

Testimony

Before the Committee on Finance, U.S. Senate

For Release
on Delivery
Expected at
9:00 a.m. EDT
Tuesday,
September 23, 1997

TAX ADMINISTRATION

IRS' Use of Enforcement
Authorities to Collect
Delinquent Taxes

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Mr. Chairman and Members of the Committee:

I appreciate being invited here today to discuss the availability of information on the Internal Revenue Service's (IRS) use of its enforcement authorities to collect delinquent taxes. In general, if taxes remain unpaid after IRS gives appropriate notice and demand for payment, IRS is authorized by the Internal Revenue Code to seize the delinquent taxpayer's property either through direct action or through demand (referred to as a notice of levy) made on third parties, such as banks or employers, to turn over the taxpayer's assets or earnings to IRS.¹ IRS is also authorized to file liens against the delinquent taxpayer's property.²

According to data IRS pulled together from various internal management systems, in fiscal year 1996, IRS (1) filed about 750,000 liens against taxpayer property, (2) issued about 3.2 million levies on taxpayer assets held by third parties, and (3) completed about 10,000 seizures of taxpayer property. These enforcement actions can have severe financial consequences for taxpayers, and the potential exists for such actions to be taken in error or improperly. Accordingly, you asked us to determine if information existed that could be used to determine whether collection enforcement authorities were properly used.

To determine whether information existed to evaluate IRS' use of collection enforcement authorities, we (1) asked IRS to provide us with available basic statistics on its use, and misuse, of lien, levy, and seizure authority from 1993 to 1996; (2) reviewed a small and subjectively selected sample of seizure, revenue officer, appeals, and problem resolution case files to identify the types of information that may be available from those files; and (3) interviewed IRS employees involved in these areas to determine how and when collection enforcement authorities were used, the controls for preventing misuse of those authorities, and the results of taxpayer complaints about the inappropriate use of the authorities.

In summary, while IRS has some limited data about its use, and misuse, of collection enforcement authorities, these data are not sufficient to show (1) the extent of the improper use of lien, levy, or seizure authority; (2) the causes of the improper actions; or (3) the characteristics of taxpayers

¹Under 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).

²A lien is a legal claim that attaches to property to secure the payment of a debt. The filing of a lien would prevent the taxpayer from selling an asset, with clear title, without payment of the tax debt.

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affected by improper actions. The lack of information exists because IRS' systems—both manual and automated—have not been designed to capture and report comprehensive information on the use and possible misuse of collection authorities. Also, much of the data that are recorded on automated systems cannot be aggregated without a significant investment of scarce programming resources. Some information is available in manual records, but—because collection enforcement actions can be taken by a number of different IRS offices and records resulting from these actions are not always linked to IRS' automated information systems—this information cannot be readily assembled to assess the use of enforcement actions. Also, data are not readily available from other potential sources, such as taxpayer complaints, because, in many circumstances, IRS does not require that information on the resolution of the complaints be recorded. IRS officials told us that collecting complete data on the use of enforcement actions that would permit an assessment of the extent and possible causes of misuse of these authorities is unnecessary because they have adequate checks and balances in place to protect taxpayers. However, IRS does not have the data that would permit it or Congress to readily resolve reasonable questions about the extent to which IRS' collections enforcement authorities are misused, the causes of those occurrences, the characteristics of the affected taxpayers, or whether IRS' checks and balances over the use of collection enforcement authorities are working as intended.

**Use of Liens, Levies,
and Seizures in
Collecting Taxes**

The magnitude of IRS' collection workload is staggering. As of the beginning of fiscal year 1996, IRS reported that its inventory of unpaid tax assessments totaled about \$200 billion. Of this amount, IRS estimated that about \$46 billion had collection potential.³ In addition, during the fiscal year, an additional \$59 billion in unpaid tax assessments were added to the inventory.

To collect these delinquent tax debts, IRS has established a graduated enforcement process. The process starts once IRS identifies taxpayers

³The \$46 billion figure is based on IRS' analysis of a sample of unpaid tax assessments that, according to IRS' financial statements, consist of balances due where IRS has demonstrated the existence of a receivable through information provided directly from the taxpayer or through actions by IRS that support or validate IRS' claim, such as securing a taxpayer's agreement. Excluded from the receivables are financial write-offs, allowance for doubtful accounts, and compliance assessments where the taxpayer has not responded to validate the claim, i.e., there is not an established claim with the taxpayer.

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who have not paid the amount due as determined by the tax assessment.⁴ In the first stage of the process, a series of notices are to be sent to the taxpayer from one of IRS' service centers. Collectively, these notices are to provide the taxpayer with statutory notification of the tax liability, IRS' intent to levy assets if necessary, and information on the taxpayer's rights. If the taxpayer fails to pay after being notified, the Internal Revenue Code authorizes a federal tax lien to be filed to protect the government's interest over other creditors and purchasers of taxpayer property.

The second stage of IRS' collection process involves attempts to collect the taxes by making telephone contact with the taxpayer. IRS carries out this stage through its Automated Collection System (ACS) program. During this stage, IRS may levy taxpayer assets and file notices of federal tax liens.

In the final stage of the collection process, information about the tax delinquency is referred to IRS' field offices for possible face-to-face contact with the taxpayer. During this stage, IRS may also levy taxpayer assets and file notices of federal tax liens. Additionally, as a final collection action, taxpayer property, such as cars or real estate, may be seized. Attachment I presents a flowchart that provides additional detail about the collection process.

