



"Those who say it cannot be done should not interfere with those of us who are doing it"© - S. Hickman

[Home](#)

[Against the Grain Press Loss of Liberty Revealed](#)

[Working Tommy C.](#)

[Livid Leigh](#)

[Boilin' Ed](#)

[D. Tom](#)

[The Informer](#)

[Knowledge is Freedom](#)

[Privacy](#)

[Links](#)

[Court Case](#)

[Contact Us](#)

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The Informer

26 USC 6331 Authorizing IRS

Read the following as this is the only regulation that 26 USC 6331 is authorizing. IRS itself has no regulation other than this. Note bolded type to show you that unless you are the specific one mentioned and your employer is the specific one mentioned, neither of you are subject to an IRS levy. Now you know why when you or your employer gets a Notice of Levy 6331 (a) is missing. They don't want either of you to know it is government and it's employees ONLY that are subject to Levy.

[Code of Federal Regulations]
[Title 27, Volume 1]
[Revised as of April 1, 2005]
From the U.S. Government Printing Office via GPO Access
[CITE: 27CFR70.161]

[Page 1083-1085]

TITLE 27--ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

CHAPTER I--ALCOHOL AND TOBACCO TAX AND TRADE BUREAU,
DEPARTMENT OF THE
TREASURY

PART 70_PROCEDURE AND ADMINISTRATION--Table of Contents

Subpart D_Collection of Excise and Special (Occupational) Tax

Sec. 70.161 Levy and distraint.

(a) Authority to levy--(1) In general. If any person liable to pay any tax neglects or refuses to pay the tax within 10 days after notice and demand, the **appropriate ATF officer who initiated the assessment may proceed to collect the tax by levy, provided the taxpayer has been furnished the notice described in Sec. 70.162(a) of this part.** The appropriate ATF officer may levy upon any property, or rights to property, whether real or personal, tangible or intangible, belonging to the taxpayer. The appropriate ATF officer may also levy upon property with respect to which there is a lien provided by **26 U.S.C. 6321** for the payment of the tax. For exemption of certain property from levy, see 26 U.S.C. 6334 and Sec. 70.241 through 70.245 of this part. For exemption of certain property from levy, see 26 U.S.C. 6334 and Sec. 70.241 through 70.245 of this part. **As used in 26 U.S.C. 6331 and this section, the term "tax" includes any interest, additional amount, addition to tax, or assessable penalty, together with costs and expense.** Property subject to a Federal tax lien which has been sold or otherwise transferred by the taxpayer may be seized while in the hands of the transferee or any subsequent transferee. However, see 26 U.S.C. 6323(i)(2) and Sec. 70.144 of this part concerning the subrogation rights of certain transferees. Levy may be made by serving a Notice of Levy on any person in possession of, or obligated with respect to, property or rights to property subject to levy, including receivables, bank accounts, evidences of debt, securities, and salaries, wages, commissions, or other compensation. Except as provided in Sec. 70.162(c) of this part with regard to a levy on salary or wages, a levy extends only to property possessed and obligations which exist at the time of the levy. Obligations exist when the liability of the obligor is

time of the levy. Obligations exist when the liability of the obligor is fixed and determinable although the right to receive payment thereof may be deferred until a later date. For example, if on the first day of the month a delinquent taxpayer sold personal property subject to an agreement that the buyer remit the purchase price on the last day of the month, a levy made on the buyer on the 10th day of the month would reach the amount due on the sale, although the buyer need not satisfy the levy by paying over the amount to the appropriate ATF officer until the last day of the month. Similarly, a levy only reaches property in the possession of the person levied upon at the time the levy is made. For example, a levy made on a bank with respect to the account of a delinquent taxpayer is satisfied if the bank surrenders the amount of the taxpayer's balance at the time the levy is made, including interest thereon to the date of surrender. The levy has no effect upon any subsequent deposit made in the bank by the taxpayer. Subsequent deposits may be reached only by a subsequent levy on the bank.

(2) Jeopardy cases. If the appropriate ATF officer finds that the collection of any tax is in jeopardy, that officer may make notice and demand for immediate payment of such tax and, upon

[[Page 1084]]

failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in 26 U.S.C. 6331(a) or the 30-day period provided in 26 U.S.C. 6331(d).

