁰ resolved smaller tax debts. We also estimate that the median liability resolved by these successful small seizures was about \$11,000.²¹ As with the larger seizures, these results, taken together with the number of collection contacts and the amount of time that had elapsed, indicate that if the seizure had not taken place, the tax delinquencies would likely not have been significantly resolved. For example:

- A taxpayer with employment tax delinquencies over \$80,000 had been contacted numerous times but had paid less than \$6,000 of the delinquencies. However, following the seizure of business vehicles whose combined value was estimated to be about \$600, the taxpayer made full payment.
- A taxpayer had about \$9,000 in employment tax delinquencies and was not paying current amounts. Despite numerous contacts, the taxpayer had made payments of only about \$60 before seizure. However, following the seizure of the contents of a cash register (about \$400), the taxpayer fully paid the outstanding delinquencies.

Seizures for About One in Five Taxpayers Achieved Little Compliance

IRS revenue officers made a number of seizures of taxpayer property that produced little or nothing in terms of receipts to the federal government or little in terms of helping to resolve the taxpayers' tax debts, and those taxpayers were subsequently judged by IRS to have insufficient remaining resources to make additional payments on their delinquencies.

¹⁶95-percent confidence interval: 22 to 38 percent.

¹⁷IRS Internal Audit estimated the general costs of a seizure that proceeds to sale to be about \$2,000; thus, we used this amount to identify low-value seizures.

¹⁸95-percent confidence interval: 40 to 74 percent.

¹⁹95-percent confidence interval: 30 to 53 percent.

²⁰95-percent confidence interval: 7 to 25 percent.

²¹95-percent confidence interval: \$7,000 to \$19,000.

We estimate that the seizure of property from about 22 percent²² of the taxpayers met all of the following characteristics:

- The seizures produced less than \$2,000 in total proceeds (i.e., less than the general IRS estimate²³ of the costs of a seizure);
- The seizures produced little in terms of tax debt resolved (i.e., less than 5 percent); and
- The taxpayer’s delinquent account was classified as “currently-not-collectible” after the seizure.

The decisions to proceed with these seizures involved revenue officer judgments based on information available to them at the time. As will be discussed further in chapter 3, the quality of information from delinquent taxpayers was often suspect. Also, we estimate that in about three-quarters²⁴ of these cases, the revenue officers could have expected higher proceeds (i.e. proceeds greater than \$2,000) based on their estimates of the value of the assets. However, as will also be discussed in chapter 3, IRS’ process for estimating asset value had weaknesses. The following examples describe seizures that produced little compliance.

Low Proceeds From Sale of Assets

- To collect on a tax delinquency of about \$32,000, IRS seized a taxpayer’s van and assorted tools worth an estimated \$1,500. IRS sold the property for about \$900 less expenses of about \$700 (out-of-pocket expenses for advertising, towing, and storage) for a net to the taxpayer’s account of about \$200. Given the taxpayer’s financial condition, the revenue officer suspended collection action by closing the case as currently not collectible.
- To collect on a tax delinquency of about \$15,000, IRS seized artwork having an estimated value of \$1,200, sold it for about \$170, and after expenses (out-of-pocket expenses for advertising and storage), netted about \$100 for the taxpayer’s account. Given the taxpayer’s financial condition, the revenue officer suspended collection action by closing the case as currently not collectible.
- To collect on a tax delinquency of about \$94,000, a revenue officer seized taxpayer property that the revenue officer estimated to be worth about

²²95-percent confidence interval: 13 to 32 percent.

²³This IRS Internal Audit estimate was not based on a detailed cost analysis but, rather, a general estimate of what was believed to be the time spent on an average seizure. IRS does not maintain data on total seizure-related costs. Although IRS maintains data on out-of-pocket costs, such as asset moving or storage costs paid to third-party vendors, IRS does not maintain data on internal costs associated with the seizure and sale of assets, such as staff time and travel.

²⁴95-percent confidence interval: 62 to 93 percent.

\$25,000. However, no prospective purchasers bid on the property at an IRS auction. IRS returned the assets to the taxpayer and charged his account an additional \$330 for the out-of-pocket expenses related to the attempted sale. Given the taxpayer's financial condition, the revenue officer then designated the case as currently not collectible.

Unmarketable Assets

- A defunct business owed over \$800,000 in taxes dating back to 1989 but retained title to a 30-acre parcel of land. The revenue officer seized the property, but subsequently returned it because the land was contaminated with hazardous material and IRS was unable to sell it.
- A business taxpayer owed about \$82,000 dating back to 1989. The revenue officer made four seizures, each involving a separate parcel of land. A sale was held, but no bidders came. Then IRS found underground fuel tanks on the properties and, because of lack of sales potential, returned the assets to the business.

Examples of Questionable Seizures

In reviewing 115 sample seizure cases, we identified examples where IRS revenue officers' use of discretion in deciding whether and how to conduct a seizure or sale was questionable. We recognize that some revenue officer discretion is necessary and that the adversarial nature of seizure cases can limit the information available to revenue officers when making seizure decisions. Nevertheless, the examples we identified seemed clear cut because they involved disproportionate seizures, unwillingness to work with the taxpayer, superficial investigation work, little advance warning provided to taxpayer, seizure of everything owned by the taxpayer, sale of assets with uncertain value, and a non-arms-length sale of assets. Given the unique characteristics of seizure cases and the subjective nature of determining what constitutes a "questionable" seizure, we did not attempt to estimate the number of questionable actions in the entire population of seizures. The following are examples of the questionable uses of discretionary seizure authority that we found.

Disproportionate Seizure

- A taxpayer owed about \$9,000 in unpaid taxes. The revenue officer seized taxpayer property valued at about \$90,000 and then subsequently seized another piece of the taxpayer's property valued at about \$38,000.²⁵ The revenue officer justified the seizures on the basis that the IRS forced sale would produce about what was owed. The taxpayer fully paid the liability, and IRS returned the property.

²⁵Values cited are the taxpayer's ownership rights to the property (i.e., equity in the property) as determined by IRS.

Unwillingness to Work
With Taxpayer

- A taxpayer approached IRS and explained the company bookkeeper was just caught embezzling the federal tax deposits. The taxpayer wanted to resolve the problem before IRS' enforcement officers discovered the nonpayment. The taxpayer offered to make payments through an installment agreement. However, the revenue officer, after verifying the facts with law enforcement, refused to consider an installment agreement as the business was ongoing and had assets. The revenue officer seized the business. The taxpayer then raised a significant portion of the delinquency and agreed to a very short-term installment agreement with IRS in order to get the assets back. By the time the case was resolved, the taxpayer, who started out trying to comply, became recognized within IRS as a tax protestor.

Superficial Investigatory Work

- A revenue officer refused to consider an offer-in-compromise made by a low-income, physically and mentally disabled couple who owed employment taxes amounting to about \$24,000. The couple earned less than \$15,000 a year from a marginal business, disability payments, and Supplemental Security Income payments for their children; had been paying all federal taxes on time for a number of years; and were trying to find a way to pay the past-due taxes. The revenue officer refused to consider their request for IRS to settle for less than the total due. The revenue officer believed that the value of the taxpayers' assets exceeded the amount of their liability, and therefore, he seized the taxpayers' business assets. After many taxpayer complaints, a more senior IRS manager reviewed the seizure. He found that the revenue officer "does not appear to have done even the minimal investigation . . ." to determine asset values or the maximum amount the taxpayers could offer. The delinquency, then, was settled for about one-third of the total (an amount equal to the taxes owed, excluding penalties and interest).

Little Advance Warning

- A taxpayer's business license was seized within 21 days of a request made to a taxpayer's associate for the taxpayer to contact the revenue officer regarding a tax delinquency of about \$1,000. No response was received, and no further attempted contacts or warnings were made by the revenue officer.

Seized Everything

- A taxpayer, who had lost everything in a business venture, was unemployed and lived with his mother. The revenue officer found that a relative had given the unemployed taxpayer an automobile, with an estimated value of \$4,000. IRS seized the car (realizing about \$3,900 on a tax delinquency of about \$41,000) and suspended collection until the taxpayer's income reached \$12,000.

Uncertain Asset Value

- IRS seized gemstones with an estimated value of roughly \$23,000 according to a limited review (not an appraisal) by a coin and jewelry shop owner approached by the seizing revenue officer. The gemstones were advertised as unvalued colored stones (pink, green, amber, etc.). IRS offered to make the stones available for inspection 1 hour before the scheduled sale but would not make the stones available for appraisal purposes. IRS sold the stones for the minimum price IRS would accept—\$800—as set by the revenue officer, not by an appraisal. The stones were sold at a public auction conducted by the revenue officer.

Non-Arms-Length Sale

- IRS seized a taxpayer's automobile to satisfy a tax debt of about \$95,000. The value of the automobile was originally estimated at the blue book value (\$16,000). After talking to the towing and storage company, the revenue officer set the minimum amount that IRS would accept for the car at \$4,000 to guarantee a sale. The car was subsequently purchased for \$4,000 by the towing and storage company at an auction held by the revenue officer and attended by the towing company and one other bidder. After expenses were paid (almost all to the towing and storage company), about \$2,600 was applied to the taxpayer's account.

Sharp Decline in IRS' Use of Seizure Authority

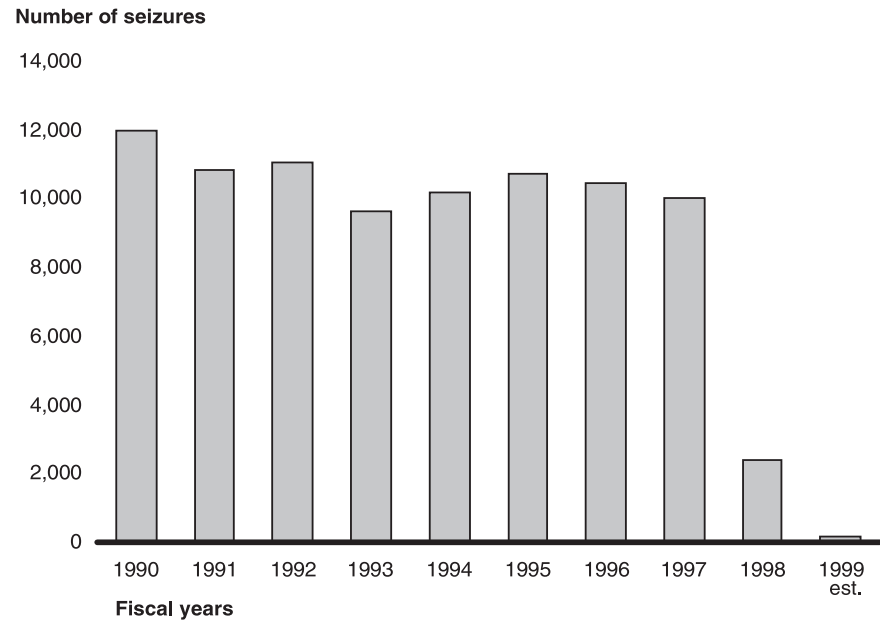
IRS' seizure program is in a period of transition while it adapts to Restructuring Act requirements for providing greater taxpayer protections. During this transition period, the number of seizures has declined by about 98 percent, from roughly 10,000 seizures per year to an estimated 200 for fiscal year 1999. Figure 2.1 shows the 10-year trend in IRS' discretionary use of seizure authority. The decline began after congressional hearings were held on collection practices in September 1997.

Revenue officers in the four district offices that we visited told us that seizures have nearly stopped because of their uncertainty regarding the Restructuring Act's new, and what they viewed as complex, rules with potentially severe penalties for not following those rules. In particular, they voiced concerns over section 1203 of the act, which provides for mandatory termination of employment for certain acts, omissions, or misconduct. The revenue officers were concerned that unintentional errors in implementing the act's provisions related to seizures could possibly lead to disciplinary actions, including termination of employment.

The revenue officers also said that IRS management was slow in developing workable policies and procedures related to the implementation of the new law and seizure conduct. They also said they were unsure how enforcement activity would be integrated into IRS' newly restated mission. The restated mission says "Provide America's taxpayers

top quality service by helping them understand their tax responsibilities and by applying tax law with integrity and fairness to all.”

Figure 2.1: Trends in IRS’ Use of Seizure Authority



Note: 1999 is an annualized estimate based on seizures done in the first half of the year.

Source: GAO review of IRS data.

National Office Collection officials indicated to us that they expected the number of seizures to rebound as changes to the program are implemented and revenue officers adapt to the new requirements. However, they indicated that the anticipated level would be less than the previous level of about 10,000 seizures per year. Anticipating a rebound seems consistent with our analyses of 1997 seizures. We estimate that about 3,000 taxpayers²⁶ (an estimated 36 percent²⁷ of the 8,300 taxpayers whose assets were seized by IRS) waited until after a seizure to pay their tax liability in full despite numerous collection contacts by revenue officers over extended periods of time.

²⁶95-percent confidence interval: 2,273 to 3,737.

²⁷95-percent confidence interval: 27 to 45 percent.

As discussed earlier in this chapter, we estimate that the fiscal year 1997 seizures resolved about \$235 million²⁸ (about 22 percent²⁹) of the affected taxpayers' \$1.1 billion³⁰ of outstanding tax debt. Because IRS generally has up to 10 years to collect delinquent taxes and because some seizures did not bring in significant revenue, it is unclear what the transition to a new seizure program means in terms of tax collections.

Conclusions

In general, IRS' use of seizure authority was instrumental in getting many delinquent taxpayers to become tax compliant or in resolving a significant part of their tax debts. Nonetheless, some seizures produced little; however, given the quality of information available to IRS, it is not clear whether these seizures could have been avoided. In addition, IRS' processes for controlling the use of discretionary seizure authority were not sufficient to prevent some questionable seizures. Our detailed analyses of these processes is presented in chapter 3; and our recommendations for improvement, recognizing the changes being made by IRS in light of Restructuring Act requirements and the expected rebound in the use of seizure authority, are discussed in chapter 4.

²⁸95-percent confidence interval: \$145 to \$325 million.

²⁹95-percent confidence interval: 12 to 32 percent.

³⁰95-percent confidence interval: \$800 million to \$1.4 billion.

Weaknesses in IRS' Pre-Restructuring Act Seizure Processes for Protecting Taxpayer Rights and Interests

During fiscal year 1997, the period of our review, IRS had processes in place for protecting taxpayer rights and interests when planning and conducting seizures of taxpayer property. In part, these processes were intended to ensure that IRS

- made delinquent taxpayers aware of their responsibilities and the consequences of not taking action to voluntarily resolve their tax debts,
- evaluated the necessity and appropriateness of seizing delinquent taxpayers' property before engaging in such an action,
- conducted the seizures appropriately,
- established controls over assets seized to protect against loss,
- sold the seized property for an amount that was in the government's and delinquent taxpayers' interest, and
- had information to monitor the use of seizure authority.

We identified implementation breakdowns in each of these processes, and in some instances, we identified inadequate process requirements. For example, the procedures established for asset sales provided little assurance that IRS asset sales obtained the highest financial return for either the delinquent taxpayer or the government for a number of reasons, including sales being conducted with little competitive bidding. Because of the severe impact that asset seizures can have on taxpayers, we viewed any breakdown in the process for protecting taxpayer rights and interests as a weakness.

Most, But Not All, Affected Taxpayers Were Provided the Required Opportunities to Resolve Tax Debts Before Seizure

Our review of revenue officer files for 115 taxpayers and IRS masterfile records on their tax delinquencies,¹ showed that most affected taxpayers were provided with the required opportunities to resolve their tax debts voluntarily. In doing this review, we assessed IRS' adherence to certain basic taxpayer protection requirements, including whether or not IRS

- automated systems sent taxpayers written notification about the amount of their tax delinquencies and their rights and responsibilities in dealing with IRS to resolve the delinquencies, as required by statute;²
- automated systems or revenue officers sent the delinquent taxpayers written notices explaining the consequences of their continued

¹We reviewed masterfile records on 647 of 649 delinquencies owed by the 115 taxpayers. The two delinquencies not reviewed had been archived by IRS, were not readily available for analysis, and were unlikely to materially affect the results of our review.

²For example, the taxpayer could (1) seek payment alternatives with the revenue officer; (2) contact the IRS Taxpayer Advocate to address unresolved tax problems, such as hardship; or (3) ask IRS' Collection Appeals Program to review issues concerning the amount of tax liability or certain collection actions.

nonpayment of taxes owed, including the potential seizure of their property, and their rights during the collection process, as required by statute;

- revenue officers personally visited the delinquent taxpayers or attempted to personally contact them to collect the taxes due, as required by IRS procedures;
- revenue officers personally warned the delinquent taxpayers of the impending seizure of their property if arrangements were not made to resolve their delinquencies, as required by IRS procedures; and
- revenue officers waited at least 30 days after notifying taxpayers in writing about the potential for seizure action before initiating the seizure of taxpayer property, as required by statute.