At any time in the collection process, IRS may find that a taxpayer cannot pay what is owed or does not owe the tax IRS assessed. In such situations, IRS may enter into an installment agreement with a taxpayer, compromise for an amount less than the original tax assessment, suspend or terminate the collection action, or abate an erroneous assessment. Also, if the taxpayer is having a problem resolving a collection action with the initiating IRS office, the taxpayer may go to IRS' Taxpayer Advocate or to IRS' appeals program for resolution. If an enforcement action is taken that involves a reckless or intentional disregard of taxpayer rights by an IRS employee, a taxpayer may sue for damages. In the case of an erroneous bank levy, a taxpayer may file a claim with IRS for reimbursement of bank charges incurred because of the levy in addition to a refund of the erroneously levied amount. If a taxpayer believes that enforced collection would be a hardship, the taxpayer may request assistance from the Taxpayer Advocate.

⁴IRS tax assessments may result 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.

IRS Has Some Limited Data on the Use and Misuse of Lien, Levy, and Seizure Authority

IRS produces management information reports that provide some basic information on tax collections and the use of collection enforcement authorities, including the number of liens, levies, and seizures filed and, in the case of seizures, the tax delinquency that resulted in the seizure and the tax proceeds achieved. Also, some offices within IRS collect information on the misuse of these collection enforcement authorities, but the information is not complete.

Overall, IRS' management reports show that IRS' collection program collected about \$29.8 billion during fiscal year 1996, mostly without taking enforced collection action. In attempting to collect on delinquent accounts, the reports show IRS filed about 750,000 liens against taxpayer property, issued about 3.2 million levies on taxpayer assets held by third parties, and completed about 10,000 seizures of taxpayer property. Attachment II presents this overall information on IRS' use of lien, levy, and seizure authority during fiscal years 1993-96. Attachment III presents a summary of the distribution of seizure cases by type of asset seized in fiscal year 1996.

For the seizure cases completed in fiscal year 1996, the average tax delinquency was about \$233,700, and the average net proceeds from the seizures was about \$16,700. Although complete data were not available on tax delinquencies and associated net proceeds for liens and levies, the best information available from IRS indicates that about \$2.1 billion of the \$29.8 billion was collected as a result of lien, levy, and seizure actions. The remainder was collected as a result of contacts with taxpayers about their tax delinquencies.

The best data that IRS has on the potential misuse of collection authorities are from the Office of the Taxpayer Advocate.⁵ However, those data alone are not sufficient to determine the extent of misuse. The data show that about 9,600 complaints involving allegations of inappropriate, improper, or premature collection actions were closed by the Advocate in fiscal year 1996, as were 11,700 requests for relief from collection actions because of hardship. Although the Advocate does not routinely collect data on the resolution of taxpayer complaints, it does collect data on the resolution of requests for relief. According to the Advocate, during fiscal year 1996, the requests for relief resulted in the release—either full or partial—from about 4,000 levy and seizure actions and 156 liens.

⁵The Office of Taxpayer Advocate is responsible for helping taxpayers to resolve problems they may be having with any of IRS' various offices, including Collections.

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These Taxpayer Advocate data are not sufficient to determine the extent to which IRS' initial collection actions were appropriate or not for several reasons. First, the release of a lien could result from a taxpayer subsequently paying the tax liability or offering an alternative solution, or because IRS placed the lien in error. Although the Taxpayer Advocate maintains an information system that accommodates collecting the data to identify whether IRS was the cause of the taxpayer's problem, the Advocate does not require that such information be reported by the IRS employee working to resolve the case or be otherwise accumulated. Thus, about 82 percent of the taxpayer complaints closed in fiscal year 1996 did not specify this information. Of the remaining 18 percent, about 9 percent specified that IRS' collection action was in error either through taking an erroneous action, providing misleading information to the taxpayer, or taking premature enforcement action.

In addition, the Advocate's data do not cover the potential universe of cases in which a collection action is alleged to have been made improperly. The Advocate requires each complaint that is covered by its information system to be categorized by only one major code to identify the issue or problem. If a complaint had more than one problem, it is possible that a collection-related code could be superseded by another code such as one covering lost or misapplied payments. Also, complaints that are handled routinely by the various IRS offices would not be included in the Advocate's data because that office was not involved in the matter. For example, appeals related to lien, levy, and seizure actions are to be handled by the Collection Appeals Program (effective April 1, 1996).

For fiscal year 1996, the Appeals Program reported that of the 705 completed appeals of IRS' enforced collection actions, it fully sustained IRS actions on 483 cases, partially sustained IRS in 55 cases, did not sustain IRS actions in 68 cases, and returned 99 cases to the initiating office for further action because they were prematurely referred to the Collection Appeals Program. According to IRS Appeals officials, a determination that Appeals did not sustain an IRS enforcement action does not necessarily mean that the action was inappropriate. If a taxpayer offered an alternative payment method, the Appeals Officer may have approved that offer—and thus not sustained the enforcement action—even if the enforcement action was justified. In any event, the Collection Appeals Program keeps no additional automated or summary records on the resolution of appeals as they relate to the appropriateness of lien, levy, or seizure action.

