

April 2000

**TAX
ADMINISTRATION**

**IRS' Levy of Federal
Payments Could
Generate Millions of
Dollars**





GAO

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The Honorable Bill Archer
Chairman, Committee on Ways and Means
House of Representatives

The Honorable Amo Houghton
Chairman, Subcommittee on Oversight
Committee on Ways and Means
House of Representatives

Many taxpayers who are delinquent in paying their federal taxes are receiving billions of dollars in federal payments annually, from sources such as Social Security benefits or as payment for goods and services they provide to federal agencies. To help the Internal Revenue Service (IRS) collect these delinquent tax debts, provisions in the Taxpayer Relief Act of 1997 gave IRS authority to continuously levy¹ up to 15 percent of certain federal payments made to delinquent taxpayers.² Payments subject to IRS' continuous levy program are to include Social Security benefits, federal salary and retirement payments, and federal agency vendor payments. IRS plans to begin the program in July 2000.

The Department of the Treasury's Financial Management Service (FMS) is to play a key role in the continuous levy program. FMS receives payment records from and makes payments on behalf of most federal agencies. For the levy program, FMS is to compare the payee's taxpayer identification number (TIN) and name on agency payment records with the TIN and name control³ on accounts receivable records⁴ provided by IRS. When an exact match occurs, FMS is to levy the federal payment. For example, if

¹Levy is the legal process by which IRS orders a third party to turn over property in its possession that belongs to the delinquent taxpayer named in a notice of levy. A continuous levy remains in effect from the date such levy is first made until the tax debt is fully paid or IRS releases the levy.

² Specifically, the 1997 legislation allows continuous levy of "specified payments," including nonmeans tested federal payments, as well as certain previously exempt payments.

³ A TIN is a unique nine-digit identifier assigned to each individual and business that files tax returns. For individuals, the Social Security number (SSN) assigned by the Social Security Administration (SSA) serves as the TIN. For businesses, the employer identification number (EIN) assigned by IRS serves as the TIN. The name control is the first four characters of an individual's last name or the first four characters of a business name.

⁴ Appendix II lists the types of delinquent taxes from IRS' accounts receivable file and the types of federal payments to be included in the continuous levy program.

an exact match involves a federal retiree, FMS is to levy up to 15 percent of the retiree's monthly retirement payment--following notification to the retiree--and continue to levy subsequent monthly retirement payments until the delinquency is paid in full or until IRS releases the levy.

This report responds to your request that we review the status of the continuous levy program and identify any issues that might affect program operations. Specifically, the objectives for this report are to (1) determine the number of taxpayers that could be subject to a continuous levy, the revenue that might be generated, and the cost to IRS to have FMS levy the federal payments of those taxpayers; (2) identify issues that could delay program implementation or otherwise affect revenues from the program; (3) examine the controls and testing that IRS and FMS have planned to prevent levying taxpayers not subject to levy and to prevent levying payments for more than the taxpayer owes; and (4) identify changes, if any, IRS and FMS could make to yield increased revenues from the program.

Results in Brief

Analysis of IRS' accounts receivable data as of February 1999 and FMS payment records⁵ showed that over 264,000 taxpayers with delinquent tax liabilities of \$2.8 billion received federal payments totaling \$2.1 billion that could have been subject to a continuous levy if the levy program had been in place at that time. We estimate that IRS could have generated nearly \$500 million in annual revenues from these levies at a cost of about \$35 million annually. However, both the annual revenue and the actual cost could be lower because some of the taxpayers receiving a notice of intent to levy might make other arrangements to resolve their tax debts.