Frequent Notifications

We found that most taxpayers were notified, both in writing and verbally, about their delinquencies and had numerous opportunities to resolve tax debts before seizure. We estimate that IRS had sent delinquent taxpayers an average of 15 written notifications during an average period of just over 3 years.³ We also found that taxpayers had personal contact (i.e., personal visits or phone calls) with revenue officers an average of 5 times and other contacts (i.e., faxes or letters) an average of 3 times. These contacts occurred over an average period of about 1 year before the taxpayer's assets were seized.⁴

Missing Notifications

Nonetheless, as shown in table 3.1, in a number of instances, IRS did not follow basic notification requirements or the revenue officer files did not document adherence to the basic taxpayer protection requirements. Lack of documentation risks leaving managers unable to properly review the revenue officer's actions and risks fostering an environment in which taxpayer protections are not fully considered during the seizure decisionmaking process.

³95-percent confidence interval: an average of 12 to an average of 17 written notifications during an average period of 2.7 to 3.8 years.

⁴95-percent confidence interval: an average of 4 to an average of 6 personal contacts and an average of 2 to an average of 3 other contacts over an average period of 0.9 to 1.3 years.

Table 3.1: Key Requirements for Giving Taxpayers an Opportunity to Resolve Their Delinquent Tax Debts

Description of key requirement	Percentage of taxpayers		
	Yes	No	Unknown ^a
Taxpayers were sent written notices about each delinquent tax liability and their rights and responsibilities	100	0	0
Taxpayers were sent a written notice for each delinquency about the possible seizure of their property and an explanation of their rights and responsibilities before seizure	91	9	0
Taxpayers were provided with written notification of possible seizure within 180 days or were subject to ongoing enforcement action (lien, levy, or seizure) within 60 days of a seizure	66	33	1
Revenue officers attempted at least one personal contact with taxpayers before seizure	96	4	0
Revenue officers personally advised taxpayers of potential for enforced collection action, e.g., seizure of property	71	11	18
Revenue officers waited at least 30 days after all notices before seizing taxpayers' property	86	8	6

Note: Confidence intervals for the estimates in this table are shown in table II.3 of app. II. Some of these confidence intervals may be large.

^aFile documentation was not sufficient to make a yes or no determination.

Source: GAO analysis of IRS case files.

Written Notifications Not Always Complete or Sent When Required

IRS was required by statute to provide taxpayers with written notification of each tax delinquency and also a written notification of IRS' intent to take enforced collection action against each delinquency, including the seizure of taxpayer assets. Therefore, an individual taxpayer who did not pay all income taxes annually would have to be notified at least twice for each tax year's delinquency.

Although an estimated 9 percent⁵ of the taxpayers were not sent a notice of intent to take enforced collection action, including seizure, for each delinquency before seizure, all but about 2 percent⁶ of the taxpayers received such notice on at least one of their delinquencies before seizure. We reviewed the three sample cases supporting the 2-percent estimate to determine why a notice of intent to take enforced collection action was not sent. In one of these cases, the revenue officer determined that quick action⁷ was needed to ensure that some payment on the taxpayer's delinquency was secured. However, we did not find documentation that the approvals required in such a situation were obtained. In the remaining

⁵95-percent confidence interval: 5 to 15 percent.

⁶95-percent confidence interval: 0 to 7 percent.

⁷The tax code (section 6331(d) 3) authorizes IRS to take immediate action on determining that the collection of tax could be lost if quick action were not taken.

two sample cases, we could not determine why a notice of intent to take enforced collection action was not sent.

Table 3.1 also shows that revenue officers did not always notify taxpayers of a possible seizure within the required time frames. IRS procedures require revenue officers to determine if the taxpayer received a notice of intent to take enforced collection action within 180 days of the seizure or had ongoing enforcement action within 60 days of the seizure. Since IRS procedures do not define enforcement action, the ongoing enforcement action could encompass a range of revenue officer activities. Our analysis for table 3.1 considered enforcement actions to be liens, levies, or seizures. Using this definition, 33 percent⁸ of the notifications were not current. However, if a more encompassing definition of enforcement action were used (i.e., "any revenue officer collection action"), only about 14 percent⁹ would have been considered as not current.

Personal Contact Not Always Made or Aggressively Pursued

According to IRS procedures, revenue officers are expected to attempt to make a personal contact with taxpayers before a seizure. At the time of contact, revenue officers are to give taxpayers the opportunity to resolve their tax liabilities voluntarily and to determine if taxpayers are aware of their rights.

As shown in table 3.1, we estimate that revenue officers did not attempt to personally contact about 4 percent¹⁰ of the taxpayers. For example, in one case, a revenue officer initiated a seizure of taxpayer property without contacting the taxpayer, apparently based on learning that IRS had seized property from that taxpayer a year earlier for a prior tax delinquency. This was not consistent with IRS procedures.

Although revenue officers documented attempts to contact about 96 percent¹¹ of the taxpayers, such attempts were not always successful or aggressively pursued. Revenue officers were successful in their attempts for 89 percent¹² of the taxpayers and unsuccessful for 7 percent.¹³

⁸95-percent confidence interval: 25 to 40 percent.

⁹95-percent confidence interval: 8 to 20 percent.

¹⁰95-percent confidence interval: 2 to 9 percent.

¹¹95-percent confidence interval: 92 to 99 percent.

¹²95-percent confidence interval: 83 to 95 percent.

¹³95-percent confidence interval: 2 to 11 percent.

Examples of attempts to contact the taxpayer that we did not consider aggressive include the following:

- A revenue officer made no attempt to contact the taxpayer beyond his last officially known address, although the revenue officer had additional information on how to contact the taxpayer.
- A revenue officer made one attempt to personally meet with the taxpayer and no attempts to call the taxpayer before a seizure action.

Limited Warnings of Potential Seizure Given Taxpayers

IRS procedures required revenue officers to warn taxpayers of the consequences of not taking sufficient steps to resolve their tax delinquencies. The procedures called for revenue officers to warn taxpayers of the possibility of enforcement action and to personally advise the taxpayers that the next enforcement action would be seizure. Lack of documentation of personal contact in revenue officers' case files, as with lack of documentation of written notification, risks leaving managers unable to properly review the files and risks fostering an environment where taxpayer protections are not fully considered during the seizure decisionmaking process.

As shown in table 3.1, we estimate that only 71 percent¹⁴ of the taxpayers were personally warned of an impending seizure action. For an estimated 11 percent¹⁵ of taxpayers, the revenue officers had not contacted and warned them before the seizure. An estimated 18 percent¹⁶ of the taxpayers were contacted, but the files did not document whether the taxpayers were warned of an impending seizure action.

30-Day Requirement Not Always Met

By statute, IRS is not permitted to make a seizure until 30 days have elapsed from the date the taxpayers are notified in writing of the potential seizure of their property. Taxpayers with multiple tax delinquencies should receive a notification for each delinquency, and the 30-day period commences with the date of the last notification.

As indicated in table 3.1, we estimate that about 8 percent¹⁷ of the taxpayers were not given the full 30 days, and for an estimated 6 percent¹⁸

¹⁴95-percent confidence interval: 62 to 79 percent.

¹⁵95-percent confidence interval: 5 to 17 percent.

¹⁶95-percent confidence interval: 11 to 26 percent.

¹⁷95-percent confidence interval: 3 to 14 percent.

¹⁸95-percent confidence interval: 3 to 11 percent.

of the taxpayers, there was not sufficient documentation to determine whether the 30-day requirement was met.

We reviewed the nine sample cases supporting the 8-percent estimate to determine why the 30-day requirement was not met. In five of the nine cases, the revenue officers did not document the reasons why the taxpayers were not given the full 30 days. For three cases involving multiple delinquencies, we found that taxpayers were not sent notifications 30 days in advance on at least one of their delinquencies. For the remaining case, quick action was deemed necessary, but contrary to IRS procedures, the revenue officer did not document the appropriate approvals required to circumvent the 30-day requirement.

Some Seizures Approved Based on Limited Information

As a condition for gaining agency authorization to seize delinquent taxpayer's property, revenue officers were required to document the necessity for making a seizure and to make that information available for management review and approval. We reviewed revenue officer files to determine whether the following key information needed to make and approve a seizure decision was documented:

- financial information indicating the taxpayers' ability to pay, to determine which payment alternative may be appropriate;
- financial results expected from the seizures to prevent uneconomical seizures (i.e., seizures in which the costs of the seizure and sale exceeded the fair market value of the property); and
- rationale used to determine that the seizures were necessary.

In addition, we reviewed revenue officer files to determine whether information on the possible seizure impacts, including the effect on the taxpayer's family or the taxpayer's employees, was documented. While not a requirement, IRS procedures encouraged this information to be documented.

We found that case files often had incomplete information or lacked complete documentation to justify seizures. Taxpayers subject to seizures frequently did not cooperate with the revenue officers' requests for complete and accurate financial information. Revenue officers, in some cases, did not develop all the estimates needed to determine if there would be net proceeds from the sale. Additionally, most files did not document information on the possible impacts of the seizures. Such documentation would help ensure that IRS better considers both the potential return and potential hardship from the seizure.

Obtaining Information on Taxpayers' Ability to Pay Was Problematic

IRS procedures require revenue officers to request financial information (i.e., taxpayer income, expenses, assets, and liabilities) from delinquent taxpayers and document the request and information obtained in the case file. This information is necessary to determine whether it would be appropriate to (1) arrange for the taxpayers to pay off the liabilities in installments, (2) accept less than full payment to resolve the taxpayers' liabilities, or (3) temporarily suspend collections because of taxpayers' inability to pay or hardship.

As shown in table 3.2, we estimate that complete and accurate taxpayer financial information was obtained for only about 9 percent¹⁹ of the taxpayers, mainly because the taxpayers did not provide it when requested. In some cases, revenue officer files did not indicate that this information was requested.

Table 3.2: Key Steps in Developing Information for Assessing Taxpayers' Ability to Pay

Description of key requirements	Percentage of taxpayers ^a		
	Yes	No	Unknown ^b
Revenue officer requested financial information from taxpayer	84	14	2
Taxpayer provided some financial information	63	33	4
Taxpayer provided complete and accurate financial information	10	90	0
Revenue officer verified financial information for those taxpayers who provided it	86	6	9
Revenue officer found unreported assets	25	75	0
IRS obtained complete and accurate financial information	9	86	5

Note 1: Confidence intervals for the estimates in this table are shown in table II.4 of app. II. Some of these confidence intervals may be large.

Note 2: Percentages may not add to 100 due to rounding.

^aUnless otherwise noted, projections are made to the universe of all taxpayers who were personally contacted before the seizures.

^bFile documentation was not sufficient to make a yes or no determination.

Source: GAO analysis of IRS case files.

Revenue officers need to be cautious in accepting financial information from taxpayers. Based on revenue officers' experience in finding unreported assets, we estimate that 25 percent²⁰ of the taxpayers did not disclose all their assets to IRS. While not shown in the table, data from taxpayers were suspect even when taxpayers were seeking alternative payment arrangements, such as installment agreements.

¹⁹95-percent confidence interval: 5 to 15 percent.

²⁰95-percent confidence interval: 16 to 33 percent.

Incomplete Estimates of Potential Financial Results From Seizures

Another factor revenue officers are required to consider and document in deciding whether to seize taxpayer property is whether the sale of the seized asset would yield sufficient proceeds to pay some, if not all, of the tax debt.

The Internal Revenue Code has long prohibited IRS from making uneconomical seizures. Implementing IRS procedures required the revenue officers to determine that there was sufficient taxpayer equity in the property to yield net proceeds from the sale to apply to the unpaid tax liability. To meet these requirements, revenue officers were required to

- estimate the fair market value of the property to be seized,
- identify any encumbrances and interests on the property that would reduce the taxpayer's equity, and
- estimate the costs involved in the seizure through the sale of the property.

To the extent that prospective buyers would be willing to purchase the asset for an amount equal to the taxpayer's equity in the assets, IRS procedures would provide the basic elements for estimating sales proceeds.

As shown in table 3.3, we estimate that 39 percent²¹ of the seizures were made without the estimates required by IRS procedures. In some of these cases, we identified extenuating circumstances that could have precluded revenue officers from making the estimates, including six seizures where the revenue officer was unable to obtain the taxpayer's consent to enter private premises and had to secure a court order permitting entry on the day of the seizure, four seizures involving either cash in a cash register or contents of a safety deposit box to which the revenue officer was not given access, and one taxpayer who was hiding assets.

In other instances, however, omission of the preseizure estimates appears to have been an oversight. For example, an estimated 42 percent²² of the cases in which the an estimate of the fair market value was not in the case file involved vehicles, for which fair market values are readily available in industry guides.

²¹95-percent confidence interval: 31 to 48 percent.

²²95-percent confidence interval: 25 to 61 percent.

Table 3.3: Required Elements for Estimating Seizure Results

Description of requirement	Percentage of seizures		
	Yes	No	Unknown ^a
Estimate of fair market value of property	81	18	1
Estimate of encumbrances on property ^b	76	20	4
Estimate of the cost of seizure and sale	66	32	1
Overall	57	39	4

Note 1: Confidence intervals for the estimates in this table are shown in table II.5 of app. II. Some of these confidence intervals may be large.

Note 2: Percentages may not add to 100 due to rounding.

^aFile documentation was not sufficient to make a yes or no determination.

^bTwo seizures involving only cash were excluded from the population, as encumbrances did not apply.

Source: GAO analysis of IRS case files.

Just making the required estimates, however, was generally not sufficient to estimate the return from asset sales. Before holding sales, revenue officers are required to establish minimum acceptable prices for the assets. As discussed in the asset disposal section of this chapter, the minimum acceptable prices were generally significantly less than the taxpayers' equity in the assets as identified by the revenue officers and were strong indicators of proceeds from actual asset sales. Requiring the computation, whenever possible, of the minimum acceptable price before making the seizure could provide a more reliable indicator of the eventual sales proceeds than computation of taxpayer equity under the current requirements.

Seizure Rationale Documented; Impact Generally Not

IRS procedures required revenue officers to document in their case files the factors considered and the reasons the seizure was necessary. The documentation requirements are meant to enable IRS managers to review the case files to ensure that the seizure action was warranted before approving the seizure. The factors that were documented could be found in various places throughout the lengthy case files, but there was no requirement for a summary statement on the justification for the seizure, which increased both IRS managers' and our difficulty in reviewing the case files.

Our review of the case files showed that in all cases revenue officers documented at least one reason for the seizure, and most documented multiple reasons. Table 3.4 shows the various reasons for the seizures. The three most common reasons were repetitive delinquencies, lack of good-faith effort to pay taxes, and lack of cooperation to resolve tax delinquencies.

Table 3.4: Documented Reasons for Taking Seizure Action

Reason for seizure	Percentage of seizures
Taxpayer has been delinquent in filing income tax returns or paying taxes in more than 1 year	75
Taxpayer not making a good-faith effort to pay the taxes due	62
Uncooperative taxpayer (e.g., hiding assets, not providing financial information)	41
Taxpayer has not paid the current year taxes	33
Taxpayer pyramiding employment taxes liabilities ^a	19
Immediate action necessary (impending bankruptcy, etc.)	6
Other	31

Note: Confidence intervals for the estimates in this table are shown in table II.6 of app. II. Some of these confidence intervals may be large.

^aWhen employment taxes are not paid from quarter to quarter and the taxpayer has not paid the current quarter's taxes, the taxpayer is considered to be pyramiding employment tax liabilities.

Source: GAO analysis of IRS case files.

Revenue officers did not generally document the potential impact of the seizure (e.g., impact on family, employees, etc.). Yet hardship or inability to pay has been a common complaint raised by taxpayers. IRS procedures did not require documentation of the impact but did encourage revenue officers, when making personal residence seizures, to include any pertinent information, such as the potential effect on the taxpayer's family. As discussed earlier, the lack of documentation risks (1) leaving managers unable to properly review the case files and (2) fostering an environment in which taxpayer protections are not fully considered.

In some instances, however, revenue officers did a more thorough job of documenting key information to justify making the decision to seize. Due to the sensitive nature of residential seizures, IRS procedures provided for a higher level of review as well as additional assurance that key information on these cases was documented and reviewed before seizure. IRS procedures authorized the use of a summary memo to be prepared by the revenue officer before the seizure of personal residences. The suggested format provided for information on taxpayer equity and seizure rationale, date of liens filed by IRS, type of tax owed and for what years, collection efforts attempted, and any special circumstances of the taxpayer considered when making the decision to seize. The memo was meant to provide management with a concise review of many of the critical elements the revenue officer considered in determining that seizure was appropriate.

IRS Generally Complied With Procedures for Conducting Seizures

IRS procedures specified that revenue officers were to

- obtain all required approvals within IRS and the courts, if appropriate;
- have the seizure and the recording of the inventory witnessed by another IRS employee; and
- make appropriate notification to the taxpayer at time of seizure and make the record of the inventory available to the taxpayer.

As shown in table 3.5, in about 1 percent²³ of the seizures, revenue officers did not obtain the required approvals. In the two sample cases reviewed where required approvals were not obtained, the revenue officers had determined that quick action was needed. While the group manager's approval was obtained in both cases, neither case had the higher level of approval required for such seizures.

Additionally, the table shows that sometimes the revenue officer did not record whether or not seizure documents (the notice of levy or seizure action and the inventory of seized assets) were delivered to the taxpayer. The notice of levy is to be given to the taxpayer at the time of seizure. The inventory of seized assets—an important accountability document—is to identify the taxpayer's property that IRS has seized.