Further Assessment of Extent or Causes of Misuse of Liens, Levies, and Seizures Is Limited by IRS' Record-Keeping Practices

IRS' record-keeping practices limit both our and IRS' ability to generate data needed to determine the extent or causes of the misuse of lien, levy, and seizure authority. Neither IRS' major data systems—masterfiles and supplementary systems—nor the summary records (manual or automated) maintained by the IRS offices responsible for the various stages of the collection process systematically record and track the issuance and complete resolution of all collection enforcement actions, i.e., liens, levies, and seizure actions. Moreover, the detailed records kept by these offices do not always include data that would permit a determination about whether an enforcement action was properly used. But, even if collection records contained information relevant to the use of collection enforcement actions, our experience has been that obstacles exist to retrieving records needed for a systematic review.

Major Information Systems Do Not Contain Data Necessary to Assess Enforcement Actions

IRS maintains selected information on all taxpayers, such as taxpayer identification number; amount of tax liability by tax year; amount of taxes paid by tax year; codes showing the event triggering the tax payment, including liens, levies, and seizures; and taxpayer characteristics, including earnings and employment status, on its Individual and Business Masterfiles. Also, if certain changes occur to a taxpayer's account, such as correction of a processing error in a service center, IRS requires information to be captured on the source of the error, that is, whether the error originated with IRS or the taxpayer.

Although some related data are recorded in the Masterfiles, those data are currently not readily accessible because IRS does not have retrieval programs and IRS officials told us that developing such programs would take considerable time because scarce programming resources are unavailable due to higher priority information management systems work. Moreover, the data that are recorded do not include some key aspects of enforcement actions. For example, the Masterfiles do not contain information on attempted levies—IRS' most frequently used enforcement authority. Also, IRS does not maintain automated information showing all tax payments received as a result of lien or levy actions taken. While IRS procedures provide for coding tax payments according to the event triggering the payment (which could include liens, levies, and seizures), IRS advised us that controls are not in place to ensure that the automated data are complete, and, in a recent limited review, IRS found wide discrepancies between the automated information and actual collections. As a result of the lack of such key data, IRS cannot readily produce data on the overall use or misuse of its collection enforcement authorities or on

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the characteristics of affected taxpayers. The lack of such data also precludes us from identifying a sample of affected taxpayers to serve as a basis for evaluating the use or misuse of collection actions.

**Offices With Authority to
Initiate Liens, Levies, and
Seizures Do Not Keep
Summary Records Related
to Appropriateness of
Actions**

As I noted earlier, the IRS tax collection process involves several steps, which are carried out by different IRS offices that are often organizationally dispersed. Since authorities exist to initiate some of the collection actions at different steps in the process, several different offices could initiate a lien, levy, or seizure to resolve a given tax assessment. In addition, our examination of procedures and records at several of these offices demonstrated that records may be incomplete or inaccurate. For example, the starting point for a collection action is the identification of an unpaid tax assessment. The assessment may originate from a number of sources within IRS, such as the service center functions responsible for the routine processing of tax returns; the district office, ACS, or service center functions responsible for examining tax returns and identifying nonfilers; or the service center functions responsible for computer-matching of return information to identify underreporters. These assessments may not always be accurate, and as reported in our financial audits of IRS, cannot always be tracked back to supporting documentation.⁶ Since collection actions may stem from disputed assessments, determining the appropriateness of IRS actions would be problematic without an accurate tax assessment supported by documentation.

Further, offices responsible for resolving taxpayer complaints do not always maintain records on the resolution of those complaints that would permit identification of instances of inappropriate use of collections authorities. We found several examples of this lack of data during our review.

- If a taxpayer complains about enforced collection actions (other than allegations of criminal or serious administrative misconduct by specific IRS employees), the complaint is to be handled initially by the office responsible for the action. These offices do not routinely keep automated or other summary records on the complaints or on the appropriateness of lien, levy, or seizure actions taken. If this information is recorded, it would be included in the affected taxpayer's collection case file and, as I will discuss later, systematically obtaining these files is impractical. Also, in

⁶See Financial Audit: Examination of IRS' Fiscal Year 1995 Financial Statements ([GAO/AIMD-96-101](#), July 11, 1996) and Financial Audit: Examination of IRS' Fiscal Year 1994 Financial Statements ([GAO/AIMD-95-141](#), Aug. 4, 1995).

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cases involving ACS, where an automated system is used for recording data, specific information about complaints may not be maintained because the automated files have limited space for comments and transactions.

- If a taxpayer complaint is not resolved by the responsible office, the taxpayer may seek assistance from the Taxpayer Advocate. As noted earlier, the Advocate has some information on complaints about the use of collection enforcement authorities, but those data are incomplete. In addition, starting in the last quarter of 1996, the Advocate was to receive notification of the resolution of taxpayer complaints involving IRS employee behavior (that is, complaints about IRS employees behaving inappropriately in their treatment of taxpayers, such as rudeness, overzealousness, discriminatory treatment, and the like.) These notifications, however, do not indicate if the problem involved the possible misuse of collection authority.
- If a taxpayer's complaint involves IRS employee integrity issues, the complaint should be referred to IRS' Inspection Office. According to Inspection, that office is responsible for investigating allegations of criminal and serious administrative misconduct by specific IRS employees, but it would not normally investigate whether the misconduct involved inappropriate enforcement actions. In any event, Inspection does not keep automated or summary records on the results of its investigations as they relate to appropriateness of lien, levy, or seizure actions.
- Court cases are to be handled by the Chief Counsel's General Litigation Office. Internal Revenue Code sections 7432 and 7433 provide for taxpayers to file a claim for damages when IRS (1) knowingly or negligently fails to release a lien or (2) recklessly or intentionally disregards any provision of law or regulation related to the collection of federal tax, respectively. According to the Litigation Office, a total of 21 cases were filed under these provisions during 1995 and 1996. However, the Litigation Office does not maintain information on case outcomes. The Office has recently completed a study that covered court cases since 1995 involving damage claims in bankruptcy cases. As a part of that study, the Office identified 16 cases in which IRS misapplied its levy authority during taxpayer bankruptcy proceedings. IRS officials told us that the results of this study led IRS to establish a Bankruptcy Working Group to make recommendations to prevent such misapplication of levy authority.