While the continuous levy program has the potential to generate significant revenues, the program will not reach its full potential when it is initially implemented. Only federal retirement and vendor payments, which would account for about 27 percent of the nearly \$500 million in revenue that could be generated annually, are expected to be available for continuous levy in July 2000. We were not able to determine when Social Security benefits and federal salaries will be available for levy because a specific date for including these types of payments in the program has yet to be set. Also, before participating in the levy program, the Social Security Administration (SSA) wants to know the names of all Social Security beneficiaries who are to receive an intent to levy notice from IRS, which is

⁵ The payment records cover various periods of time. Vendor payments are for the first quarter of calendar year 1999, salary payments represent one biweekly pay period in March 1999, and all other payments are for the month of March 1999.

to be sent before any payments are actually levied. According to IRS, unless SSA can explain how such information will be used for a tax administration purpose, the Internal Revenue Code prohibits disclosing such information to SSA before payments are levied. As of March 2000, IRS and SSA were working to resolve this issue.

According to IRS and FMS officials, both agencies plan to adopt specific controls for the continuous levy program that are intended to prevent inappropriate levies. However, IRS has not planned any new procedures to ensure that taxpayers receive timely refunds in any instances in which these controls fail. We found one situation in which planned controls may not be adequate to prevent inappropriate levies. In general, how well the planned controls will work when the program is implemented is not clear because IRS does not intend to contact taxpayers when it tests these controls prior to program implementation. Furthermore, we found that only 155 federal payments are likely to be levied during the first phase of program implementation, which may not result in enough taxpayer contacts to determine if controls are adequate to prevent inappropriate levies.

Several changes to the continuous levy program could yield millions of dollars in additional tax revenue. For example, we estimated that as much as \$74 million annually in additional revenue could be generated if taxpayers were required to provide the same name to the federal agencies with which they contract as they use on their federal tax returns. Also, we estimated that \$77.7 million⁶ annually in additional revenue could be generated if (1) federal payments made to both spouses determined by IRS to be liable for joint tax delinquencies and (2) payments received by an individual under a Social Security number (SSN) for tax delinquencies incurred by the same individual under an employer identification number (EIN), or vice versa, could be continuously levied through this program.

Background

In the Taxpayer Relief Act of 1997, Congress authorized IRS to continuously levy up to 15 percent of certain federal payments made to delinquent taxpayers. These provisions were intended to enhance IRS' ability to collect delinquent tax debt. Until passage of this legislation, IRS lacked an automated process through which to identify delinquent taxpayers receiving federal payments and to levy those payments.

While IRS can currently levy a delinquent taxpayer's federal payments, IRS must determine the type of federal payments a delinquent taxpayer is

⁶The 95-percent confidence interval for the \$77.7 million ranges from \$73.5 million to \$81.9 million.

receiving, notify the taxpayer that IRS intends to levy these payments, and for each type of payment, prepare a levy document and serve it to the federal agency making those payments. The federal agency served with the levy must calculate the amount of the payment to be turned over to IRS based on information unique to each taxpayer.

FMS processes most federal payments⁷ and has in place the Treasury Offset Program, which uses a centralized database of delinquent federal non-tax debts that have been referred for offset by federal agencies. FMS currently compares federal retirement and vendor payment records received from federal agencies with the database of delinquent nontax federal debts; and when a match occurs, FMS offsets the payment, thereby reducing or eliminating the existing debt. FMS plans to add Social Security and federal salary payments to the Treasury Offset Program in the future.

FMS and IRS plan to enhance the Treasury Offset Program to enable IRS to electronically serve tax levies through FMS. IRS will be responsible for issuing a combined notice of a right to a hearing and notice of intent to levy to taxpayers;⁸ performing follow-up actions, such as adjusting taxpayer's accounts to reflect the amount of levy payments; and reimbursing FMS a predetermined fee for each payment levied. FMS will be responsible for levying 15 percent of the certified payment amount or the amount of the outstanding tax debt, whichever is lower; preparing and mailing a statement with each payment, informing the payee that the payment was levied, the amount that was levied, and the residual amount of the payment; and turning over the amount levied to IRS.