Table 3.5: Key Steps Taken to Protect Taxpayer Rights During the Seizure Process

Description of key step	Percentage of seizures		
	Yes	No	Unknown ^a
Revenue officer obtained required approvals	99	1	0
Revenue officer obtained writ of entry ^b when needed	100	0	0
Revenue officer complied with witness requirements	99	0	1
Taxpayer provided with notice of levy or seizure action and the inventory of seized assets	72	0	28

Note 1: Confidence intervals for the estimates in this table are shown in table II.7 of app. II. Some of these confidence intervals may be large.

^aFile documentation was not sufficient to make a yes or no determination.

^bA writ of entry from the court must be obtained before seizure when the revenue officer has been denied taxpayer consent to enter private premises.

Source: GAO analysis of IRS case files.

As indicated earlier, documenting all aspects of IRS' adherence to requirements is important to fostering an environment in which taxpayer protections are fully considered. Documenting IRS' actions before and during seizure—and the information obtained as a result of those actions—helps ensure that seizures are done only when necessary and that

²³95-percent confidence interval: 0 to 5.

taxpayer rights and interests are protected. Documenting IRS' actions after the seizure provides additional taxpayer protections, as discussed in the sections of this chapter on IRS control over seized assets and asset disposal.

Weak Controls Over Assets Seized

Once assets are seized, IRS is responsible for establishing controls over those assets as set out in federal financial management guidelines²⁴ and safeguarding those assets against loss. To accomplish this, IRS requires revenue officers to

- document basic control information, such as description, value, and location, to establish accountability over the seized assets;
- arrange to protect seized assets from loss or damage; and
- submit control information for entry into IRS' automated inventory control system that was designed to monitor assets from seizure through disposition.

We found shortcomings in each of these areas.

Incomplete or Questionable Asset Control Information

To establish accountability and control over seized assets, federal financial management guidelines specify the type of information that is to be documented. This information includes type of asset, estimated value²⁵ and the basis for that value, mortgage and claim liabilities, physical condition, geographic location, responsible custodian, and costs incurred while the asset is in custody. The guidelines explain that information should be sufficiently specific to allow the independent verification that each asset exists and that the recorded physical condition, geographic location, and asset value are accurate.

IRS procedures required revenue officers to record basic inventory information (e.g., description, value, and location) on a form that was to be witnessed by another IRS official. Also, copies of this form were to be provided to the taxpayer to document the property taken and to the local IRS district office for data entry into IRS' automated inventory system. As such, this form served as the official accountability record of the property IRS seized.

²⁴Joint Financial Management Improvement Program, Federal Financial Management System Requirements, Seized/Forfeited Asset System Requirements (FFMRS-4, 3/93). The program established uniform requirements for seized property systems operated by federal agencies. The agencies may develop additional requirements as necessary to support unique mission requirements.

²⁵According to Statement of Federal Financial Accounting Standards Number 3, the value of property seized under the Internal Revenue Code shall be based on taxpayer's equity (market value less encumbrances) as IRS seizes and sells only the unencumbered portion of the taxpayer's property.

As shown in table 3.6, the baseline information revenue officers recorded on the official inventory forms did not always include all of the needed information to support an independent verification of each asset or the asset's condition, custody, location, and value as envisioned by federal financial management guidelines.

Table 3.6: Completeness of Inventory Descriptions

Baseline information	Percentage of seizures with baseline information recorded on inventory				Total
	All	Some but not all	Not recorded	Unable to determine	
Asset description					
General description	93	6	0	1	100
Itemized list	91	6	3	0	100
Asset quantity					
Detailed description ^a	74	20	5	1	100
Asset value					
Estimated fair market value	96	2	2	0	100
Estimated taxpayer equity ^b	88	2	10	1	100
Asset location					
Asset custody	53	4	43	0	100
Asset condition					
	26	8	66	0	100

Note 1: Confidence intervals for the estimates in this table are found in table II.8 of app. II. Some of these confidence intervals may be large.

Note 2: Percentages may not add to 100 due to rounding.

^aDescription sufficient, in GAO's opinion, to differentiate asset seized from other like items, such as by specifying make, model, or serial number.

^bAsset fair market value adjusted to account for encumbrances.

Source: GAO review of IRS seized asset inventory records and attachments to those records.

Incomplete Asset Descriptions

As shown in table 3.6, for the most part, revenue officers generally described and enumerated most of the assets seized. However, in a number of instances, the descriptions used by revenue officers were not detailed enough (such as by identifying make, model, or serial number) to differentiate the items seized from other like items or to quantify the number of items seized.²⁶ For example:

- IRS seized the inventory of an automotive business with an estimated value of over \$24,500. The level of detail recorded on the inventory form for one of the 14 groups of assets seized was 1 snack machine; Reddy Heater; miscellaneous filters, disc pads, belts; 1 antifreeze recycling machine; compressor; miscellaneous auto parts; metal stand; 1 drum kerosene; and 1 table.

²⁶Based on our evaluation of the asset descriptions found in revenue officers' files.

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- IRS seized restaurant equipment with an estimated value of \$8,000. The inventory form listed restaurant equipment including, but not limited to, fryers, prep tables, walk-in cooler, tables, chairs, dishes, flatware, drink machines, freezers, cash registers, safe, coffee machine, and miscellaneous office equipment.

The omission of detailed descriptive information reduces accountability and could negate assurance that the specific asset seized was still under IRS or third-party custody, even if a physical inventory is taken.

Uncertain Asset Values

Table 3.6 shows that revenue officers estimated an asset value to cover most, but not all, assets seized. However, revenue officers rarely obtained written appraisals to ascertain asset value. As discussed later in the asset sale section of this chapter, asset values were determined largely based on revenue officer judgment or research (such as checking county tax records or automobile guides), but with little or no documentation to support the values assigned. The absence of documentation reduces accountability and limits an independent verification that recorded values are accurate.

Missing Condition, Custody, and Receipt Information

As shown in table 3.6, we found many cases where asset condition or custody²⁷ was not recorded in IRS' seizure inventory records. Moreover, in those cases where our review of the revenue officers' case files indicated that seized assets were stored at contractor locations, the files did not contain receipts from the contractors in an estimated 51 percent²⁸ of the cases.

IRS does not conduct a physical inventory of its seized assets. So, even if revenue officers documented the condition of each asset and who had custody of it and obtained receipts for storage from contractors, IRS would not use the information to independently verify various attributes of each asset as envisioned by federal financial management guidelines. Also, absence of documentation on condition, custody, and receipts limits accountability because baseline information would not be available to assess responsibility for apparent flaws in assets observable during physical inspection of the assets.

²⁷IRS guidelines state that revenue officers preparing an inventory of seized assets should record or otherwise document the condition of seized vehicles. But these guidelines did not require recording the condition of other types of assets or recording the identity of the party having custody of the assets.

²⁸95-percent confidence interval: 35 to 66 percent.

Missing Information on Asset Security and Losses

To protect seized assets from loss or damage while in IRS' possession, revenue officers were required to arrange for asset safekeeping. While revenue officers were expected to use judgment in determining the extent of security, IRS procedures also required that seized assets be given at least the same level of protection as the taxpayer provided. Some of the assets frequently seized by revenue officers, such as undeveloped real property and residences occupied by the delinquent taxpayer, required no safeguarding. While other seized assets, such as vehicles and jewelry, required some type of security.

Our review of revenue officer case files indicated that revenue officers, in exercising judgment on security matters, generally tended to hold down costs since they had to be paid from budgeted funds. We estimate that 60 percent²⁹ of the seizures involved assets requiring no security. In some instances, revenue officers obtained security for free (e.g., making arrangements with local military installations to store property, such as automobiles, in secured areas) or simply padlocked the premises. We estimate that 33 percent³⁰ of seizures involving asset security arrangements involved no costs. For those with costs, we estimate that the median security costs were about \$150.³¹

We also found that an estimated 12 percent³² of the seizure cases involved assets that required safeguards, but the case files did not show whether any safeguards were used. For example, in one case, the revenue officer file contained no documentation on where a taxpayer's \$17,000 vehicle was stored or how the vehicle was safeguarded. In another case, the revenue officer seized personal property—jewelry, furniture, and clothes valued at about \$10,000 from a delinquent taxpayer. However, the revenue officer did not indicate in the case file how the assets were safeguarded against loss or damage.

We found a few case files that contained information about a loss, alleged loss, or damage to property. However, because of limited documentation in the files, we could not be certain of the magnitude of the loss or who was liable for the loss. For example, a piece of seized artwork was damaged while a storage company was moving the assets. The revenue officer did not document the dollar amount of the damage or who was

²⁹95-percent confidence interval: 52 to 67 percent.

³⁰95-percent confidence interval: 20 to 45 percent.

³¹95-percent confidence interval: \$109 to \$241.

³²95-percent confidence interval: 6 to 17 percent.

liable for the loss. In another instance, a taxpayer complained that various personal items located in a piece of seized real estate were missing. The revenue officer's file provided no information on the amount of the alleged loss.

During our physical observation of assets from 16 open seizures,³³ we also found some situations where the assets were either missing or damaged or there was insufficient information on the initial condition of the assets to determine whether they were missing or damaged.

- A revenue officer seized various pieces of business equipment valued at about \$1,600. The assets were tagged with IRS seizure tags and left in a public area of the open business. The business subsequently declared bankruptcy and was involved in other legal proceedings, which kept the seizure case open for over 18 months. At the time of our review, we were unable to locate a number of the assets seized, and one asset was damaged because it was left outside and unprotected.
- A revenue officer seized a parcel of improved real estate. At the time of the seizure, the taxpayer was renting a building located on the land to a tenant who was operating a used car lot and the real estate was left in such use. During our visit, we found that the used car lot had been vacated and the front door of the building was open. We were unable to determine whether there was any damage to the property because of the limited information on initial condition of the property included in the case file.

Automated Inventory Not Sufficient for Monitoring Seized Assets

Federal financial management guidelines, in addition to specifying the types of information to be included in an inventory control system, also stated that management should be able to query their system at any time to obtain current information about any asset. The system should also generate periodic reports that provide performance results so management can monitor areas of concern, evaluate results, and take appropriate corrective action when necessary.

IRS' system to track seized assets does not include all the information set out by federal financial management guidelines, and the information it does contain is not always current or accurate. More specifically:

- The automated inventory system, while requiring the entry of asset description information, did not require the entry of the full description of

³³As described in the Objectives, Scope, and Methodology section in ch. 1, we followed up on 16 seizures in 4 IRS district offices to examine assets that IRS still had in its possession at the time of our review.

assets as recorded by revenue officers. For example, for one business seizure, the revenue officer prepared a 12-page written itemization of assets seized with an estimated value of almost \$63,000. The automated inventory specified that miscellaneous business equipment and supplies were seized. Moreover, as shown in table 3.6, such detailed descriptive information was frequently not recorded by revenue officers on the source document used for data entry into the automated system.

- The automated inventory system did not provide data entry fields for capturing information on asset condition or custody. Moreover, as shown in table 3.6, such information was not routinely recorded by revenue officers on the source document used for data entry into the automated system.
- The automated inventory system did not provide a data entry field for theft, loss, and damage expenses.
- The automated inventory system did not consistently capture information on the amount of taxpayer equity in the asset. The system provides a data entry field for taxpayer equity but the directions specified that the lesser of the taxpayer equity or tax delinquency amount should be recorded in the available field. Once entered, the system did not provide a means for distinguishing whether the amount represented the equity or delinquency amount.
- The automated inventory system records did not always coincide with revenue officer records. We could not reconcile amounts between the two record-keeping systems regarding seizure costs, proceeds from seizures, number of assets, and type of asset in about 23 percent,³⁴ 21 percent,³⁵ 16 percent,³⁶ and 13 percent³⁷ of the seizures, respectively. In one case, taxpayer equity differed by over \$2 million.
- The automated system did not have to be updated in a timely manner. IRS has a requirement that all seizure and sale documents should be transmitted to the office that inputs the information into the automated inventory system within 5 working days after the related action has occurred. Since the date the submissions were transmitted was not always recorded in the revenue officers' files, we could not determine if the requirement was met. Even if the 5-day requirement was met, there was no requirement that, once received, the information must be entered into the system within a certain time frame.

³⁴95-percent confidence interval: 15 to 30 percent.

³⁵95-percent confidence interval: 14 to 28 percent.

³⁶95-percent confidence interval: 10 to 22 percent.

³⁷95-percent confidence interval: 7 to 18 percent.

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- The automated system records did not always coincide with the revenue officers' files or the actual property on hand. When comparing system records, revenue officers' files, and our physical inspection of assets involving 16 seizures in 4 IRS district offices, we found discrepancies in 15 seizures. In three cases, the inventory assets were no longer in IRS' possession because the asset had been returned to the taxpayer, sold, or taken (without permission) by the taxpayer. In the remaining 12 cases, there were conflicts between the automated inventory system and the revenue officers' files, including differences in taxpayer equity, asset description, asset location, date of seizure, asset quantity, or asset custody. Also, in 2 of the remaining 12 cases, an observation of the asset showed the asset was not in the same condition as described in the revenue officers' files and, in 1 of those 2 cases, some of the assets were missing.

Given the above limitations, the system produced little useful oversight information that management could use to monitor seized assets. Moreover, as discussed later in this chapter (see section on seizure oversight and review), IRS officials made limited use of the information in the inventory control system to oversee the seized asset program.

Asset Sales: Little Assurance That Maximum Returns Were Achieved

Because taxpayers avoided sales in most cases by reclaiming their assets,³⁸ we estimate that IRS' revenue officers were responsible for making arrangements to sell taxpayers' assets in about 42 percent³⁹ of the seizure cases. For 1997, we estimate that IRS' sales produced about \$26.5 million⁴⁰ in net proceeds.⁴¹

In arranging asset sales, revenue officers usually adhered to most elements of IRS' procedures. Even when procedures were followed, however, IRS' sales practices provided little assurance that the maximum possible returns were achieved for two reasons. First, many assets were sold without competitive bidding, and second, IRS' minimum acceptable price for an asset was often established in an arbitrary manner.

³⁸Most taxpayers exercised their rights to reclaim their property by either (1) paying off their tax delinquency or (2) paying IRS an amount equal to the government's interest in the property.

³⁹95-percent confidence interval: 33 to 50 percent.

⁴⁰95-percent confidence interval: \$15.8 million to \$37.1 million.

⁴¹This was net of sales-related costs (e.g., moving, storing, and selling costs).

Procedural Protections Usually, But Not Always, Met

As shown in table 3.7, when complete information was available, our analysis of sales cases showed that revenue officers, in most instances, adhered to basic procedures established by IRS to protect taxpayers' interests.

Table 3.7: Adherence to Basic Taxpayer Protections in Cases That Went to Sale

Taxpayer protection	Percentage of seizures		
	Yes	No	Unknown ^a
IRS computed a minimum price at which it could sell the seized assets	97	3	0
Taxpayer was notified of minimum price and was given 10 days to submit a different valuation	79	5	16
Sale was advertised in the required locations (e.g., public postings and newspaper)	96	4	0
Sale was held within prescribed time period—at least 10 days, but not later than 40 days, after public notice	94	6	0
Sale was witnessed by another IRS employee	70	0	30
Asset was sold for the minimum price or more ^b	95	2	2
Taxpayer was notified of sales results (sale amount, sale expenses, and amount credited to taxpayer)	16	0	84

Note 1: Confidence intervals for the estimates in this table are found in table II.9 of app. II. Some of these confidence intervals may be large.

Note 2: Percentages may not add to 100 due to rounding.

^aFile documentation was not sufficient to make a yes or no determination.

^bExcludes those sales where the asset was returned to the taxpayer.

Source: GAO analysis of IRS case files.

In a few instances, however, revenue officers did not adhere to basic procedural requirements established to protect taxpayers. For example, we found that IRS had rushed through a seizure and sale of a bus company. First, the revenue officer did not fully research ownership of the assets or compute a minimum price at which IRS could sell the seized assets. Second, the revenue officer did not notify the taxpayer of the minimum price to allow him to either challenge the price or buy the property back. Third, the revenue officer neither advertised the sale as required nor waited the 10 days after such advertising to hold the sale. Rather, he held the sale on the same day as the seizure. After consummating the sale, the revenue officer learned that the assets did not belong to the taxpayer, and he subsequently returned them to the rightful owner after retrieving the assets from a successful bidder.

Also, as indicated by table 3.7, for some elements of the sales process, we could not be certain what actions took place because case file information was incomplete or inconclusive.

Despite Protections, Many Assets Sold Without Competitive Bidding

Even when IRS' sales procedures for protecting the rights and interests of taxpayers were followed, IRS' sales practices provided little assurance that the maximum possible returns were achieved. One reason is that many assets were sold without competitive bidding.

Our analysis showed that most IRS sales were not conducted in a competitive manner—we estimate that about 51 percent of the sales⁴² attracted no more than one bidder, and only 42 percent of the cases⁴³ sold for more than the IRS-established minimum price.

Steps that help promote competitive bidding include

- making potential bidders aware of the sale,
- enabling potential bidders to inspect the assets, and
- conducting the sales in a manner that makes the sale transactions relatively easy for the purchasers.