**Existing Records Cannot
Always Be Retrieved**

Even if collection files included information relevant to an assessment of the use of enforcement authorities, obstacles exist to the reconstruction of records that would permit an assessment of the use or possible misuse of

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collection enforcement authorities. As we have learned from our prior work, IRS cannot always locate files when needed. For example, locating district office closed collection files once they have been sent to a Federal Records Center is impractical because there is no list identifying file contents associated with the shipments to the Records Centers. On a number of past assignments, we used the strategy of requesting IRS district offices to hold closed cases for a period of time, and then we sampled files from those retained cases. However, the results of these reviews could not be statistically projected to the universe of all closed cases because we had no way to determine if the cases closed in the relatively short period of time were typical of the cases closed over a longer period of time.

**IRS Officials Said That
Collecting Data to
Assess Enforcement
Actions Is Impractical
and Unnecessary
Because Taxpayers
Are Protected
Through Checks and
Balances**

We discussed with IRS the feasibility of collecting additional information for monitoring the extent to which IRS may have inappropriately used its collection enforcement authorities, and the characteristics of taxpayers who might be affected by such inappropriate actions. IRS officials noted that, although IRS does not maintain specific case data on enforcement actions, they believed that sufficient checks and balances (e.g., supervisory review of collection enforcement actions, collection appeals, complaint handling, and taxpayer assistance) are in place to protect taxpayers from inappropriate collection action. The development and maintenance of additional case data are, according to IRS officials, not practical without major information system enhancements. The IRS officials further observed that, given the potential volume and complexity of the data involved and the resources needed for data gathering and analysis, they were unable to make a compelling case for compiling the information.

We recognize that IRS faces resource constraints in developing its management information systems and that IRS has internal controls, such as supervisory review and appeals, that are intended to avoid or resolve inappropriate use of collection authorities. We also recognize that the lack of relevant information to assess IRS' use of its collection enforcement authorities is not, in itself, evidence that IRS lacks commitment to resolve taxpayer collection problems after they occur. However, the limited data available and our prior work indicate that, at least in some cases, these controls may not work as effectively as intended.⁷

⁷See *Tax Administration: IRS Is Improving Its Controls for Ensuring That Taxpayers Are Treated Properly* (GAO/GGD-96-176, Aug. 30, 1996) and *Tax Administration: IRS Can Strengthen Its Efforts to See That Taxpayers Are Treated Properly* (GAO/GGD-95-14, Oct. 26, 1994).

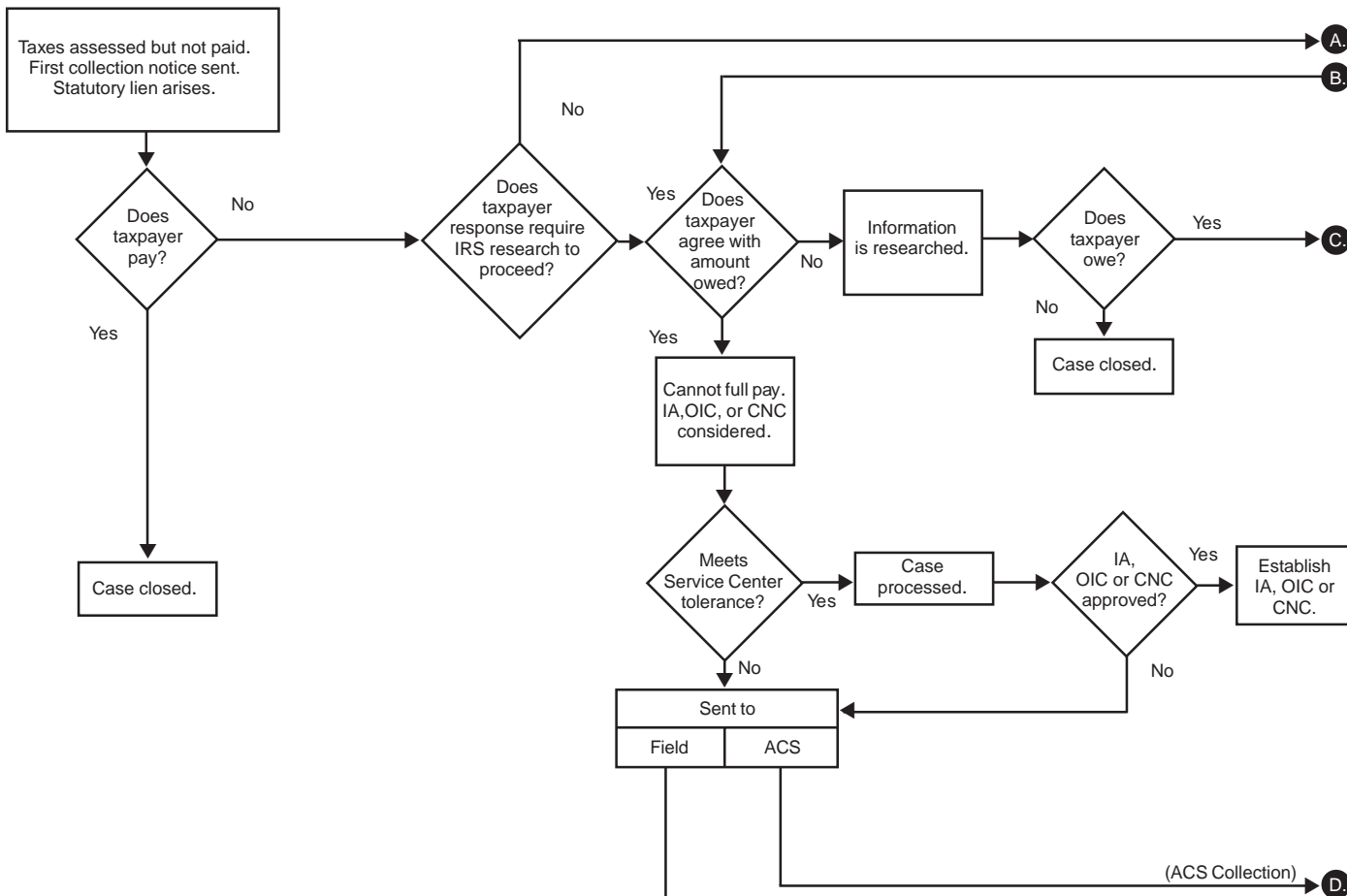
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IRS is responsible for administering the nation's voluntary tax system in a fair and efficient manner. To do so, IRS oversees a staff of more than 100,000 employees who work at hundreds of locations in the United States and foreign countries and who are vested, by Congress, with a broad set of discretionary enforcement powers, including the ability to seize taxpayer property to resolve unpaid taxes. Given the substantial authorities granted to IRS to enforce tax collections, IRS and the other stakeholders in the voluntary tax system—such as Congress and the taxpayers—should have information to permit them to determine whether those authorities are being used appropriately; whether IRS' internal controls are working effectively; and whether, if inappropriate uses of the authorities are identified, the problems are isolated events or systemic problems. At this time, IRS does not have the data that would permit it or Congress to readily determine the extent to which IRS' collections enforcement authorities are misused, the causes of those occurrences, the characteristics of the affected taxpayers, or whether the checks and balances that IRS established over the use of collection enforcement authorities are working as intended.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions you may have.

