

that none of the conditions requiring release of the levy exist, the director must promptly notify the taxpayer of the decision not to release the levy and the reason why the levy is not being released.

(d) *Expedited determination with respect to certain business property*—(1) *General procedure*—(i) *Submission by taxpayer*. If a levy is made on essential business property as is described in paragraph (d)(2) of this section, the taxpayer may obtain an expedited determination of whether any of the conditions requiring release of the levy exist. In order to obtain an expedited determination, the taxpayer must submit, within the time frame specified in paragraph (c)(2) of this section, the information required in paragraph (c)(1) of this section and include with the information an explanation of why the property levied upon qualifies for an expedited determination of whether a condition requiring release of the levy exists.

(ii) *Time for making required determination*. The director must make such a determination by the later of 10 business days from the time the director receives the request for release, or 10 business days from the time the director receives any necessary supporting documentation, if 10 or more business days remain before a scheduled sale of the property to which the levy relates. An expedited determination concerning release must be made prior to sale in all cases where a request for release of a levy is made within the time frame specified in paragraph (c)(2) of this section. If necessary the director may postpone the scheduled sale in order to make this determination.

(iii) *Discretionary determination*. The director has the discretion, but is not required, to make an expedited determination concerning release in cases where the taxpayer does not submit, within the time frame specified in paragraph (c)(2) of this section, the information required in paragraph (c)(1) of this section and include with the information an explanation of why the property levied upon qualifies for an expedited determination of whether a condition requiring release of the levy exists.

(2) *Essential business property defined*. For purposes of this section, *essential business property* means tangible personal property used in carrying on the trade or business of the taxpayer which when levied upon prevents the taxpayer from continuing to carry on the trade or business.

(3) *Seizure of perishable goods*. The provisions of this paragraph do not apply in the case of a seizure of

perishable goods. Those seizures are governed by the provisions of section 6336 and § 301.6336-1.

(e) *Effect of a release of levy*. If property has not yet been surrendered to the director in response to a levy, a release of the levy under section 6343(a) will relieve the possessor of any obligation to surrender the property. Otherwise, a release of a levy under section 6343(a) will cause the property to be returned to the custody of the person or persons legally entitled thereto. The release of a levy on any property under this section does not prevent any subsequent levy on the property. Section 301.6343-2, dealing with return of wrongfully levied upon property, is subject to section 6402 which prohibits the Internal Revenue Service from refunding a payment of money that has been deposited in the Treasury and credited to the taxpayer's liability unless there is an overpayment.

(f) *Effective date*. This section is effective as of December 30, 1994.

Par. 3. Section 301.6343-2 is added to read as follows:

§ 301.6343-2 Return of wrongfully levied upon property.

(a) *Return of property*—(1) *General rule*. If the district director, service center director, or compliance center director (the *director*) determines that property has been wrongfully levied upon, the director may return—

- (i) The specific property levied upon;
- (ii) An amount of money equal to the amount of money levied upon; or
- (iii) An amount of money equal to the amount of money received by the United States from a sale of the property.

(2) *Time of return*. If the United States is in possession of specific property, the property may be returned at any time. An amount equal to the amount of money levied upon or received from a sale of the property may be returned at any time before the expiration of 9 months from the date of the levy. When a request described in paragraph (b) of this section is filed for the return of property before the expiration of 9 months from the date of levy, an amount of money may be returned after a reasonable period of time subsequent to the expiration of the 9-month period if necessary for the investigation and processing of such request.

(3) *Specific property*. In general the specific property levied upon will be returned whenever possible. For this purpose, money that is specifically identifiable, as in the case of a coin collection which may be worth substantially more than its face value, is treated as specific property.

(4) *Purchase by United States*. For purposes of paragraph (a)(1)(iii) of this section, if property is declared purchased by the United States at a sale pursuant to section 6335(e), the United States is treated as having received an amount of money equal to the minimum price determined by the director before the sale or, if larger, the amount received by the United States from the resale of the property.

(b) *Request for return of property*. A written request for the return of property wrongfully levied upon must be addressed to the district director (marked for the attention of the Chief, Special Procedures Staff) for the Internal Revenue district in which the levy was made. The written request must contain the following information—

- (1) The name and address of the person submitting the request;
- (2) A detailed description of the property levied upon;
- (3) A description of the claimant's basis for claiming an interest in the property levied upon; and
- (4) The name and address of the taxpayer, the originating Internal Revenue district, and the date of the levy as shown on the notice of levy form, or levy form, or, in lieu thereof, a statement of the reasons why such information cannot be furnished.

(c) *Inadequate request*. A request for the return of property wrongfully levied upon will not be considered adequate unless it is a written request containing the information required by paragraph (b) of this section. However, unless a notification is mailed by the director to the claimant within 30 days of receipt of the request to inform the claimant of the inadequacies, any written request will be considered adequate. If the director timely notifies the claimant of the inadequacies of his request, the claimant has 30 days from the receipt of the notification of inadequacy to supply in writing any omitted information. Where the omitted information is so supplied within the 30-day period, the request will be considered to be adequate from the time the original request was made for purposes of determining the applicable period of limitation upon suit under section 6532(c).

(d) *Payment of interest*. Interest is paid at the overpayment rate established under section 6621—

- (1) In the case of money returned under paragraph (a)(1)(ii) of this section, from the date the director received the money to a date (to be determined by the director) preceding the date of return by not more than 30 days; or
- (2) In the case of money returned under paragraph (a)(1)(iii) of this