Our previous reviews have demonstrated the importance of these steps to ensure that the highest possible prices are obtained.⁴⁴ The highest possible price might not be the market price because certain conditions are attached to IRS' seized asset sales that cause them to differ from a typical market sale. Although these conditions are intended to protect taxpayer interests and reduce the risk of loss to the government, some of them may reduce the price that could be obtained from selling an asset. Two examples of such conditions are that (1) IRS is authorized to sell only the taxpayer's equity in the seized asset and makes no warranties or guarantees that it has identified all lien holders and (2) the taxpayer has the right to redeem real property from a buyer for up to 180 days after the sale and, thus, the buyer is precluded from doing anything with the property for that period of time. We could not quantify the impact of such conditions on asset valuation nor do we have a position on the appropriateness of these conditions. The uncertainty of the effect that the conditions have on asset price highlights the importance of competitive bidding.

In evaluating IRS' sales practices, we identified shortcomings in the three steps for promoting competitive bidding.

⁴²95-percent confidence interval: 33 to 69 percent.

⁴³95-percent confidence interval: 29 to 56 percent.

⁴⁴See [Resolution Trust Corporation: 1992 Washington/Baltimore Auctions Planned and Managed Poorly](#) (GAO/GGD-93-115, July 7, 1993) and [Resolution Trust Corporation: Better Data Could Improve Effectiveness of Nonperforming Loan Auctions](#) (GAO/GGD-95-1, Nov. 14, 1994).

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- Advertising was generally limited to legally required advertisements—one local newspaper or posting in two public places. IRS made little use of bidders lists or other media channels to target potentially interested buyers. Most sales involved few assets because the sales were stand-alone sales (assets from only one seizure). Almost all sales were conducted on weekdays between 9:00 a.m. and 5:00 p.m. and in the county where the asset was seized. This could limit the number of potential bidders from knowing about the sale and being able to attend.
 - IRS had no requirement to make assets available for inspection or appraisal before the day of the sale. As a routine practice, IRS does not provide information or comment on asset value, condition, or operability because of liability concerns over any implied warranties. Also, while IRS does advise potential buyers of any identified encumbrances, it does not guarantee that all lienholders have been identified or the accuracy of the amounts owed. This adds uncertainty to the asset value.
 - IRS did not make use of commercial sales venues. Auctioneers who specialize in selling preowned assets conducted few sales. Nor were commercial markets specializing in certain types of assets, such as regional automobile auctions, used.

Based on our analysis of sample cases where IRS sold taxpayer assets, we estimate that in about 30 percent⁴⁵ of the sale cases, revenue officers sold the assets for the minimum amount IRS was willing to accept. Additionally, in an estimated 24 percent⁴⁶ of the sales, revenue officers either did not attract any bidders or attracted bidders who were unwilling to pay the minimum price. The revenue officers then returned these assets to the delinquent taxpayers and increased their tax liability to cover the out-of-pocket costs incurred by IRS.

Absent Competitive Bidding, Other Controls Not Adequate for Ensuring Maximum Return

Given the limited number of bidders that revenue officers attracted to their sales, IRS had to rely on its minimum price setting procedure to protect both taxpayer and government interests. The procedure involved first estimating the fair market value of an asset and then discounting that value to obtain the minimum price that IRS would be willing to accept.

Some discounting of the fair market price appears reasonable, in part because of the conditions described previously that are attached to seized asset sales. The existence of the conditions under which IRS sells assets makes it difficult, if not impossible, to find comparable sales for assets to

⁴⁵95-percent confidence interval: 16 to 43 percent.

⁴⁶95-percent confidence interval: 12 to 36 percent.

estimate asset values. Consequently, the conditions attached to seized asset sales, when combined with the lack of competitive bidding, put the burden of protecting taxpayers' and government's interests on IRS' minimum price setting process. However, our analysis shows that the process was often arbitrary.

Uncertain Asset Value

The first step in determining the price IRS would accept for an asset is for the revenue officer to identify the asset's fair market value. Our assessment of IRS' practices for determining asset value showed that it was not a formal or well-documented process. We estimate that about 35 percent⁴⁷ of the assets were valued on the basis of revenue officer judgment; the basis for valuing 8 percent⁴⁸ of the assets was not recorded by the revenue officers; and about 4 percent⁴⁹ were based on a professional appraisal of the property. In the remaining cases, the assets were valued on the basis of revenue officer research, such as checking county tax records or automobile guides. But, in most revenue officer files (an estimated 71 percent⁵⁰), we could not find physical evidence—copies of the automobile guide or county records—for the set values.

The lack of a formal documented process contributed to the following situations.

- A revenue officer seized gemstones with a value of about \$23,000 according to a limited review (not an appraisal) by a coin and jewelry shop owner approached by the revenue officer. In preparing for the sale, the revenue officer ignored the earlier value and, without obtaining an additional valuation, arbitrarily set the fair market value at about \$14,000.
- A revenue officer checked county courthouse records and noted that the value of seized real property was about \$93,000. In preparing for the sale, the revenue officer set the value at about \$80,000. The revenue officer provided no explanation for using the lower unsupported amount.

In each of these instances, without an appraisal, neither IRS nor we can be certain what the value of the taxpayer's property should have been.

⁴⁷95-percent confidence interval: 26 to 45 percent.

⁴⁸95-percent confidence interval: 4 to 14 percent.

⁴⁹95-percent confidence interval: 1 to 9 percent.

⁵⁰95-percent confidence interval: 62 to 80 percent.

Arbitrary Minimum Price

The second basic step in determining the price at which IRS should sell an asset is for the revenue officer to set a minimum price⁵¹ that IRS would accept for the asset. To set the minimum price, revenue officers were generally required to use a formula that allowed for the fair market value to be reduced by up to a maximum of 40 percent. The amount was then reduced further by any encumbrances (e.g., mortgages) on the assets.

Our assessment of the formula, the revenue officers' use of the formula, and exceptions to the formula, showed the minimum price set by IRS was arbitrary and did not necessarily reflect the value of the taxpayer's interest in the property.

- First, we found little justification for the maximum percentage reduction allowed in the formula used to compute the minimum price. National Office officials responsible for program guidance advised us that they were not aware of the origins of the reductions. And while the guidance suggested that these were maximum reductions that needed to be supported, revenue officers used the maximum reduction an estimated 69 percent⁵² of the time with little detailed justifications shown.
- Second, the percentage reductions used by the revenue officers did not necessarily reflect the different risks to buyers based on the type of asset. Often we found that revenue officers applied the same maximum reductions to both real property and personal property, yet the conditions associated with the sale of these assets varied substantially. For personal property, such as a car, ownership and control of the asset passed at sale. For real property, such as a taxpayer's residence, the taxpayer had 6 months to reclaim the asset after sale, and the purchaser usually did not have access to the property during the 6-month period.
- Third, we noted that lesser percentage reductions appeared to be sometimes used when the "maximum reductions" would have reduced the minimum price to essentially nothing and thereby risked having an uneconomical seizure, an event prohibited by law. For example, IRS seized a taxpayer's residence that the revenue officer valued at about \$138,000. After using a maximum reduction, justified on the basis of "experience," and deducting the encumbrances, the revenue officer set the minimum price at about \$20,000. Subsequently, the taxpayer produced a third-party appraisal on the property showing a fair market value at about \$84,000.

⁵¹IRS may calculate a minimum price even though the item may not go to sale. In an estimated 73 percent (95-percent confidence interval 65 to 80 percent) of the cases, IRS calculated a minimum bid price, while only an estimated 47 percent (95-percent confidence interval: 37 to 57 percent) of these cases went to sale.

⁵²95-percent confidence interval: 59 to 78 percent.

The revenue officer accepted the appraisal but instead of using the maximum reductions, he used a reduction of 19 percent, based as before on his “experience.” This resulted in a minimum price of about \$5,500 after deductions for encumbrances. Use of the maximum reductions would have resulted in a negative minimum price.

- Fourth, IRS’ policies limited the minimum price to no more than the taxpayer’s tax liability plus estimated expenses of sale and seizure. Under this policy, the minimum price could be set much lower than the formula, using maximum percentage reductions, would allow. The minimum price then would not necessarily reflect the value of the taxpayers’ ownership interest in the seized property. For example, IRS seized taxpayer property valued at about \$50,000 and set a minimum price at about \$30,000, using the maximum reductions in the formula. Since the taxpayer owed about \$21,300 in delinquent taxes and since the costs of the sale were estimated at about \$2,500, the revenue officer set the minimum price at about \$23,800—about \$6,200 less than the amount allowable under the formula—in accordance with the IRS policy. IRS National Office officials involved in the seizure program were uncertain about the origins of this policy.

Program Integrity at Risk

IRS delegated revenue officers wide discretion and authority in making decisions during the seizure and sale process. This delegation of authority included deciding what and when to seize, controlling the seized asset inventory, determining asset security needs, arranging for asset security, planning and advertising asset sales, setting minimum sales prices, and selling the assets.

The concentration of responsibilities in the hands of a single revenue officer puts program integrity at risk. The lack of separation of duties could, for example, lead to conflicts of interest. Moreover, the lack of documentation in revenue officer case files to support key decisions made or actions taken during the seizure process, particularly minimum price setting, limits the information available to managers to conduct oversight. Limitations to oversight combined with the lack of segregation of duties create situations such as the following.

- IRS seized a taxpayer’s automobile as part of an attempt to collect on a tax debt of about \$90,000. The automobile, considered in excellent condition, was originally valued by the revenue officer, using the National Automotive Dealers Association “Blue Book,” at about \$19,200 retail and about \$16,400 wholesale. After talking to the towing and storage company about the value of the car, the revenue officer set the minimum price that IRS would accept for the car at about \$4,000 to guarantee a sale. The car was subsequently purchased for about \$4,000 by the towing and storage

company at an auction held by the revenue officer where two bidders attended. After expenses were paid (almost all to the towing and storage company), about \$2,000 was applied to the taxpayer's account.

IRS subsequently investigated the case. According to IRS District Counsel, by lowering the minimum price and eventually selling the vehicle to the third-party vendor that was used for towing and storage, the sale event had the appearance of potential insider dealings. Upon further review, IRS decided to pay the taxpayer a total of about \$4,200—the \$4,000 sales price plus accrued interest. Yet no consideration was given to compensating the taxpayer for the loss of an asset valued at over \$16,000 that otherwise could have been released back to the taxpayer because the minimum price (computed at about \$10,500 using the maximum reduction) was not reached.

- IRS seized another taxpayer's automobile. On the day of seizure, the revenue officer estimated the value of the vehicle at about \$1,100 and set a minimum bid price of about \$700. On the same day, the taxpayer paid IRS the minimum price for the return of the vehicle. Approximately 1 month later, the revenue officer seized the vehicle again and arranged for towing and storage by a third-party vendor. At this time, the revenue officer estimated the value of the automobile at about \$2,000 and set the minimum price at about \$1,200. After attracting only one prospective bidder to the sale and no bids in excess of the minimum price, the revenue officer postponed the sale for several days. In the interim, he reduced his estimate of the vehicle's fair market value to about \$980 and the minimum price to about \$590. On reconvening the sale, the revenue officer attracted the third-party vendor that towed the vehicle and one other prospective bidder. The vendor purchased the vehicle for the minimum price less the costs of the services rendered (about \$65 for towing, 30 days of storage of about \$10 a day and 15 days of storage at about \$1 a day). This sale yielded about \$180 to be applied toward the taxpayer's delinquency.

Both cases demonstrate the broad discretion and overall involvement that revenue officers have during the seizure and sale process and show the problems that can occur without segregation of duties and effective oversight.

Limited Management Oversight of Use of Seizure Authority

Without certain basic information and oversight programs, IRS management cannot assure itself, Congress, or the taxpaying public that its employees are using seizures appropriately and uniformly and that taxpayer rights are protected.

We reviewed the information available to IRS National Office Collection management for monitoring the use of seizures and assessing program results, quality of seizure-related work, and resolution of taxpayer problems. Generally, we found that while IRS had established systems to capture information on certain aspects of the seizure program, these systems did not provide senior management with information that was useful for monitoring

- seizure costs and accomplishments, including tax law compliance achieved, and the uniformity of seizure use across the country;
- compliance with seizure requirements and procedures and appropriateness of decisionmaking; or
- type, magnitude, and resolution of taxpayer complaints.

Limited Information on the Costs, Accomplishments, and Uniform Use of Seizures

IRS National Office Collection officials told us that they have little information to assess the costs, accomplishments, and uniform use of seizures by district office. The information that they received was contained in two monthly reports.

The first, an activity report, showed the number of seizure cases opened, the number closed, and the number in open inventory by district office. The report also contained some limited cost information—time spent by district office support staff on seizures. However, according to IRS officials, support staff time is a small portion of the total time spent on seizures.

The second, a disposition report, showed in the aggregate the number of seizure dispositions; the number of seized assets by type of property; number by type of disposition; the total amount of tax delinquency owed by the taxpayers who had assets disposed of; the total out-of-pocket cost of seizures and sales; and the total cash payments from all of the closed seizures by district office. The disposition report, however, contained no information on such internal costs as revenue officer time associated with the closed seizures or the effect the seizures had on taxpayers fully resolving their outstanding tax debt. For example, the report did not capture data on installment agreements or offers-in-compromise. Our analysis of case file data indicated that IRS' information systems, by omitting this information, can understate seizure accomplishments.

Neither report provided information to determine whether seizures were being uniformly used throughout the country. While both reports provided information on seizures by district and contained some overall information on taxpayer characteristics, such as number of delinquencies and total

amount of delinquencies for all seizures within the district, neither provided the detailed information by seizure or tax delinquent population to allow for comparisons and analyses such as we performed and reported in chapter 2.

In summary, neither report provided sufficient information for assessing the costs, accomplishments, or whether taxpayers are being treated uniformly throughout the country. Examples of information that could be provided include

- tax law compliance achieved and the total costs incurred in producing the compliance,
- number of seizures relative to the amount and severity of noncompliance within a district,
- value of assets seized relative to the costs of protecting the assets and the amount of damage and other losses, and
- amounts collected through the seizure relative to the value of the assets seized.

Little Data Collected on Seizure Appropriateness

Determinations of the appropriateness of the use of seizures cannot be made on the basis of management information alone. Because the facts and circumstances of each taxpayer case can vary, a review of case files is necessary to judge the appropriateness of the seizure decisions. IRS had two processes that had the potential for checking on the appropriateness of seizures. These processes, one done by district office staff and the other under IRS' Centralized Quality Measurement System (CQMS) program, did not provide a basis for fully assessing compliance with requirements or appropriateness of seizure decisions. In addition, the results of the district office reviews were not summarized on a national level.

District Office Case Reviews

IRS district collection support staff were to review seizure paperwork to ensure, among other things, that revenue officers obtained necessary approvals, properly prepared inventory and other forms, and adhered to certain legal and procedural requirements. However, because the reviewers did not have the revenue officer case files, they did not have access to information to determine whether all pre-seizure actions, such as the sending of required notifications were made.

While the reviewers in three of the four IRS districts we visited told us they usually kept a record of the type of problems they identified, this information was not provided to IRS' National Office.

CQMS Reviews

Under CQMS, samples of closed collection cases were to be reviewed at a centralized location to check on compliance with collection requirements. However, according to IRS National Office officials responsible for CQMS, the size of the sample of cases selected for review was too small to make a statistically reliable assessment of IRS' use of any specific collection authority, such as seizures. In addition, when a seizure case was included in the sample, the review process was not designed to assess the appropriateness of seizure decisions, nor report such information to National Office management. Moreover, the reviews did not cover all aspects of seizures, such as the management and sale of seized assets.

Information on the Type and Resolution of Taxpayer Complaints

IRS did not systematically capture or report to National Office Collection management information on taxpayer complaints about the seizure process. Taxpayers could complain about the seizure process to the revenue officer or the revenue officer's manager, the Collection Appeals Office, or the Office of the Taxpayer Advocate. National Office Collection management did not routinely receive seizure complaint information from the Taxpayer Advocate's Office or from Appeals. Nor did Collection management have a method for capturing information about the resolution of complaints by their staff. This type of information would be helpful to IRS Collection management to determine the extent and types of problem occurring so that corrective actions could be taken when appropriate.

Because complaint information was not systematically captured and reported, we collected information on the types of complaints taxpayers made about the seizure process and IRS' resolution of these complaints from projectable samples of revenue officer, Taxpayer Advocate, and Collection Appeals files. We categorized complaints as (1) the taxpayer disputed the amount owed, (2) IRS did not follow procedures, (3) IRS caused the taxpayer hardship, or (4) IRS judgment or conduct was inappropriate. As shown in table 3.8, about one-half⁵³ of the complaints shown in the revenue officers' files involved disputes over the taxes owed, while two-thirds⁵⁴ of the complaints made to the Taxpayer Advocate or Collection Appeals Program involved taxpayer hardship.

⁵³95-percent confidence interval: 40 to 62 percent.

⁵⁴95-percent confidence interval: 61 to 72 percent.

Chapter 3

Weaknesses in IRS' Pre-Restructuring Act Seizure Processes for Protecting Taxpayer Rights and Interests

Table 3.8: Type of Taxpayer Complaint

Type of taxpayer complaint	Percentage of complaints	
	In revenue officers' files	In Taxpayer Advocate or Collection Appeals files
Taxpayer disputed amount owed	51	15
IRS did not follow procedures	21	10
IRS caused taxpayer hardship	20	67
IRS judgment or conduct was inappropriate	9	9
Total	100	100

Note 1: Confidence intervals for the estimates in this table are found in table II.10 of app. II. Some of these confidence intervals may be quite large.