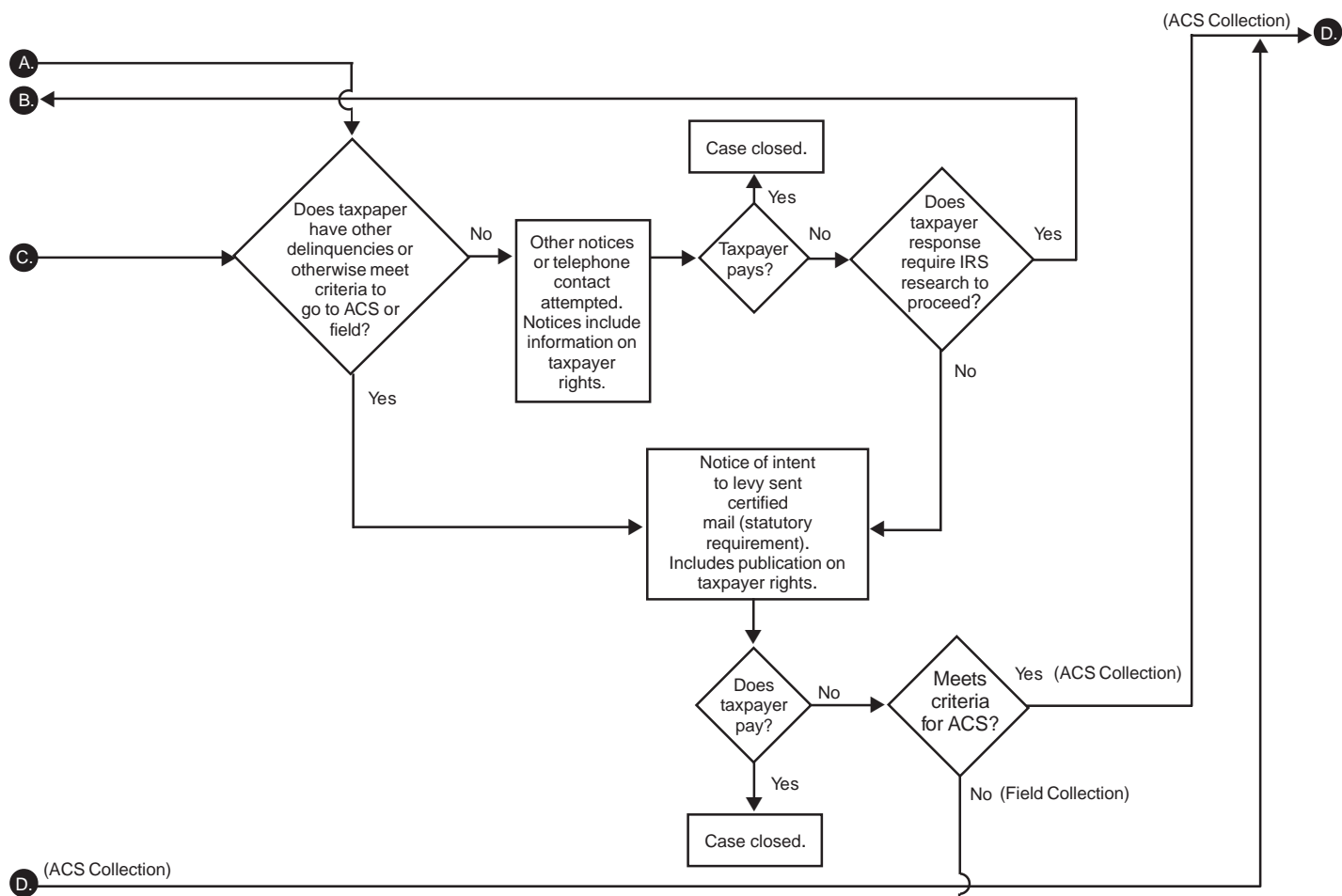
Flowchart of the Collection Process

Service Center Processing



**Attachment I
Flowchart of the Collection Process**

