

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

imposed by this section, the IRS determines that the proposed installment agreement was submitted solely to delay collection, or the IRS determines that collection of the tax to which the installment agreement or proposed installment agreement relates is in jeopardy.

(b) *Other actions by the IRS while levy is prohibited*—(1) *In general.* The IRS may take actions other than levy to protect the interests of the Government with regard to the liability identified in an installment agreement or proposed installment agreement. Those actions include, for example—

(i) Crediting an overpayment against the liability pursuant to section 6402;

(ii) Filing or refiling notices of Federal tax lien; and

(iii) Taking action to collect from any person who is not named in the installment agreement or proposed installment agreement but who is liable for the tax to which the installment agreement relates.

(2) *Proceedings in court.* Except as otherwise provided in this paragraph (b)(2), the IRS will not refer a case to the Department of Justice for the commencement of a proceeding in court, against a person named in an installment agreement or proposed installment agreement, if levy to collect the liability is prohibited by paragraph (a)(1) of this section. Without regard to whether a person is named in an installment agreement or proposed installment agreement, however, the IRS may authorize the Department of Justice to file a counterclaim or third-party complaint in a refund action or to join that person in any other proceeding in which liability for the tax that is the subject of the installment agreement or proposed installment agreement may be established or disputed, including a suit against the United States under 28 U.S.C. 2410. In addition, the United States may file a claim in any bankruptcy proceeding or insolvency action brought by or against such person. If a person named in an installment agreement is joined in a proceeding, the United States obtains a judgment against that person, and the case is referred back to the IRS for collection, collection will continue

to occur pursuant to the terms of the installment agreement.

(c) *Statute of limitations*—(1) *Suspension of the statute of limitations on collection.* The statute of limitations under section 6502 for collection of any liability shall be suspended during the period that a proposed installment agreement relating to that liability is pending with the IRS, for 30 days immediately following the rejection of a proposed installment agreement, 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, the statute of limitations for collection shall be suspended while the rejection or termination is being considered by Appeals. The statute of limitations for collection shall continue to run if an exception under paragraph (a)(4) of this section applies and levy is not prohibited with respect to the taxpayer.

(2) *Waivers of the statute of limitations on collection.* The IRS may continue to request, to the extent permissible under section 6502 and § 301.6159-1, that the taxpayer agree to a reasonable extension of the statute of limitations for collection.

(d) *Cross-reference.* For provisions relating to the making of levies while an installment agreement is pending or in effect, see § 301.6159-1.

(e) *Effective/applicability date.* Paragraphs (a), (b), and (c) are applicable beginning December 18, 2002. Paragraph (d) is applicable beginning November 25, 2009.

[T.D. 9027, 67 FR 77417, Dec. 18, 2002, as amended by T.D. 9473, 74 FR 61530, Nov. 25, 2009]

§ 301.6332-1 Surrender of property subject to levy.

(a) *Requirement*—(1) *In general.* Except as otherwise provided in § 301.6332-2, relating to levy in the case of life insurance and endowment contracts, and in § 301.6332-3, relating to property held by banks, any person in possession of (or obligated with respect to) property or rights to property subject to levy and upon which a levy has been made shall, upon demand of the district director, surrender the property or rights (or