

Example 4. The facts are the same as in *Example 3* except that the director does not anticipate that the value of items A, B, and C depends on those items being sold as a unit. If the director estimates that the aggregate fair market value of items A and C exceeds the aggregate anticipated costs of the seizure and sale of those two items, items A and C can be seized and sold. The director is prohibited from levying on item B because the high cost of storing or maintaining item B is estimated to exceed the fair market value of item B.

(c) *Restriction on levy on date of appearance.* Except for continuing levies on salaries or wages described in § 301.6331-1(b)(1), no levy may be made on any property of a person on the day that person, or an officer or employee of that person, is required to appear in response to a summons served for the purpose of collecting any underpayment of tax from that person. For purposes of this paragraph (c), the date on which an appearance is required is the date fixed by an officer or employee of the Internal Revenue Service pursuant to section 7605 or the date (if any) fixed as the result of a judicial proceeding instituted under sections 7604 and 7402(b) seeking the enforcement of the summons.

(d) *Jeopardy.* Paragraphs (a) and (c) of this section do not apply to a levy if the director finds, for purposes of § 301.6331-1(a)(2), that the collection of tax is in jeopardy.

(e) *Effective date.* These regulations are effective December 10, 1992.

[T.D. 8558, 59 FR 38903, Aug. 1, 1994, as amended by T.D. 8939, 66 FR 2821, Jan. 12, 2001]

§ 301.6331-3 Restrictions on levy while offers to compromise are pending.

Cross-reference. For provisions relating to the making of levies while an offer to compromise is pending, see § 301.7122-1.

[T.D. 9027, 67 FR 77417, Dec. 18, 2002]

§ 301.6331-4 Restrictions on levy while installment agreements are pending or in effect.

(a) *Prohibition on levy—(1) In general.* No levy may be made to collect a tax liability that is the subject of an installment agreement during the period that a proposed installment agreement is pending with the Internal Revenue Service (IRS), for 30 days immediately

following the rejection of a proposed installment agreement, during the period that an installment agreement is in effect, and for 30 days immediately following the termination of an installment agreement. If, within the 30 days following the rejection or termination of an installment agreement, the taxpayer files an appeal with the IRS Office of Appeals, no levy may be made while the rejection or termination is being considered by Appeals. This section will not prohibit levy to collect the liability of any person other than the person or persons named in the installment agreement.

(2) *When a proposed installment agreement becomes pending.* A proposed installment agreement becomes pending when it is accepted for processing. The IRS may not accept a proposed installment agreement for processing following reference of a case involving the liability that is the subject of the proposed installment agreement to the Department of Justice for prosecution or defense. The proposed installment agreement remains pending until the IRS accepts the proposal, the IRS notifies the taxpayer that the proposal has been rejected, or the proposal is withdrawn by the taxpayer. If a proposed installment agreement that has been accepted for processing does not contain sufficient information to permit the IRS to evaluate whether the proposal should be accepted, the IRS will request the taxpayer to provide the needed additional information. If the taxpayer does not submit the additional information that the IRS has requested within a reasonable time period after such a request, the IRS may reject the proposed installment agreement.

(3) *Revised proposals of installment agreements submitted following rejection.* If, following the rejection of a proposed installment agreement, the taxpayer makes a good faith revision of the proposal and submits the revision within 30 days of the date of rejection, the provisions of this section shall apply to that revised proposal.

(4) *Exceptions.* Paragraph (a)(1) of this section shall not prohibit levy if the taxpayer files a written notice with the IRS that waives the restriction on levy