Note 2: Percentages may not add to 100 due to rounding.

Source: GAO analysis of IRS case files.

Usually the complaints were resolved in support of IRS' actions regardless of where the complaint was resolved (see table 3.9). However, we estimate that about 20 percent⁵⁵ of complaints to the Taxpayer Advocate and Collection Appeals Program and about 26 percent⁵⁶ of complaints to revenue officers or managers were resolved in a way that did not completely support IRS actions.

Table 3.9: Resolution of Taxpayer Complaints

IRS party resolving taxpayer complaint	Percentage of complaints resolved in support of IRS actions				Total
	Yes	No	Partly	Unknown ^a	
Revenue officer or supervisor	74	7	19	0	100
Taxpayer Advocate or Collection Appeals Program	64	9	11	17	100

Note 1: Confidence intervals for the estimates in this table are found in table II.11 of app. II. Some of these confidence intervals may be quite large.

Note 2: Percentages do not add to 100 due to rounding.

^aFile information was not sufficient to determine resolution.

Source: GAO analysis of IRS case files.

In an estimated 17 percent⁵⁷ of the complaints, as shown in table 3.9, information was not available in either the Taxpayer Advocate or Collection Appeals Program files to determine whether the issues raised by the taxpayer were fully considered and resolved. In most of the cases that did not have information to determine the resolution of a complaint, the taxpayers raised more than one issue. While resolution was almost

⁵⁵95 percent confidence interval: 15 to 24 percent.

⁵⁶95 percent confidence interval: 15 to 38 percent.

⁵⁷95 percent confidence interval: 12 to 21 percent.

always shown for at least one of the issues raised, the case files did not address all of the issues raised. In other cases, issues were referred to other IRS units for resolution and the case files did not contain information on whether the issues were ever considered or resolved by these units.

The information that we developed from case files and reported in tables 3.8 and 3.9 was not routinely captured and reported to IRS management. Without information on taxpayer complaints, IRS National Office Collection management could not be aware of the extent and types of problems that taxpayers are experiencing and whether the problems are being resolved.

Conclusions

We identified implementation breakdowns and other weaknesses in the processes that were established to protect taxpayer interests when planning and conducting seizures. In summary

- While most taxpayers were provided with many opportunities to resolve their tax delinquencies and frequent warnings of possible enforcement actions, in some instances, seizures were made without all required notifications and with minimal efforts to personally contact taxpayers or incomplete documentation for determining the appropriateness of judgments made.
- In some instances, seizures were approved and made although key decisionmaking information, such as taxpayer financial information, measures of expected proceeds from the seizure, or potential impact of the seizure, were missing from the case files. Factors contributing to the missing information included (1) revenue officers not following requirements, (2) taxpayers not cooperating, and (3) procedures not being clear.
- In a few instances, seizures were conducted without required approvals, and the collection files did not always document whether taxpayers were provided with an inventory listing of the assets seized.
- IRS did not always capture some basic information to establish accountability over assets (e.g., asset condition information or asset identity information, such as model number). Nor did the process provide IRS management with a means to measure seizure results and monitor the program as envisioned by federal financial management guidelines.
- The process requirements for marketing and selling seized assets provided little assurance that IRS sold the assets for the maximum price possible for a number of reasons, including sales being consummated with little competitive bidding and little basis for evaluating returns from noncompetitive sales.

Chapter 3**Weaknesses in IRS' Pre-Restructuring Act Seizure Processes for Protecting Taxpayer Rights and Interests**

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- IRS' process for monitoring the use of seizure authority delivered little information to senior management for overseeing compliance with seizure requirements; appropriateness of seizure decisionmaking; seizure results including uniformity of seizure use across the country; and resolution of taxpayer complaints.

In chapter 4, we discuss the extent to which these process weaknesses are being addressed and make recommendations to more fully resolve them.

IRS' Implementation of Restructuring Act Requirements: Taxpayer Safeguards Strengthened But Some Weaknesses Remain

Comparing the weaknesses we identified in IRS' seizure process with the changes being made to the process pursuant to the Restructuring Act showed that not all the weaknesses identified were being fully addressed. Changes that IRS has made to its processes or is planning to make

- do not provide adequate assurance that notification requirements will be met in all cases,
- do not provide adequate guidance to revenue officers on how to analyze and document whether a seizure is an appropriate tax collection action,
- do not establish adequate accountability and control over seized assets,
- do not provide assurance that asset sales procedures are likely to generate the highest possible sales prices, and
- do not provide IRS management with the information needed to oversee the program.

In each of these areas of remaining weakness, IRS has options available to address them through the Restructuring Act.

Continuing Seizure Process Weaknesses

The following sections summarize the weaknesses identified in each process area, updated with changes mandated by the Restructuring Act as implemented by IRS. The sections conclude with a description of the remaining weaknesses.

Notifying Taxpayers of Impending Collection Actions

As discussed in chapter 3, we found that before initiating seizure action, revenue officers provided most taxpayers with numerous opportunities to make arrangements to resolve their tax delinquencies. However, IRS' seizure approval system allowed some seizures to proceed when (1) records indicated that not all required notifications had been sent to some taxpayers, (2) limited attempts had been made to personally contact some taxpayers as compared to others, and (3) seizure files did not fully document compliance with all requirements.

Process Changes

Process changes required by the Restructuring Act and procedures developed by IRS are intended to increase assurance that taxpayers are made aware of their responsibilities and the potential consequences of not taking action to voluntarily resolve their tax debts and that taxpayers are provided with a final opportunity to resolve their delinquency before seizure.

- The act requires IRS to send additional notifications to taxpayers, including a written notice of intent to seize taxpayer property for nonpayment of taxes, which inform the taxpayers about new appeal rights. This notice requirement is designed not only to alert the taxpayer to an

impending seizure, but also to stay the seizure action for at least 30 days to allow the taxpayer time to file an administrative appeal. The basis for the appeal may include the reasonableness of the action and the availability of alternative collection methods other than seizure, such as an installment agreement or offer-in-compromise. Also, IRS decisions may be appealed to the Tax Court or district court, rendering proposed collection actions reviewable by the courts for the first time.

- IRS revised its collection procedures governing personal contacts with taxpayers. In response to concerns that taxpayers were not fully informed of the possibility of seizure, newly established procedures require revenue officers to summarize their discussions with taxpayers and provide them with a written record of their discussion. The record would confirm that revenue officers specified the actions required of the taxpayer, the time frame for such actions, and the potential for seizure of taxpayer property if the taxpayer failed to act accordingly.
- The act and related IRS procedures established a mechanism to help ensure that notification requirements are carried out. Under the act, supervisors must review proposed levies and liens and related notices, where appropriate. Further, all seizures must be approved by a more senior district office collection manager, including the district director, for the seizure of business assets. Additionally, not complying with the approval procedures would subject the responsible IRS employees (e.g., revenue officers and managers) to disciplinary actions, including termination of employment.

Weaknesses Remaining

Although these changes should help to ensure that taxpayers are made aware of their responsibilities, we are concerned that some problems that existed before the changes have not been fully addressed. First, we found instances in which seizures had been approved even though some notification requirements were not met (e.g., a notification was not sent to a taxpayer or a collection action was not postponed until the 30-day notification period expired) or not documented as met. Because IRS' controls were not sufficient to prevent departures from pre-Restructuring Act process requirements, it is unclear whether the continued reliance on manual reviews of revenue officer case file information would be sufficient to prevent departures from requirements in the future.

Thus, we looked for a relatively "fail-safe" check that could stop a collection case from advancing to seizure if a requirement was not met. During our review, we found that IRS was expanding an automated field collection system to cover the seizure process, including plans for the computer generation of seizure forms. This automated system had linkages to other information systems in IRS, such as the masterfile, which contain

account data and notification data. In discussions with the IRS personnel developing the automated system, we learned that programming could be done to prevent the generation of forms, such as the form needed for seizure approval, if taxpayer protection requirements were not met or not documented as met. Also, expanding the capabilities of this system to automate the technical requirements review would allow the managerial review to focus largely on judgmental areas, such as the adequacy of revenue officer contacts with taxpayers.

Second, we noted problems with the quality of case file documentation. We found several instances in which revenue officers' case files, because of incomplete documentation, risked (1) leaving managers unable to properly review seizure case files and (2) fostering an environment in which taxpayer protections were not fully considered. In revising its procedures, IRS has developed a succinct checklist of seizure requirements. While revenue officers are required to initial that each applicable requirement listed was met, this list does not have instructions on the amount of explanation or evidence required to show the appropriateness of judgments made, such as the adequacy of contacts with taxpayers.

Third, we found instances in which limited attempts had been made to personally contact some taxpayers. Given the potentially severe effect of a seizure on a taxpayer, more than one attempt to contact the taxpayer would be appropriate. We also recognize that revenue officer time is limited and should not be spent repeatedly contacting or attempting to contact the same taxpayer. At present, however, revenue officers do not have clear guidance on the amount of effort they should make in attempting to personally contact taxpayers before moving on to the enforcement stage of the collection process.

Evaluating the Necessity and Appropriateness of Seizures

As discussed in chapter 3, revenue officer case files generally contained information that indicated why seizure actions were necessary (e.g., continuing nonpayment of taxes). However, some seizures were approved without complete information in the files to show why the seizure was appropriate or whether alternatives to seizure, such as installment agreements, might have been warranted. Factors contributing to the missing information included (1) procedural requirements not being clear, (2) taxpayers not cooperating, and (3) revenue officers not following requirements.

Process Changes

The Restructuring Act, while not mandating the collection of specific information, established other requirements that increased the need for

the type of decisionmaking information that we found missing in revenue officers' files. The act also established penalties for noncompliance with its requirements. In general, the Restructuring Act, as implemented by IRS

- requires revenue officers, before initiating a seizure action, to consider all other collection options (e.g., installment agreements or offers-in-compromise);
- prohibits seizures that would not produce funds to apply to the taxpayers' delinquent account;
- requires certain seizures to be approved by senior district office collection managers; and
- subjects IRS employees, including revenue officers and collection managers, to disciplinary actions, including employment termination, for not adhering to statutory or IRS procedural requirements.

In implementing the act's requirements, IRS introduced procedures for revenue officers to make a "risk analysis" before making a seizure determination. Revenue officers were instructed that if alternatives to seizure (e.g., installment agreements) put the government at greater risk of recovering the liability, then the alternative may not be acceptable. In making the risk analysis for determining whether seizure action would be appropriate, revenue officers were advised to consider issues such as the taxpayer's past and current compliance status; current and probable future financial condition, and interest in the assets; the probable impact of the seizure on the taxpayer's family or employees; and the potential for future alternative collection methods to produce more than the amount that could be currently collected through seizure.

Weaknesses Remaining

Given the need for information on which to make and approve judgments on whether seizure or alternative collection action would be the appropriate resolution of a collection case, we expected to see rather detailed evaluation instructions and documentation requirements. Instead, the Internal Revenue Manual changes provided limited guidance on how the risk assessment should be carried out or documented in revenue officer case files. For example, the IRS procedures did not specify

- the lengths that revenue officers are expected to go to obtain and document financial information from delinquent taxpayers or to develop and document the information from alternative sources for review purposes;
- the lengths that, before seizure, revenue officers are to go to develop and document estimates of the minimum sales price that seized assets would be sold for; and

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- the depth of investigation required to assess the potential impact that seizure actions may have (e.g., no mention was made of assessing or documenting the potential impact on the taxpayer's family).

Also, as discussed in the previous section on taxpayer notifications, the development of automated checks for meeting technical requirements (e.g., taxpayer financial information or minimum acceptable asset sales price) would help to ensure that the requirements are met and allow managerial reviews to concentrate on judgmental areas.

Seizure Conduct

As discussed in chapter 3, we found that revenue officers generally complied with procedural requirements for conducting seizures. But in an estimated 1 percent¹ of the seizures, revenue officers did not obtain required approvals and the case files were not always sufficiently documented to show adherence to seizure process requirements. For example, in an estimated 28 percent² of the seizures, the documentation in the revenue officers' files was not sufficient to show whether the taxpayers were fully notified of the assets seized. Incomplete documentation risks (1) leaving managers unable to properly review seizure case files and (2) fostering an environment in which taxpayer protections were not fully considered.

Process Changes

The Restructuring Act and IRS procedures added several protections. The changes made higher level managers responsible for approving seizures and required disciplinary action, including mandatory termination, against IRS employees who make seizures without required approvals.

Weaknesses Remaining

As explained in the preceding section on taxpayer notifications, we questioned the sufficiency of IRS' continued reliance on manual reviews of case files to, in part, ensure that case files documented that all taxpayer protection requirements were met as a means of preventing departures from requirements. As discussed in that section, we identified process changes that could provide automatic checks to prevent such occurrences.

Protecting Assets Against Loss

As discussed in chapter 3, we found a number of weaknesses in IRS' systems of controls for establishing accountability over seized assets and safeguarding assets against loss or damage. More specifically, we found the following.

¹95-percent confidence interval: 0 to 5 percent.

²95-percent confidence interval: 20 to 35 percent.

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- Some seizures involved assets that typically require safeguards, such as jewelry. However, revenue officer files did not indicate whether safeguard arrangements had been made. In a few instances, the files contained information about a loss, alleged loss, or damage to property. However, because of limited documentation in the case files, we could not be certain of the magnitude of the loss or who was liable.
 - The asset control information documented by revenue officers in their case files, while generally meeting IRS' minimum requirements, was not as comprehensive as the control information envisioned under federal financial management guidelines for establishing accountability over seized assets.
 - IRS' automated inventory control system, while not designed to capture the comprehensive control information envisioned by the federal financial management guidelines, also did not capture some of the basic control information documented by revenue officers or always capture the information accurately or in a timely manner.
 - IRS did not require periodic physical inventories of assets-on-hand as envisioned by the federal financial management guidelines to ensure accountability and check against loss and damage.

Process Changes

The Restructuring Act mandated changes in IRS' management of seized assets. The act requires that by July 2000, IRS remove revenue officers from any participation in the sale of seized assets. In doing so, the act suggested that IRS consider the use of outsourcing. During the course of our work, IRS convened a study group to develop a proposal for complying with the Restructuring Act change. The group's decisions were not finalized at the time we published our report but were expected by late 1999.

Also, during the course of our review, IRS began making plans for a new automated inventory control system. The new system is to be an add-on module to its automated field collection system. In designing the new system for an estimated first-phase implementation in mid-2000, IRS took into consideration the federal financial management guidelines and input from us. Since IRS had not completed its systems design work, we are uncertain about the extent to which controls are to be incorporated into the system.

Weaknesses Remaining

Regardless of its decision on outsourcing the sales function, IRS would need to have sufficient controls to establish accountability and control over assets. Outsourcing would merely mean that IRS would need to monitor the actions of contractors instead of employees. Given the weaknesses identified in our pre-act review and the process changes under way, existing and proposed controls over assets do not fully comply with federal financial management guidelines. These controls do not

- ensure that revenue officers document basic asset control information, including detailed asset identity descriptions, asset condition, and custody information;
- ensure that basic control information is entered in a timely manner and included in the revised automated inventory control system;
- ensure asset security and accountability through scrutiny of decisions regarding security and periodic reconciliation of inventory records to assets-on-hand (periodic physical inventories); and
- require revenue officers to record and account for all theft, loss, and damage expenses of each asset and document efforts to obtain reimbursement for the expenses in collection case files.

Obtaining the Maximum Return on Asset Sales

As described in chapter 3, even when revenue officers adhered to the basic taxpayer protection requirements, IRS had little assurance that it sold taxpayers' assets for the highest price.

First, IRS' sales practices did not ensure competitive bidding for assets. For example, we estimate that about 51 percent³ of IRS' asset sales attracted no more than one bidder, and only about 42 percent⁴ of the cases sold for more than the minimum acceptable price set by IRS.

Second, absent strong competition, IRS' procedures were not adequate to evaluate the reasonableness of the sales proceeds and guard against self-interest sales. The basic control—that is, the minimum acceptable price computed by a revenue officer—was frequently based on uncertain estimates of asset fair market values that were arbitrarily adjusted downward either through the use of unsubstantiated percentage reductions or set at an amount equal to the tax debt. Thus, IRS had little assurance that the minimum price reflected the actual value of the assets.

³95-percent confidence interval: 36 to 67 percent.

⁴95-percent confidence interval: 29 to 56 percent.

Process Changes

The Restructuring Act mandated the following changes:

- IRS is prohibited from selling seized assets for less than an IRS-computed minimum price that takes into consideration seizure and sales costs.
- IRS is prohibited from seizing and selling a taxpayer's property until a determination is made that the sale of the property would generate proceeds to be applied to the taxpayer's delinquent account.
- IRS is required to remove revenue officers from the sales process by July 2000 and, in so doing, is required to consider outsourcing the sales activity.
- IRS is required to notify the taxpayers of the results of the sale of their assets, including the amount of their tax debts before the sales, amount of sales' proceeds, amount of sales' expenses, amount applied to the taxpayers' liability, and amount of the remaining taxes due.