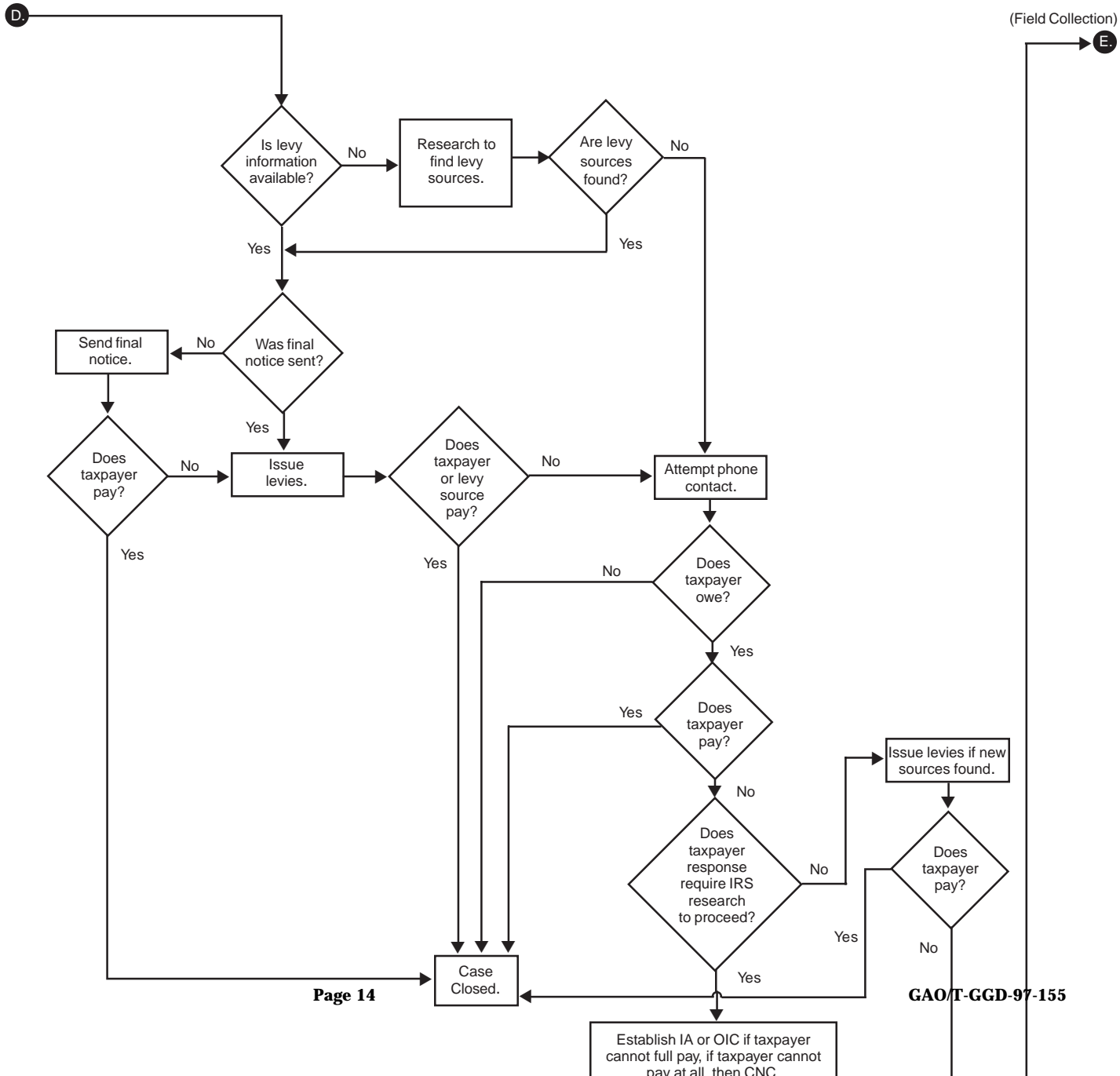
Flowchart of the Collection Process (Cont.)



**Attachment I
Flowchart of the Collection Process**

Flowchart of the Collection Process (Cont.)