(3) Bankruptcy or receivership cases. During a bankruptcy proceeding or a receivership proceeding in either a Federal or a State court, the assets of the taxpayer are in general under the control of the court in which such proceeding is pending. Taxes cannot be collected by levy upon assets in the custody of a court, whether or not such custody is incident to a bankruptcy or receivership proceeding, except where the proceeding has progressed to such a point that the levy would not interfere with the work of the court or where the court grants permission to levy. Any assets which under applicable provisions of law are not under the control of the court may be levied upon, for example, property exempt from court custody under State law or the bankrupt's earnings and property acquired after the date of bankruptcy. However, levy upon such property is not mandatory and the Government may rely upon payment of taxes in the proceeding.

(4) Certain types of compensation—(i) Federal employees. Levy may be made upon the salary or wages of any officer or employee (including members of the Armed Forces), or elected or appointed official, of the United States, the District of Columbia, or any agency or instrumentality of either, by serving a notice of levy on the employer of the delinquent taxpayer. **As used in this paragraph, the term "employer" means:**

(A) The officer or employee of the United States, the District of Columbia, or of the agency or instrumentality of the United States or the District of Columbia, who has control of the payment of the wages, or

(B) Any other officer or employee designated by the head of the branch, department, or agency, or instrumentality of the United States or of the District of Columbia as the party upon whom service of the notice of levy may be made.

If the head of such branch, department, agency or instrumentality designates an officer or employee other than one who has control of the payment of the wages, as the party upon whom service of the notice of levy may be made, such head shall promptly notify the appropriate ATF officer of the name and address of each officer or employee so designated and the scope or extent of the authority of such designee.

(ii) State and municipal employees. Salaries, wages, or other compensation of any officer, employee, or elected or appointed official of a State or Territory, or of any agency, instrumentality, or political subdivision thereof, are also subject to levy to enforce collection of any Federal tax.

(iii) Seamen. Notwithstanding the provisions of section 12 of the Seamen's Act of 1915 (46 U.S.C. 601), wages of seamen, apprentice seamen, or fishermen employed on fishing vessels are subject to levy. See 26 U.S.C. 6334(c).

(5) Noncompetent Indians. Solely for purposes of 26 U.S.C. 6321 and 6331, any interest in restricted land held in trust by the United States for an individual noncompetent Indian (and not for a tribe) shall not be deemed to be property or a right to property belonging to such Indian

deemed to be property, or a right to property, belonging to such individual.

(b) Successive seizures. Whenever any property or rights to property upon which a levy has been made are not sufficient to satisfy the claim of the United States for which the levy is made, **the appropriate ATF officer** may thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property or rights to property subject to levy of the person against whom such claim exists or on which there is a lien imposed by 26 U.S.C. 6321 (or the corresponding provision of prior law) for the payment of such claim until the amount due from such person, together with all costs and expenses, is fully paid.

(c) Service of notice of levy by mail. A notice of levy may be served by mailing the notice to the person upon whom the service of a notice of levy is authorized under paragraph (a)(1) of this section. In such a case the date and time the notice is delivered to the person to be served is the date and time the levy is made. If the notice is sent by certified or registered mail, return receipt requested, the date of delivery on the receipt is treated as the

[[Page 1085]]

date the levy is made. If, after receipt of a notice of levy, an officer or other person authorized to act on behalf of the person served signs and notes the date and time of receipt on the notice of levy, the date and time so noted will be presumed to be, in the absence of proof to the contrary, the date and time of delivery. Any person may upon written notice to the appropriate ATF officer, have all notices of levy by mail sent to one designated office. After such a notice is received by the appropriate ATF officer, notices of levy by mail will sent to the designated office until a written notice withdrawing the request or a written notice designating a difference office is received by the appropriate ATF officer.

(26 U.S.C. 6331 and 6332)

[T.D. ATF-6, 38 FR 32445, Nov. 26, 1973, as amended by T.D. ATF-450, 66 FR 29026, May 29, 2001]