The Restructuring Act reemphasized the importance of setting minimum prices for ensuring a return for both the taxpayer and government. But the statute or preexisting tax code provisions provided little guidance on setting a minimum price beyond indicating that the price should consider the expense of making the seizure and conducting the sale.

During the course of our work, IRS convened a study group to develop a proposal for removing revenue officers from the asset sales activity and to consider outsourcing. The group's decisions are not expected until late 1999.

Weaknesses Remaining

We see little that would directly counteract the two basic problems we observed in IRS' seized asset sales activity: little competitive bidding for assets and unreliable minimum price setting. As discussed in chapter 3, ensuring competitive bidding involves a number of activities, ranging from advertising to attract bidders to providing them with information and access to the assets.

Also, similar to the discussion in the previous section on taxpayer notification, we found instances where sales were consummated even though process requirements had not been met or were not documented as met. As discussed in that section, adding checks to the automated field collection system for meeting process requirements could help provide assurance that such requirements are met.

Overseeing Seizure Activity

As discussed in chapter 3, we found that while IRS had established oversight systems to capture information on certain aspects of the seizure program, these systems did not provide information that could be used by senior management for monitoring

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- the results and costs of seizures,
 - compliance with seizure requirements or appropriateness of seizure decisionmaking, or
 - the resolution of taxpayer complaints.

Process Changes

The Restructuring Act mandated a number of changes to improve oversight of the seizure program, including the following:

- Annual review of seizure cases by the Treasury Inspector General for Tax Administration. The reviews are to ensure that statutorily established requirements governing the use of seizure authority were followed.
- More senior-level approval for seizures. A seizure of a principal residence requires the approval of a judge or magistrate. A seizure of a sole proprietor's ongoing business requires the district or assistant director's approval. In addition, IRS changed its procedures to require the district collection chief to approve all other seizures.
- A due-process system for taxpayers to appeal IRS proposed seizure actions. This system also provided for taxpayer appeals to the Tax Court or district court.
- Expanded role of the Taxpayer Advocate. The law expanded the circumstances under which the Taxpayer Advocate can review a case for hardship to include, among other things, the threat of adverse action. All seizures are required to be reviewed for potential hardship by the Taxpayer Advocate's Office if requested by the taxpayer.
- A workforce performance management system. IRS is to establish performance goals and objectives and use data on meeting those to make performance distinctions among employees and groups of employees. The act also reiterates the basic concept that tax enforcement results should not be used to evaluate employees or impose or suggest production quotas or goals.

In addition, IRS has concluded ad hoc reviews of the collection system and has initiated improvements. For example, collection staff reviewed seizure activities in eight district offices, primarily through focus group meetings. Also, during the course of our review, IRS initiated a redesign of its automated asset control system.

Weaknesses Remaining

While the Restructuring Act mandated annual reviews of adherence to seizure process requirements, other aspects of the three basic weaknesses remain in overseeing the use of seizure authority.

- First, at the time our work concluded, IRS had no plans to change its management information reporting on seizure results from what was in

place in fiscal year 1997. This was a management information system that collection officials said provided little or no insights on the appropriate use of seizure authority. But they indicated that the Restructuring Act added to program oversight, in part, by adding new checks and balances into the collection process, such as by establishing the due-process appeal system and expanding the Taxpayer Advocate role. However, at the time of our review, no plans had been made for collection managers to be systematically provided with information on the type of problems experienced by taxpayers and the resolution of those problems. Such information could be useful for making process changes to minimize taxpayer problems.

- Second, at the time our work concluded, IRS had not fully developed the capability to monitor the quality of seizure work in terms of the appropriateness of seizure decisionmaking or the conduct of asset management and sales activities. By mid-1999, IRS had revised its consolidated review program to assess the quality of collection work as a primary part of its revamped performance management system. The program was not, however, designed to provide an assessment of the quality of seizure decisionmaking or the quality of asset management and sales activities. While the annual Inspector General reviews required by the Restructuring Act will add to seizure oversight, the Inspector General review work has been limited to checking on compliance with process requirements—not the appropriateness of seizure decisionmaking. The Inspector General's staff informed us that under current plans, future annual reviews would also be process-oriented.

Conclusions

The tax system depends on taxpayers voluntarily paying their taxes, a practice dependent on taxpayers having confidence that their neighbors or competitors are also complying. The use of seizure authority is a necessary part of a tax enforcement program that is intended to help provide this confidence. Taxpayers with substantial amounts of delinquent taxes, long-standing delinquencies, repeated failures to respond to nonseizure collection actions, and substantial assets cannot be allowed to evade payment without risking the credibility and fairness of the tax system. However, the protection of those taxpayers' rights and interests is also crucial to a credible and fair tax system. In this regard, IRS' seizure process had a number of weaknesses—weaknesses that are not all being addressed by changes being made pursuant to the Restructuring Act.

Recommendations to the Commissioner of Internal Revenue

To strengthen IRS' processes for ensuring that seizure authority is appropriately exercised—that is, taxpayers are made aware of their responsibilities and provided time to comply, proposed seizure actions are evaluated for necessity and appropriateness, and seizure actions are

conducted appropriately—and when warranted is exercised, we recommend that the Commissioner of Internal Revenue

- build controls into the automated field collection system, currently under development, that would act as a check to prevent departures from seizure process requirements that are verifiable on an automated basis (e.g., required taxpayer notifications made and time requirements followed);
- provide guidance that describes the lengths that revenue officers are to go to (1) personally contact delinquent taxpayers, (2) obtain financial information from delinquent taxpayers or develop such information from alternative sources, and (3) develop and document estimates of the minimum sales price at which the seized assets could be sold;
- require revenue officers to document the basis for judgments made (e.g., the basis for determining that sufficient attempts were made to gain taxpayer cooperation to pay delinquent taxes and the basis for determining the impact on taxpayer dependents) to facilitate managerial review of case files; and
- provide written guidance on when seizure actions ought to be taken, that is, the conditions and circumstances that would justify seizure action and the responsibilities of senior managers to ensure that such actions are taken.

To improve IRS' process for controlling assets after seizure, we recommend that the Commissioner fully implement federal financial management guidelines to include

- ensuring that revenue officers document basic asset control information, including detailed asset identity descriptions, asset condition, and custody information;
- ensuring that basic control information is entered in a timely manner and included in the revised automated inventory control system;
- ensuring asset security and accountability through scrutiny of decisions regarding security and periodic reconciliation of inventory records to assets-on-hand (periodic physical inventories); and
- requiring revenue officers to record and account for all theft, loss, and damage expenses of each asset and document efforts to obtain reimbursement for the expenses in collection case files.

To strengthen the sales process for assuring that the highest prices are obtained from seized asset sales, we recommend that the Commissioner

-
- develop guidelines for establishing minimum asset prices to preclude the use of arbitrary percentage reductions or the amount of the delinquency as the minimum price and
 - take the steps necessary to promote reasonable competition among potential buyers during asset sales.

To strengthen oversight of seizure activities, we recommend that the Commissioner

- expand the quality review of collection cases to include an assessment of the use of seizure authority and of asset management and disposal activities and
- establish a method for providing IRS senior managers with useful information to monitor the use of seizure authority and resolution of taxpayer complaints.

Agency Comments and Our Evaluation

In written comments on a draft of this report, IRS generally agreed with the report's findings and recommendations, although it said that some recommendations appeared impractical to implement at this time. IRS also said it will use the report to help improve the seizure process. In its letter, IRS emphasized three points made in the report.

- First, while additional guidance needs to be provided to IRS employees about how to conduct seizures, that guidance needs to allow room for employees to exercise judgment to address individual taxpayer situations.
- Second, predicting seizure results is extremely difficult.
- Third, the wide variation in the use of seizure authority by district offices can be attributable to a number of factors.

IRS further said that the procedural changes being implemented were expected to eliminate a number of seizures that would otherwise provide little or no proceeds.

In an enclosure to the letter, IRS commented on each recommendation. With respect to our four recommendations for strengthening IRS' processes for ensuring that seizure authority is appropriately exercised, IRS agreed that it could establish better controls to prevent departures from seizure requirements and clearer guidance for making seizure decisions. IRS also noted that, as discussed in the report, the appropriate use of seizure authority would still be dependent on revenue officer judgment, which may be based on incomplete information when taxpayers have not been cooperative.

With respect to our four recommendations to improve IRS' process for controlling assets after seizure, IRS generally agreed with three of the recommendations. IRS also commented that the timing of the recommended physical inventories may depend on the type of asset seized and storage location. Although we agree, the timing of physical inventories should also be based on agency control needs consistent with federal financial management guidelines. Additionally, IRS commented that as it removes revenue officers from any participation in asset sales as mandated by the "Uniform Asset Disposal Mechanism" provision of the Restructuring Act, revenue officer responsibility for maintaining control over assets may change. As explained in our draft report provided to IRS for comment, we found that regardless of IRS' decision on who was to be assigned responsibility for asset management and sale activities, IRS employees or contractors, controls needed to be developed to establish accountability and control over assets. Thus, our recommendations would apply to whomever is subsequently responsible for the assets. With respect to our fourth recommendation, IRS said that it would need to secure a ruling from Chief Counsel before it could seek reimbursement from third parties for any loss or damage to assets seized from taxpayers.

With respect to our two recommendations for strengthening the sales process and assuring that maximum prices are obtained from the sale of seized assets, IRS agreed that its sales instructions needed to be augmented. IRS also indicated that it would seek a ruling from Chief Counsel to overturn a seized asset price-setting precedent whose basis in tax law had been repealed a number of years ago. But in doing so, IRS expressed concern about being required to return valuable property back to taxpayers if buyers offered to pay more for the property than the taxpayer owed but less than the IRS set minimum acceptable price based on a proper valuation of the asset. This highlights the importance of our second recommendation, that is, promoting reasonable competition among potential buyers during asset sales. IRS commented that it believed the changes it was making would improve competition but noted that there may be instances where, given the nature of the assets seized, there may be limited marketability. We agree that this could happen, and that is why our recommendation specifically referenced "reasonable" competition.

Lastly, with respect to our two recommendations to strengthen oversight of seizure activities, IRS commented that, at this time, it appeared impractical to monitor the appropriateness of seizure decisionmaking. IRS' comments indicated that existing case file handling and selection criteria preclude seizure cases from entering IRS' overall program for assessing work quality and that feedback from required Inspector General reviews

was more comprehensive. We agree that current IRS procedures preclude seizure cases from entering the review process established to assess the quality of collection work, including the appropriateness of decisionmaking. But, because of the impact that seizures may have on taxpayers, we believe that the procedures should be reconsidered so that an appropriate number are selected for review. Moreover, as discussed in the report, the Inspector General reviews have focused on compliance with seizure process requirements and not on the quality of seizure work in terms of the appropriateness of seizure decisionmaking. This reinforces the need for seizure cases to be included in the quality review process.

In comments on our oversight recommendation for monitoring seizure results (e.g., use of seizure authority by district offices and resolution of taxpayer complaints), IRS commented that useful information could only be developed through detailed case-by-case analyses. In part, we agree, and that is why we had recommended that IRS' quality review of collection cases include seizures. Also, we continue to believe that effective oversight is necessary for IRS to have assurance that collection authority is both appropriately and uniformly applied across the country. To this end, a monitoring system comprised of seizure results data (including data on the use of seizure authority by district offices and the resolution of taxpayer complaints) together with quality indicators could provide senior management with the kind of data that would be useful in identifying potentially troublesome areas that may need management's attention. The information on complaints resolved in the taxpayers' favor may be particularly useful. But, contrary to IRS' comments, we see no need to channel all complaints through a single process in order to have complaint resolution information reported to management.

Statistical Analysis of Delinquent Taxpayers With and Without Seized Assets

To investigate the factors affecting the likelihood that delinquent taxpayers would have had property seized, we used IRS data on characteristics of the taxpayers' delinquencies; on other taxpayer characteristics, such as age, income, and filing status; and on the district office where the seizure took place. The data were collected for all taxpayers with seized property, and a random sample of delinquent taxpayers without seized property, who had accounts in field collections in the last 2-week period of fiscal year 1997.¹ We limited our analysis to taxpayers with delinquent accounts in field collections because these taxpayers were most likely to be at the stage in the collection process where the decision to seize or not seize property was being made by IRS.

We analyzed individual and business taxpayers separately. For individual taxpayers, we analyzed data for 876 taxpayers with seized property and a random sample of 53,282 taxpayers without seized property.² This random sample was weighted in the analysis to represent the total of 286,620 individual taxpayers without seized property who were in field collections at the end of fiscal year 1997. For businesses, we analyzed data for 1,710 taxpayers with seized property and a random sample of 32,080 taxpayers without seized property. This sample was also weighted in the analysis to represent the total of 173,865 business taxpayers without seized property who were in field collections at the end of fiscal year 1997.

We used the logistic regression model to quantify the effect of delinquency and other taxpayer characteristics on the probability that taxpayers had

¹We identified seized taxpayers from IRS' Automated Workload Control System database. We matched the taxpayers identified from this file with IRS' Accounts Receivable File (ARF) to obtain delinquency information about the businesses and individuals. For individuals, the seized taxpayers were also matched with the Electronic Tax Administration (ETA) file to obtain tax return data. Similar information on business taxpayers was not available on ETA at the time of our analysis. For the random sample of taxpayers without seized property, we sampled business and individual taxpayers from the ARF and matched the individuals with the ETA file.

²We used IRS delinquency and seizure files to identify a total of 1,594 individual taxpayers with seized property in field collections at the end of fiscal year 1997. Of these, we used the 876 who also had tax return information for our analysis. The tax return information came from the ETA file, which is an extract from the 1996 Individual Returns Transactions File. The missing observations, therefore, may be due to (1) an incomplete or imperfect match between IRS databases or (2) taxpayers who did not file tax returns in 1996. We tested the effects of these missing observations by estimating the logistic model using the full 1,594 seized taxpayers. We found no important differences in the estimated odds ratios for the delinquency, source of income, and district office characteristics between this model and the model reported in table I.1. The observations with missing ETA data were disproportionately those taxpayers with income from interest, dividends, and capital gains and those with income classified as "other"—largely income from rents, royalties, partnerships, and other businesses.

assets seized by IRS.³ The results of this analysis are presented as odds ratios in tables I.1 and I.2. An odds ratio is a measure of the relative risk of the occurrence of an event—in this case, the seizure of taxpayer property.⁴ The reported odds ratios indicate the effect of a particular characteristic (e.g., number of delinquencies) on the probability of seizure, controlling for the effects of other characteristics included in the analysis. The estimate of the effect, represented by the odds ratio, is the net effect of the characteristic (i.e., net of the effects of all the other characteristics).

If the characteristic increases the probability of seizure, the odds ratio will be greater than 1, and if it decreases the probability of seizure, the odds ratio will be less than 1. This interpretation of the ratios is slightly different when the characteristics are distinct categories. An example of such “categorical” characteristics is filing status, where the categories are single, married, and head of household. The analysis omits one of the categories (called the “reference group”) and tests whether the included categories have greater or less chance of seizure relative to the omitted category. An odds ratio greater than 1 indicates greater probability of seizure, while an odds ratio less than 1 indicates less probability of seizure.

Our analysis of the delinquency characteristics of individual taxpayers shows that the amount of tax uncollected, the number of delinquencies, the age of the delinquency, and the time in field collections had statistically significant effects on the odds that taxpayers had assets seized by IRS. When we tested the significance of other, nondelinquency characteristics, we found that source of income, age, and filing status were determinants of the likelihood of a seizure. Table I.1 shows the delinquency and taxpayer characteristics that we analyzed and the results. The table also shows the effect on the probability of seizure of the district office in which the taxpayers’ delinquencies were located.

³The logistic regression model is a standard method for estimating the size and significance of the effects of categorical and continuous characteristics on dichotomous outcomes—in this case, seizing or not seizing taxpayer assets. The size of the effects is estimated by the odds ratios, which indicate how the odds of an outcome vary across categories or values of the characteristics. The model tests for the statistical significance of the effect by testing whether the ratio is significantly different from 1. By convention, the test is conducted at the 5-percent significance level, i.e., the estimated ratio is judged statistically significant if, given the estimated value of the ratio, the probability that the true value of the ratio is equal to 1 is less than 5 percent. Equivalently, the estimated ratio is judged significant if the 95-percent confidence interval for the estimate does not contain a value equal to 1.

⁴The odds ratio is calculated by, first, estimating the probability of seizure for a taxpayer in a particular category (or with a particular value) of a characteristic. The odds of seizure are then determined by dividing the probability that the taxpayer has property seized by the probability that the taxpayer does not have property seized. Finally, the odds ratio is determined by dividing the odds of seizure for taxpayers of a particular category (or with a particular value) of the characteristic by the odds of seizure for taxpayers of a different category (or different value) of the characteristic.