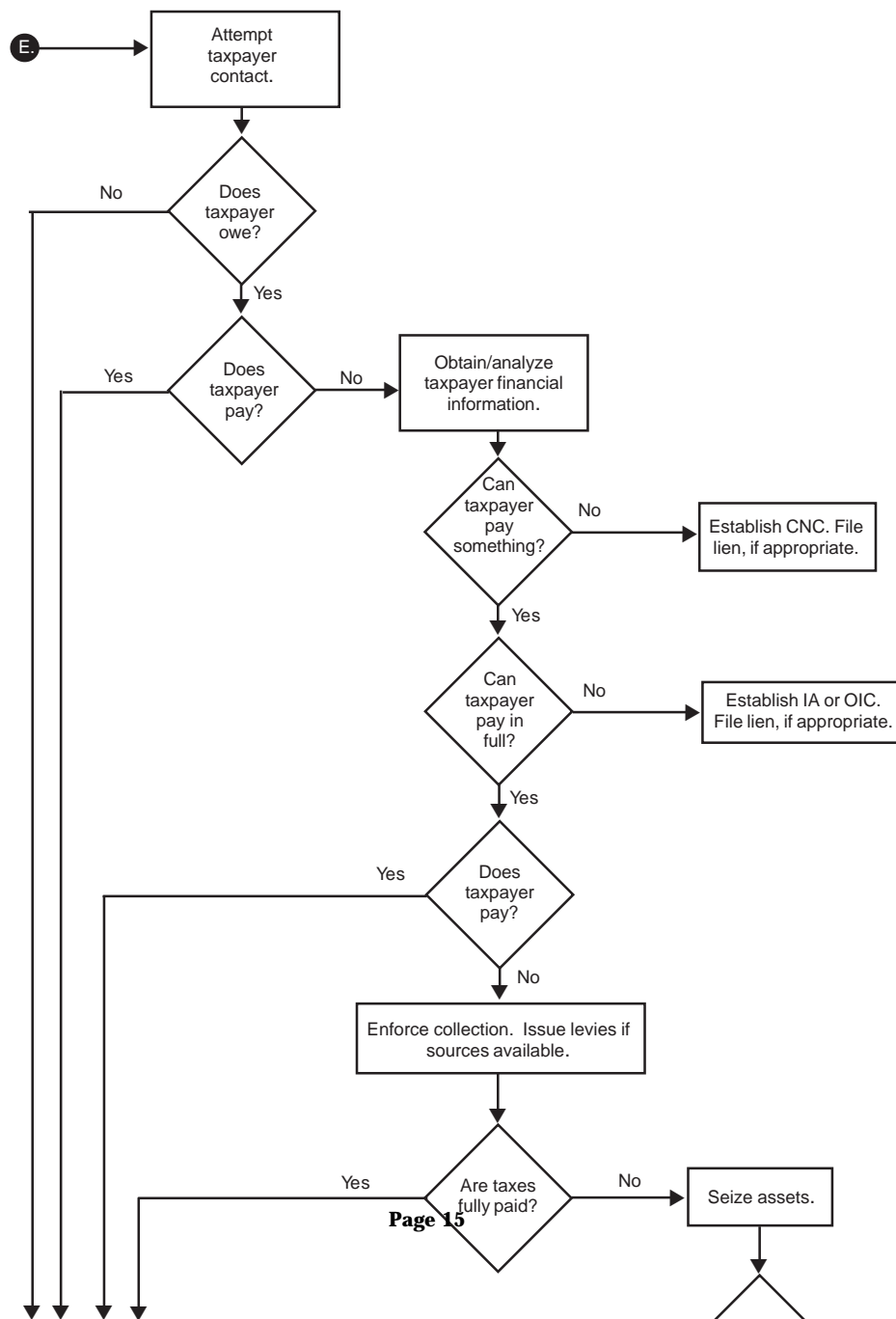
Automated Collection System



**Attachment I
Flowchart of the Collection Process**

Flowchart of the Collection Process (Cont.)

