

Part IV - Items of General Interest

Notice 98-62

This Notice provides information about Internal Revenue Service procedures under section 6331(h) of the Internal Revenue Code of 1986.

The Taxpayer Relief Act of 1997 added section 6331(h) to the Code in order to provide for a continuous levy of up to 15 percent of any "specified payment due to or received by a taxpayer."

I.R.C. § 6331(h)(1). Section 6331(h)(2) defines a specified payment as: any Federal payment other than a payment for which eligibility is based on income or assets (or both) of a payee; unemployment compensation; workmen's compensation; wages, salary, or other income to the extent they do not exceed minimum exemptions for an I.R.S. levy; supplemental security income for the aged, blind, and disabled under Social Security; state or local public welfare programs based on needs or income; and any annuity or pension under the Railroad Retirement Act or benefit under the Railroad Unemployment Insurance Act.

The Service has received questions as to whether levies are currently being served under section 6331(h). Section 6331(h) is effective for levies issued after August 5, 1997. Section 6010(f) of the Internal Revenue Service Restructuring and Reform Act of 1998 clarifies that the new continuous levy is an option for collection that is exercised at the Service's discretion. As

of this date, the Service has no procedures for serving levies under section 6331(h), and no such levies have been issued. Procedures will be announced before any levies are issued under section 6331(h).

Because section 6331(h) does not identify a format for serving a continuous levy, there may be confusion as to whether the levy is a continuous levy under section 6331(h) or an ordinary form of levy under sections 6331(a) or 6331(e). When the continuous levy procedures are issued, they will require that any levy intended to be issued under section 6331(h) must be clearly identified, on the face of the levy, as a levy made pursuant to section 6331(h). Any levy that is not clearly identified, on the face of the levy, as a section 6331(h) levy will be treated as an ordinary levy under sections 6331(a) or 6331(e).

The principal author of this notice is Walter Ryan of the Office of Assistant Chief Counsel (General Litigation). For further information regarding this notice contact Mr. Ryan at 202-622-3610 (not a toll-free call).