Appendix I
Statistical Analysis of Delinquent Taxpayers With and Without Seized Assets

Table I.1: Logistic Regression Analysis of the Probability of Seizure for Individual Taxpayers

Characteristic tested	Odds ratio
Delinquency characteristic	
Assessed taxes uncollected ^a	1.01 ^b
Assessed penalties and interest ^a	1.00
Accrued penalties and interest ^a	1.00
Number of delinquencies	1.13 ^b
Months in field collections	1.04 ^b
Months since the original assessment	0.98 ^b
Taxpayer characteristic	
Total income	
Less than \$0	1.75 ^b
\$0-\$25,000	Reference group
More than \$25,000 to \$100,000	0.92
More than \$100,000	1.16
Income source	
Wages	Reference group
Self-employment ^c	2.08 ^b
Interest, dividends, and capital gains	1.51 ^b
Other ^d	1.86 ^b
Filing status	
Single	Reference group
Married	1.20 ^b
Head of household	1.01
Number of dependents	1.05
Age of taxpayer	1.03 ^b
District office	
Northeast	
Boston	Reference group
Hartford	.21 ^b
Buffalo	.64 ^b
Brooklyn	.47 ^b
Manhattan	.12 ^b
Newark	.53 ^b
Philadelphia	.54 ^b
Baltimore	.41 ^b
Richmond	.40 ^b
Cincinnati	.69
Indianapolis	.66
Detroit	.29 ^b
Southeast	
Atlanta	.42 ^b
Jacksonville	.43 ^b
Ft. Lauderdale	.29 ^b
Greensboro	.38 ^b
Nashville	.36 ^b
New Orleans	.36 ^b
Midstates	
Chicago	.38 ^b
Milwaukee	.28 ^b
St. Paul	.49 ^b

Appendix I
Statistical Analysis of Delinquent Taxpayers With and Without Seized Assets

Characteristic tested	Odds ratio
Midstates (cont.)	
St. Louis	.45 ^b
Austin	.79
Oklahoma City	.80
Dallas	.33 ^b
Houston	.40 ^b
West	
Denver	.37 ^b
Phoenix	.19 ^b
Seattle	.36 ^b
Liguna Niguel	.35 ^b
San Jose	.06 ^b
San Francisco	.23 ^b
Los Angeles	.21 ^b

^aMeasured in units of \$10,000.

^bOdds ratios that are statistically significant at the .05 level.

^cThe self-employed are taxpayers who file a Schedule C with Form 1040, Individual Income Tax Return, but do not file the employer's tax forms: Form 940, Employer's Annual Federal Unemployment Tax Return, and Form 941, Employer's Quarterly Tax Return.

^dLargely income from rents, royalties, partnerships, and other business.

Source: GAO analysis of IRS data.

In chapter 2, we explain the effect of the delinquency characteristics and the source of income on the odds of seizure. In this appendix, we provide more detail on the effect of other taxpayer characteristics on the odds of seizure.

Differences in positive total income had no effect on the odds of seizure. Taxpayers who reported moderate or higher levels of income were no more likely to have property seized than those reporting lower incomes (\$0-\$25,000). However, taxpayers reporting negative income were 1.7 times more likely to have property seized. These negative income taxpayers were reporting losses from capital investments, partnerships, and other businesses and from rental real estate property. In such cases, negative income might indicate an increased chance of seizure because it is associated with taxpayers who did not pay their tax liability, but who had assets that could be seized.

Other taxpayer characteristics also affected the likelihood of seizure. Married taxpayers were 1.2 times more likely to have property seized than single taxpayers. Taxpayers filing as head of household (unmarried individuals with a dependent child or parent) were no more likely than single taxpayers to have property seized. The number of dependents claimed by taxpayers had no effect, while the age of the taxpayer increased the chances of seizure. The odds of having property seized

increased by 3 percent with each additional year of age. However, the age of the taxpayer and filing status may be correlated with the amount of assets held by the taxpayer since older, married taxpayers tend to accumulate more assets. The increased likelihood of seizure might have been due to increased asset holdings rather than age or filing status. IRS does not collect the asset information for individual taxpayers required to distinguish the separate effects of age, filing status, and asset holdings on the probability of seizure.

Our statistical analysis of the delinquency characteristics of business taxpayers shows that the number of delinquencies, the amount of unpaid taxes, the age of the delinquencies, and the time in field collections had statistically significant effects on the odds of seizure. Table I.2 shows the delinquency and taxpayer characteristics that we analyzed and the results. The table also shows the effect on the probability of seizure of the district office in which the taxpayers' delinquencies were located.

Table I.2: Logistic Regression Analysis of the Probability of Seizure for Business Taxpayers

Characteristic tested	Odds ratio
Delinquency characteristic	
Assessed taxes uncollected ^a	1.01 ^b
Assessed penalties and interest ^a	0.99
Accrued penalties and interest ^a	1.00
Number of delinquencies	1.04 ^b
Months in field collections	1.04 ^b
Months since the original assessment	0.97 ^b
Taxpayer characteristic	
Business type	
Sole proprietor ^c	Reference group
Corporation	1.06
Partnership	0.93
Other ^d	0.88
District office	
Northeast	
Boston	.81
Hartford	.23 ^b
Buffalo	.76 ^b
Brooklyn	.69 ^b
Manhattan	.29 ^b
Newark	Reference group
Philadelphia	.38 ^b
Baltimore	.19 ^b
Richmond	.21 ^b
Cincinnati	.28 ^b
Indianapolis	.26 ^b
Detroit	.21 ^b
Southeast	
Atlanta	.38 ^b

Appendix I
Statistical Analysis of Delinquent Taxpayers With and Without Seized Assets

Characteristic tested	Odds ratio
Southeast (cont.)	
Jacksonville	.29 ^b
Ft. Lauderdale	.07 ^b
Greensboro	.13 ^b
Nashville	.21 ^b
New Orleans	.19 ^b
Midstates	
Chicago	.45 ^b
Milwaukee	.28 ^b
St. Paul	.19 ^b
St. Louis	.28 ^b
Austin	.65 ^b
Oklahoma City	.39 ^b
Dallas	.21 ^b
Houston	.28 ^b
West	
Denver	.11 ^b
Phoenix	.16 ^b
Seattle	.17 ^b
Liguna Niguel	.23 ^b
San Jose	.08 ^b
San Francisco	.28 ^b
Los Angeles	.34 ^b

^aMeasured in units of \$10,000.

^bOdds ratios that are statistically significant at the .05 level.

^cSole proprietors are taxpayers who file Schedule C with Form 1040, Individual Income Tax Return, and who also file the employer's tax forms: Form 940, Employer's Annual Federal Unemployment Tax Return, and Form 941, Employer's Quarterly Federal Tax Return.

^dIncludes tax-exempt organizations and other businesses.

Tables I.1 and I.2 can be used to compute district office odds ratios that are not directly reported in the tables. The odds of seizure for individual Boston taxpayers relative to taxpayers in other districts is determined from table I.1 by dividing 1.0 by the odds ratio of the other district. Thus, the odds of seizure for Boston taxpayers relative to San Jose taxpayers is 1.0 divided by 0.06 which is equal to 16.67. In the same way, the odds of seizure for business taxpayers in Newark can be determined from table I.2 by dividing 1.0 by the odds ratios for other district offices. The odds of seizure for Newark business taxpayers relative to Fort Lauderdale taxpayers is 1.0 divided by .07, which is equal to 14.29. The tables can also be used to compare the probability of seizure in any two district offices by dividing the odds ratios for the offices. For example, that Oklahoma City taxpayers were about 4 times more likely to have property seized than Los Angeles taxpayers is shown in table I.1 by dividing the odds ratio for Oklahoma City (.81) by the odds ratio for Los Angeles (.21) to obtain the odds ratio of 3.86. Note that when comparisons are made in this way, the

table does not provide information about whether differences in the odds ratios are statistically significant.

The size of the odds ratios can be used to assess whether a characteristic had a large or small effect on the probability of seizure. However, caution should be used when comparing the odds ratios of categorical and continuous variables. The value of the odds ratio for continuous variables depends on the units in which the variable is measured, and a change in the value of a continuous variable is not equivalent to differences in the value of categorical variables. For example, the odds ratio of 1.13 for the number of delinquencies for individuals (reported in table I.1) would increase to 2.11 if the change in the number of delinquencies was increased from one to six. The odds of seizure for the self-employed are 2.08 times greater than the odds for wage earners, about twice the odds ratio for an increase of one delinquency for any individual and about equal to the odds ratio for an increase of six delinquencies. Thus, the comparison of the number of delinquencies and source of income characteristics depends on the units of measurement and judgments about the comparability of these numerical and qualitative differences.

Confidence Intervals for Tables

Most of the reported data in this report are estimates based on the sample of seizures and taxpayers we examined (see ch. 1). All estimates and sampling error intervals are presented at the 95-percent confidence level. This means that we can be 95-percent certain that this interval contains the actual value. For example, if the reported value is \$235 million and the sampling error is plus or minus \$90 million, we are 95-percent certain that the interval, \$145 million to \$325 million, contains the actual value.

In the following tables, we present the confidence intervals for the results reported in chapters 2 and 3.

Chapter 2 Tables

Table II.1 provides the confidence intervals for the estimates in table 2.3.

Table II.1: Confidence Intervals for Percentage of Tax Delinquencies Resolved

Seizure result	Percentage of taxpayers' debt resolved									
	Less than 5%		5 to 50%		50 to 95%		95% or more		Total	
	Estimate	Interval	Estimate	Interval	Estimate	Interval	Estimate	Interval	Estimate	Interval
Taxpayers paid, and IRS returned the assets	4	1 to 8	9	5 to 16	0	0 to 3	36	27 to 45	49	40 to 58
Taxpayers did not pay, and IRS sold the assets	9	5 to 15	13	7 to 20	2	0.2 to 6	2	1 to 7	26	18 to 34
Taxpayers did not pay, but IRS could not sell the assets and returned them	7	3 to 13	0	0 to 3	0	0 to 3	0	0 to 3	7	3 to 13
Other ^a	12	5 to 18	1	0 to 5	1	0 to 5	4	1 to 8	17	10 to 24
Total	32	23 to 40	23	16 to 31	2	1 to 7	42	33 to 52	100	

Note: Percentages may not add due to rounding.

^aThis covers taxpayers who could be categorized under more than one category because they had multiple assets seized or experienced multiple seizures and not all assets had the same disposition or payment status.

Source: GAO analysis of IRS case files.

Appendix II
Confidence Intervals for Tables

Table II.2 provides the confidence intervals for the estimates in table 2.4.

Table II.2: Confidence Intervals for Delinquency Amounts, Days in Collection, and Revenue Officer Collection Results

Seizure result	Percentage of taxpayers		Average tax delinquency				Revenue officer collection results								
			Amount		Days from first collection notice		Average number before seizure		Days in collection		Levies on wages, bank accounts		Percent of tax liability resolved		
	Est.	Int.	Est.	Int.	Est.	Int.	Est.	Int.	Est.	Int.	Est.	Int.	Est.	Int.	
Taxpayers paid and IRS returned assets	49%	40 to 58	\$63,424	43,528 to 83,320	1,180	916 to 1,444	8	7 to 10	423	326 to 519	3	2 to 4	18%	6 to 30	42 to 78
Taxpayers did not pay and IRS sold assets	26	18 to 34	214,775	93,182 to 336,368	1,302	938 to 1,666	7	4 to 10	347	222 to 472	4	1 to 6	17	9 to 25	15 to 29
Taxpayers did not pay, IRS could not sell assets and returned them	7	3 to 13	259,201	91,414 to 426,988	1,091	790 to 1,392	8	2 to 12	328	157 to 500	3	0 to 6	10	6 to 14	0 to 0
Other ^a	17	10 to 24	113,399	33,067 to 193,730	1,033	355 to 1,711	10	5 to 15	403	107 to 698	6	2 to 10	9	1 to 17	0 to 11
Total	100		126,354	86,129 to 166,579	1,181	982 to 1,380	8	7 to 10	392	316 to 468	4	3 to 5	15	9 to 22	12 to 32

Legend

Est. = Estimate

Int. = Confidence interval

Note: Percentage of taxpayers does not add due to rounding.

^aThis covers taxpayers who could be categorized under more than one category because they had multiple assets seized or experienced multiple seizures and not all assets had the same disposition or payment status.

Source: GAO analysis of IRS case files.

Chapter 3 Tables

Table II.3 provides the confidence intervals for the estimates in table 3.1.

Table II.3: Confidence Intervals for Key Requirement for Giving Taxpayers an Opportunity to Resolve Their Tax Debts

Description of key requirement	Percentage of taxpayers					
	Yes		No		Unknown ^a	
	Estimate	Interval	Estimate	Interval	Estimate	Interval
Taxpayers were sent written notices about each delinquent tax liability and their rights and responsibilities	100	97 to 100	0	0	0	0
Taxpayers were sent a written notice for each delinquency about the possible seizure of their property and an explanation of their rights and responsibilities before seizure	91	85 to 95	9	5 to 15	0	0
Taxpayers were provided written notification of possible seizure within 180 days or were subject to ongoing enforcement action (lien, levy, or seizure) within 60 days of a seizure	66	58 to 74	33	25 to 40	1	0 to 5
Revenue officers attempted at least one personal contact with taxpayers before seizure	96	91 to 98	4	2 to 9	0	0
Revenue officers personally advised taxpayers of potential for enforced collection action, e.g., seizure of property	71	63 to 79	11	5 to 17	18	11 to 25
Revenue officer waited at least 30 days after all notices before seizing taxpayer's property	86	79 to 93	8	4 to 14	6	3 to 11

^aFile documentation was not sufficient to make a yes or no determination.

Source: GAO analysis of IRS case files.

Table II.4 provides the confidence intervals for the estimates in table 3.2.

Table II.4: Confidence Intervals for Assessing Taxpayers' Ability to Pay

Description of key requirement	Percentage of taxpayers ^a					
	Yes		No		Unknown ^b	
	Estimate	Interval	Estimate	Interval	Estimate	Interval
Revenue officer requested financial information from taxpayer	84	77 to 91	14	7 to 21	2	0 to 7
Taxpayer provided some financial information	63	53 to 73	33	23 to 42	4	1 to 9
Taxpayer provided complete and accurate financial information	10	4 to 17	90	83 to 96		
Revenue officer validated financial information for those taxpayers who provided it	86	78 to 94	6	2 to 15	9	4 to 18
Revenue officer found unreported assets	25	16 to 33	75	67 to 84	0	0
IRS obtained complete and accurate financial information	9	5 to 15	86	79 to 93	5	2 to 12

Note: Percentages may not add to 100 due to rounding.

^aUnless otherwise noted, projections are made to the universe of all taxpayers who were personally contacted before the seizures.

^bFile documentation was not sufficient to make a yes or no determination.

Source: GAO analysis of IRS case files.

Appendix II
Confidence Intervals for Tables

Table II.5 provides the confidence intervals for the estimates in table 3.3.

Table II.5: Confidence Intervals for Estimating Seizure Results

Description of requirement	Percentage of seizures					
	Yes		No		Unknown ^a	
	Estimate	Interval	Estimate	Interval	Estimate	Interval
Estimate of fair market value of property	81	74 to 88	18	12 to 25	1	0 to 4
Estimate of encumbrances on property ^b	76	69 to 84	20	13 to 27	4	1 to 8
Estimate of the cost of seizure and sale	66	58 to 74	32	25 to 40	1	0 to 5
Overall, all estimates	57	49 to 65	39	31 to 48	4	1 to 8

Note: Percentages may not add to 100 due to rounding.

^aFile documentation was not sufficient to make a yes or no determination.

^bTwo seizures involving only cash were excluded from the population, as encumbrances did not apply.

Source: GAO analysis of IRS case files.

Table II.6 provides the confidence intervals for the estimates in table 3.4.

Table II.6: Confidence Intervals for Reasons for Taking Seizure Action

Reason for seizure	Percentage of seizures	
	Estimate	Confidence interval
Taxpayer has been delinquent in filing income tax returns or paying taxes in more than 1 year	75	68 to 82
Taxpayer not making a good-faith effort to pay the taxes due	62	54 to 70
Uncooperative taxpayer (e.g., hiding assets, not providing financial information)	41	33 to 50
Taxpayer has not paid the current year taxes	33	25 to 40
Taxpayer pyramiding employment tax liabilities ^a	19	13 to 25
Immediate action necessary (jeopardy collection, impending bankruptcy, etc.)	6	3 to 10
Other	31	23 to 39

^aWhen employment taxes are not paid from quarter to quarter and the taxpayer has not paid the current quarter's taxes, the taxpayer is considered to be pyramiding employment tax liabilities.

Source: GAO analysis of IRS case files.

**Appendix II
Confidence Intervals for Tables**

Table II.7 provides the confidence intervals for the estimates in table 3.5.

Table II.7: Confidence Intervals for Protecting Taxpayer Rights During the Seizure Process

Description of key steps	Percentage of seizures					
	Yes		No		Unknown ^a	
	Estimate	Interval	Estimate	Interval	Estimate	Interval
Revenue officer obtained appropriate approvals	99	95 to 99	1	0 to 5	0	0
Revenue officer obtained writ of entry ^b when needed	100	83 to 100	0	0	0	0
Revenue officer complied with witness requirements	99	95 to 100	0	0	1	0 to 5
Taxpayer provided with notice of levy or seizure action and the inventory of seized assets	72	65 to 80	0	0	28	20 to 35

^aFile documentation was not sufficient to make a yes or no determination.

^bA writ of entry from the court must be obtained before seizure when the revenue officer has been denied taxpayer consent to enter private premises.

Source: GAO analysis of IRS case files.

Table II.8 provides the confidence intervals for the estimates in table 3.6.