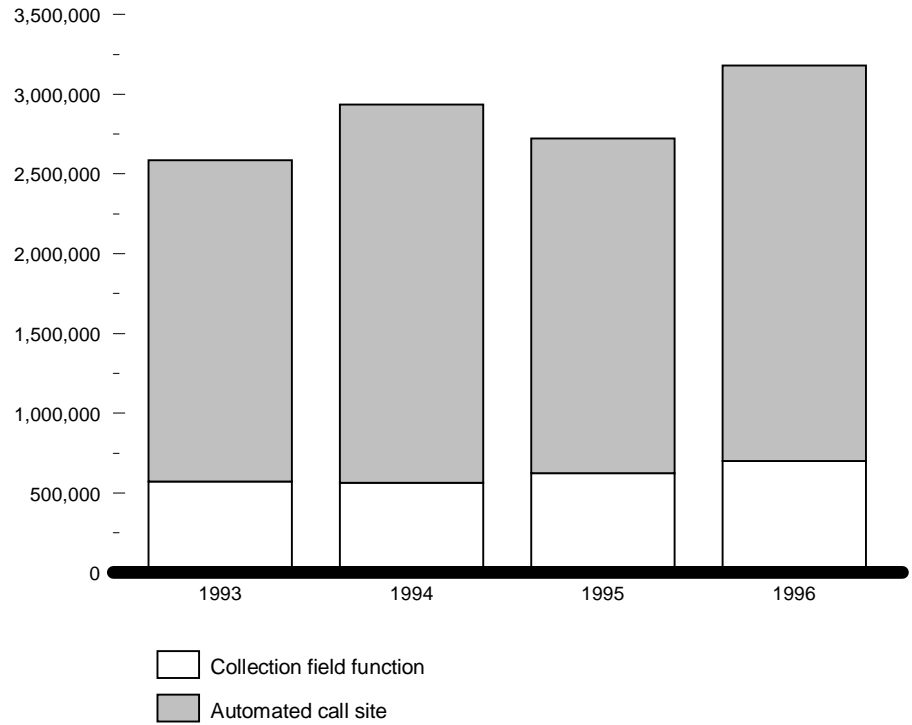
Field Collection



IRS Collection Enforcement Actions

Figure II.1: IRS Levies, Fiscal Years 1993 Through 1996

Number of IRS levies issued nationwide

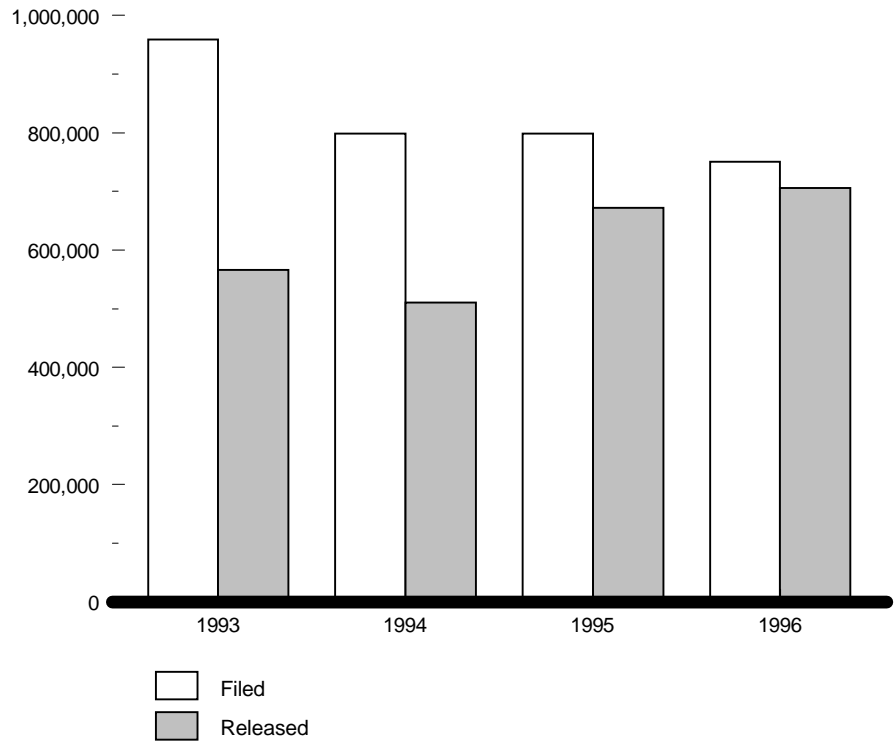


Source: IRS data.

Attachment II
IRS Collection Enforcement Actions

Figure II.2: IRS Liens, Fiscal Years 1993 Through 1996

Number of IRS liens nationwide

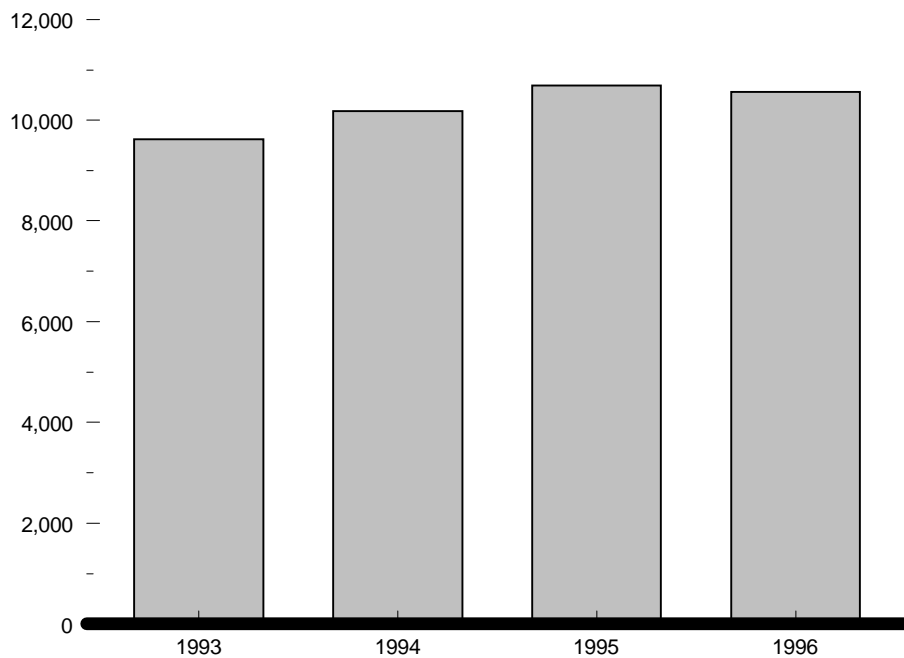


Source: IRS data.

Attachment II
IRS Collection Enforcement Actions

Figure II.3: IRS Seizures, Fiscal Years 1993 Through 1996

Number of IRS seizures nationwide



Source: IRS data.

Distribution of Seizure Cases by Type of Asset Seized, Fiscal Year 1996

Type of asset	Percent ^a
Personal residence	10.4
Other real property	26.0
Vehicles	31.2
Licenses	3.7
Cash register contents	7.4
Office equipment/furniture	7.5
Machinery	8.0
Inventory	6.0
Safe deposit boxes	1.4
Other business property	7.1
Other personal property	6.6

^aPercentages add to more than 100 because multiple types of assets may be involved in a single seizure case.

Source: IRS data.

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