Table II.8: Confidence Intervals for Completeness of Inventory Descriptions

Baseline information	Percentage of seizures with baseline information recorded on inventory							
	All		Some but not all		Not recorded		Unable to determine	
	Estimate	Interval	Estimate	Interval	Estimate	Interval	Estimate	Interval
Asset description								
General description	93	89 to 97	6	3 to 11	0	0 to 3	1	0 to 4
Itemized list	91	85 to 97	6	3 to 13	3	1 to 9	0	0 to 4
Asset quantity	85	79 to 92	12	6 to 18	3	0 to 8	0	0 to 3
Detailed description ^a	75	68 to 82	20	14 to 26	5	2 to 10	1	0 to 4
Asset value								
Estimated fair market value	96	92 to 99	2	0 to 6	2	0 to 6	0	0 to 3
Estimated taxpayer equity ^b	88	83 to 94	2	0 to 5	10	6 to 15	1	0 to 4
Asset location	90	85 to 95	2	0 to 5	8	5 to 13	0	0 to 3
Asset custody	53	42 to 64	4	0 to 10	43	32 to 53	0	0 to 5
Asset condition	26	18 to 25	8	4 to 13	66	58 to 75	0	0 to 3

Note: Percentages may not add to 100 due to rounding.

^aDescription sufficient, in GAO's opinion, to differentiate asset seized from other like items such as by specifying make, model, or serial numbers.

^bAsset fair market value adjusted to account for encumbrances.

Source: GAO review of IRS seized asset inventory records and attachments to those records.

**Appendix II
Confidence Intervals for Tables**

Table II.9 provides the confidence intervals for the estimates in table 3.7.

Table II.9: Confidence Intervals for Adhering to Basic Taxpayer Protections in Cases That Went to Sale

Taxpayer protection	Percentage of seizures					
	Yes		No		Unknown ^a	
	Estimate	Interval	Estimate	Interval	Estimate	Interval
IRS computed a minimum price at which it could sell the seized assets	98	89 to 100	2	0 to 11	0	0
Taxpayer was notified of minimum price and was given 10 days to submit a different valuation	79	66 to 93	5	1 to 14	16	5 to 27
Sale was advertised in the required locations (e.g., public postings and newspaper)	96	86 to 99	4	1 to 14	0	0
Sale was held within prescribed time period—at least 10 days, but not later than 40 days, after public notice	94	83 to 99	6	1 to 17	0	
Sale was witnessed by another IRS employee	70	57 to 84	0		30	16 to 43
Asset was sold for the minimum price or more ^b	95	83 to 99	2	0 to 13	2	0 to 13
Taxpayer was notified of sales results (sale amount, sale expenses, and amount credited to taxpayer)	16	7 to 29	0		84	71 to 93

Note: Percentages may not add to 100 due to rounding.

^aFile documentation was not sufficient to make a yes or no determination.

^bExcludes those sales where the asset was returned to the taxpayer.

Source: GAO analysis of IRS case files.

Table II.10 provides the confidence intervals for the estimates in table 3.8.

Table II.10: Confidence Intervals for Types of Taxpayer Complaint

Type of taxpayer complaint	Percentage of complaints			
	In revenue officers' files		In Taxpayer Advocate or Collection Appeals files	
	Estimate	Interval	Estimate	Interval
Taxpayer disputed amount owed	51	40 to 62	15	10 to 19
IRS did not follow procedures	21	13 to 30	10	6 to 13
IRS caused taxpayer hardship	20	11 to 28	67	61 to 72
IRS judgment or conduct was inappropriate	9	4 to 17	9	6 to 12
Total	100		100	

Note: Percentages may not add to 100 due to rounding.

Source: GAO analysis of IRS case files.

Appendix II
Confidence Intervals for Tables

Table II.11 provides the confidence intervals for the estimates in table 3.9.

Table II.11 Confidence Intervals for Resolution of Taxpayer Complaints

IRS party resolving taxpayer complaint	Percentage of complaints resolved in support of IRS actions							
	Yes		No		Partly		Unknown ^a	
	Estimate	Interval	Estimate	Interval	Estimate	Interval	Estimate	Interval
Revenue officer or supervisor	74	64 to 83	7	2 to 15	19	10 to 29	0	0 to 6
Taxpayer Advocate or Collection Appeals Program	64	59 to 69	9	6 to 12	11	8 to 14	17	12 to 21

Note: Totals may not add to 100 due to rounding.

^aFile documentation was not sufficient to make a yes or no determination.

Source: GAO analysis of IRS case files.

Comments From the Internal Revenue Service



COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

November 16, 1999

Mr. James R. White
Director, Tax Policy and Administration Issues
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. White:

Thank you for the opportunity to review and comment on your recent draft report entitled "Internal Revenue Service (IRS) Seizures: Needed for Compliance But Processes for Protecting Taxpayer Rights Have Some Weaknesses." It is our goal to protect the rights of each and every taxpayer, and accordingly, we are deeply concerned with your findings over the adequacy of taxpayer protections during the seizure process. As stated in the report, we have begun to implement additional protections and will use your report to help us further improve the seizure process.

As pointed out in the report, the IRS' use of seizure authority is in transition while we adapt to the IRS Restructuring and Reform Act of 1998 (RRA 98). Although we have provided training and guidance to our employees to meet the legal requirements of RRA 98, we agree additional guidance is needed. We do, however, need to ensure that such guidance allows our employees room for judgment. There must be a balance between the need to treat every taxpayer consistently, while allowing flexibility to address the unique situation of each taxpayer. We feel the fact that you found that seizure actions addressed the more noncompliant taxpayers is an example of the use of appropriate judgment.


The contrast, noted in the report, between the 42 percent of seizure cases that result in full case resolution, and the 22 percent that result in little or no proceeds to apply to the tax liability emphasizes the unpredictability of the seizure process. We would prefer that all seizure action, when necessary, would result in full case resolution. The fact that it does not, is not in itself indicative of an inappropriate use of the process. No matter how skilled a revenue officer may be, a specific reaction to an asset seizure is extremely difficult to predict. As part of the seizure approval process, we now require verification that the seizure and sale of a taxpayer's assets should provide net proceeds to apply to the tax liability. This new procedure should eliminate a number of seizures that would otherwise provide little or no proceeds.

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The report also points out there is a wide variation among districts of the likelihood of a delinquent taxpayer's assets being seized. Again, we do not feel this is indicative of an inappropriate use of the process. Although your report did control for factors, such as income and delinquency amounts, we feel there are additional factors that have an impact on the variation. Differences in the types of cases that may be worked in different districts, variances in the resources available to each district for Collection Field function work, and disparity among districts in their approach to enforcement action have an impact on the variation. While we aim for a consistent enforcement program, it is not possible to say whether a district making seizures less frequently on average is performing more appropriately than one making seizures more frequently on average; the decision has to be made on a case-by-case basis as all facts are considered. Experience has taught us that we should not be measuring district against district or, comparing a district's seizure activity to a national average.

We have enclosed our responses to your recommendations and will use the guidance they provide to improve the seizure and sale program. As previously stated, it is our goal to improve the seizure and sale program to ensure we protect the rights and property of each and every taxpayer. We look forward to working with you and your staff to meet this goal.

Sincerely,


Acting for Charles O. Rossotti

Enclosure

Response to Recommendations from GAO
"IRS Seizures: Needed for Compliance But Processes for Protecting
Taxpayer Rights Have Some Weaknesses"

The GAO draft report makes 12 recommendations. Each of these is discussed below:

Recommendation 1: Build controls into our automated field collection system, currently under development, that would act as a check to prevent departures from seizure process requirements that are verifiable on an automated basis (e.g., required notifications made and time requirements followed).

Response: The seizure and sale module being designed for the Integrated Collection System (ICS) will incorporate these checks. We will check to verify that the required notice has been sent on each module and that the required waiting period has passed before we allow systemic production of documents.

Recommendation 2: Provide guidance that describes the lengths that revenue officers are to go to (1) personally contact delinquent taxpayers, (2) obtain financial information from delinquent taxpayers or develop such information from alternative sources, and (3) develop and document estimates of the minimum sales price at which the seized assets could be sold.

Response: We can provide more direction about what constitutes an adequate attempt to contact the taxpayer and to obtain financial information, but we are often dealing with people who are uncooperative and who make positive efforts to avoid us. Any guidelines we provide will be taken by some revenue officers as the absolute maximum effort that they must make while others will take them to be an absolute minimum. We can provide more guidance on calculating the minimum bid so that the reductions taken are based on the situation rather than always being the maximum permitted. Based on the legal requirement that there be net proceeds to apply to the liability, we will rewrite Internal Revenue Manual (IRM) procedures to require the preparation of a draft minimum bid prior to seeking approval of a seizure. This draft minimum will provide a useful starting point when the Internal Revenue Code (IRC) section 6335 minimum bid is computed.

Recommendation 3: Require revenue officers to document the basis for their judgments made (e.g., basis for determining sufficient attempts were made to gain taxpayer cooperation to pay delinquent taxes and basis for determining impact on taxpayer dependents) to facilitate managerial review of case files.

Response: Revenue officers are required to document history with contacts and attempted contacts with taxpayers and of other efforts to collect the delinquent liability.

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In instances where contact has not been made, we can require a statement regarding the efforts made and why additional efforts to contact are not felt to be worthwhile or productive. We can also require a history notation of the basis for the reasons why the revenue officer believes that seizure is appropriate at this stage of case activity. However, any pre-seizure determination of impact on taxpayer dependents would usually be pure conjecture, especially in cases where the taxpayer has not been cooperative. Obviously, any enforcement action has negative impact on someone, but we cannot be precluded from enforcement simply because dependents exist and may be negatively impacted. The taxpayer has the right to raise the issue of hardship, has appeal rights and can submit an Application for Taxpayer Assistance Order to the Advocate.

Recommendation 4: Provide written guidance on when seizure actions ought to be taken, that is, the conditions and circumstances that would justify seizure action and the responsibilities of senior managers to ensure that such actions are taken.

Response: We agree that the information in the existing seizure guidelines can be augmented and clarified. However, we want to avoid situations where the facts of a case as seen by the revenue officer and local management do not appear to warrant seizure action but where a reading of the national directives requires that a seizure be made. In any potential seizure situation, there are numerous factors that require consideration with some falling on the side of seizure and some falling on the side of non-seizure. At best, we can devise guidelines and training that aim for fair and consistent decision-making, nationwide, while we realize that there will always be a need for sound judgment. Senior managers may review cases and recommend that seizure action be taken, but it is up to the revenue officer to make the final determination after discussion of the situation with their managers.

Recommendation 5: Ensure that revenue officers document basic asset control information, including detailed asset identity descriptions, asset condition and custody information.

Response: Our current seizure documents require that this information be secured and noted on the seizure documents. In the past, we have not required this information be recorded in the case history as well, but we can expand the history documentation requirement to some extent. However, we would want to keep duplicated information to a minimum. After implementation of the Uniform Asset Disposal Mechanism (UADM), the revenue officer may not have direct knowledge of changes in asset custody. Procedures for UADM documentation requirements are yet to be developed.

3

Recommendation 6: Ensure that basic control information is timely entered and included in the revised automated inventory control system.

Response: Procedures will be developed for requiring that this be accomplished on a timely basis. The use of ICS should remove a number of existing lags in the process.

Recommendation 7: Ensure asset security and accountability through scrutiny of decisions regarding security and periodic reconciliation of inventory records to assets on hand (periodic physical inventories).

Response: Most seizures, such as real property or vehicles, require no out of the ordinary security arrangements. We can change IRM procedures to require consultation with managers and documentation of these decisions involving unusual items. Since the UADM is due to be in place by July 22, 2000, these decisions will be removed from the revenue officer by that time. The use of the UADM will complicate the handling of assets to some degree. Some receipt mechanism will have to be developed to document the transfer of the assets to the UADM from the revenue officer. We would also have to consider the need for receipts when the UADM would use a third party facility for asset storage pending sale. The establishment of the UADM will concentrate the responsibility for asset control into fewer hands but will make periodic physical inventories more difficult. The UADM will be responsible for very large areas that might make it impractical to visit numerous storage sites to conduct physical inventory. We believe it may be more feasible to require a physical inventory only when an item has been held for an extended period (90 days or longer) and then quarterly, if not disposed. For some assets, such as unimproved land, which cannot be moved or suffer deterioration or theft, we should not require physical inventory. Again, distances and costs should be a factor when we consider the need for regular inventorying.

Recommendation 8: Require revenue officers to record and account for all theft, loss, and damage expenses of each asset and document efforts to obtain reimbursement for the expenses in collection case files.

Response: After July 22, 2000, this would be the responsibility of the UADM. In the past, we have not looked to a third party custodian for reimbursement for loss or damage involving seized assets. We would need to secure a ruling from Counsel regarding under what provisions of law we could seek reimbursement, and how that reimbursement would be applied, if secured. It would appear that before this recommendation was implemented, it would be necessary to implement the recommendations on more detailed inventories on asset condition and a system of receipts for seized assets. Instances of theft of seized assets are reported to Criminal Investigation per current procedures.

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Recommendation 9: Develop guidelines for establishing a minimum asset price that precludes the use of arbitrary percentage reductions or using the amount of the delinquency as the minimum price.

Response: We recognize the instructions for taking reductions from the asset fair market value to arrive at the asset reduced forced sale value need to be augmented. It has been routine, in the past, for revenue officers to use the maximum permitted reductions without explanation rather than to evaluate the situation to determine the appropriate reduction. This may have its roots in the fact that prior to a 1986 change in the IRC, the Service was required to bid in property for the established minimum price if no third party bidder offered the minimum; the lower minimum price could more consistently ensure a sale to a third party. After the change in law, this should no longer have been a factor, but the precedent had been well established. This same issue is involved in the policy of setting a minimum price no higher than the amount of the liability and additions. We were previously required by the IRC to bid in the property for the government, but precluded by the U.S. Code from bidding in property for more than the amount of the tax liability plus costs. Counsel has issued opinions regarding this matter after the 1986 change in law, and continued to support the position that the minimum bid should be no larger than the taxpayer's liability plus costs. In light of your recommendation, we can again raise the issue with Counsel. If Counsel has changed its position, we would have to modify our procedures to require that any property with a minimum bid greater than the delinquency be released to the taxpayer if no third party bidder will pay the established minimum price. At that point, we potentially may have to declare the tax uncollectible despite the existence of substantial equity in the asset.

Recommendation 10: Take the steps necessary to promote reasonable competition among potential buyers during assets sale.

Response: We believe the sale process to be used by the UADM will generate more buyer interest since the sale will be conducted by a specialized Service employee or third party seller. Some existing problems will remain; however, assets located in remote areas or with extremely specialized uses will continue to have very limited markets. Incurring additional expenses of sale will not necessarily increase buyer interest or net sale proceeds. There will be a trade off in moving assets to a more favorable sale site in that this may increase buyer interest but will increase costs and make taxpayer redemption of the property prior to sale more complex. Likewise, any increase in advertising may or may not increase buyer interest, but it will definitely increase costs charged to the taxpayer's account. Our sale of the taxpayer's right, title, and interest does not grant the buyer clear title, and this will remain a depressing factor in any attempt to increase bidder interest and competition.

Recommendation 11: Expand the quality review of collection cases to include an assessment of the use of seizure authority and of asset management and disposal activities.

Response: At this time the implementation of this recommendation appears impractical for several reasons. All closed cases involving seizures are removed from the normal stream of closed cases from which Collection Quality Measurement System (CQMS) cases are selected; they are associated with the seizure file in Special Procedures so that this material can be supplied timely to the Treasury Inspector General for Tax Administration (TIGTA) for the preparation of semi-annual report required by IRC 7803(d)(1)(A). Additionally, even if these closed seizure cases were placed back into the stream of cases subject to CQMS review after their TIGTA review, there are so few cases where seizure is made that there is a strong likelihood that none would be selected for CQMS review during any given year. We could not expect to determine anything statistically valid from such a CQMS review; the feedback from TIGTA is much more comprehensive.

Recommendation 12: Establish a method for providing IRS senior managers with useful information to monitor the use of seizure authority and resolution of taxpayer complaints.

Response: The difficulty in determining what useful information could be delivered to senior managers at the National Office is that the appropriate use of seizure authority must be determined on a case-by-case basis after reviewing all the facts of the case. The procedures currently in place, requiring a minimum of three managerial approvals for seizure with district director approval required in some more sensitive cases and court approval required for seizure of the taxpayer's personal residence, should provide sufficient review of the judgment being used at a level more able to evaluate diverse local factors. The existing national roll up reports give raw numbers, but tell us nothing about the cases themselves. Even if we devise a reporting system that supplies information on each seizure, including the types of assets seized and the eventual outcome of the seizure, such a report would not tell us if the seizures involved only those taxpayers who warranted seizure and that seizures were not being made only on the taxpayers who did not warrant seizure. The taxpayer has so many avenues to express complaints involving seizures that it appears impossible to set up a monitoring system: the complaint may be lodged and resolved with the revenue officer, the group manager or higher local management, the Collection Appeals Program, the Taxpayer Advocate, the Commissioner, or a member of Congress. If we attempted to channel all complaints through a single process for the purpose of monitoring, taxpayers may conclude that they are being deprived of some of their rights to protest our actions.

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