Federal payments to be included in the continuous levy program are Social Security benefits, federal salary, federal retirement, Railroad Retirement Board benefits, and federal vendor payments. As of July 2000, only vendor and federal retirement payments are to be included in the Treasury Offset Program and therefore available for continuous levy. Social Security benefits, federal salaries, and Railroad Retirement Board benefits will not be subject to continuous levy until such time as they are included in the Treasury Offset Program.

⁷Federal payments not processed by FMS include payments made by agencies having their own disbursement authority, such as the Department of Defense and the Postal Service.

⁸A notice of a right to a hearing, which is required for any levy served after January 18, 1999, informs taxpayers of their right to a hearing before their property can be levied. A notice of intent to levy informs taxpayers that their property will be levied unless they pay the amount of tax owed. Taxpayers have 30 days to respond to either notice before their property can be levied.

Federal payments to be excluded from the continuous levy program include judgments for support of minor children and Supplemental Security Income. Certain Social Security benefit payments may also be excluded, but this had not been decided at the time of our review.

IRS plans to phase in the types of tax delinquencies to be submitted to FMS when the program is implemented in July 2000. The first type of tax delinquency IRS plans to submit for levy are delinquent accounts that have been in a queue for at least 1 year awaiting assignment for enforced collection. (See appendix II for the order in which various types of tax delinquencies are to be phased in when the program is implemented.)

Scope and Methodology

To meet our objectives, we (1) obtained and matched IRS' accounts receivable records with agency payment records obtained from FMS; (2) interviewed IRS and FMS officials responsible for implementing the continuous levy program, as well as SSA and various payment agency officials; (3) reviewed the joint program requirements developed by IRS and FMS; and (4) sampled FMS payment records and IRS' accounts receivable records. (Appendix I describes our overall objectives, scope, and methodology and appendix III describes our detailed sampling and data analysis methodology.)

All sample results used in this report have been weighted to reflect the entire population and are subject to sampling error. Unless otherwise indicated, all estimates are surrounded by a 95-percent confidence interval of plus or minus 10 percent. Our work was done between March 1999 and January 2000 in accordance with generally accepted government auditing standards.

We requested and obtained comments on a draft of this report from the Commissioner of Internal Revenue, the Commissioner of the Financial Management Service, and the Commissioner of Social Security. We have summarized their comments at the end of this report and have reprinted them in appendixes V, VI, and VII.

Millions of Dollars in Tax Revenue Could Be Collected Through Continuous Levy

Our analysis of IRS' accounts receivable data as of February 1999 showed that a total of 4.4 million individual and business taxpayers owed about \$59 billion in delinquent taxes and met IRS' criteria to be included in the continuous levy program. We found 298,710 payment records that exactly matched both the TIN and name control on IRS' accounts receivable records. These payments went to 264,137 taxpayers that owed \$2.8 billion in delinquent taxes. We estimated that IRS could generate as much as \$478 million annually from levying these payments, as shown in table 1.

However, this amount could be lower because some taxpayers might make other arrangements to resolve their tax debts.

Table 1: Potential Annual Payments Levied and Potential Annual Revenues Realized

Payment type	Taxpayers affected	Potential annual payments levied ^a	Potential annual revenue ^b	Percent of total potential annual revenue
Social Security	232,485	2,916,744	\$311.8	65.2
Business vendor	3,647	91,604	98.2	20.5
Individual vendor	3,970	33,428	6.2	1.3
Federal retirement	12,892	158,724	24.0	5.0
Federal salary	8,855	230,230	32.8	6.9
Railroad Retirement	2,288	27,696	5.0	1.0
Total	264,137	3,458,426	\$478.0	100.0

Note: Percentage may not add to 100 because of rounding.

^aVendor payments are for the first quarter of calendar year 1999, salary payments represent one biweekly pay period in March 1999, and all other payments are for the month of March 1999. To annualize the 298,710 payments, we multiplied vendor payments by 4, salary payments by 26, and all other payments by 12.

^bThe annual revenue may vary each year, depending on how taxpayers react to having their federal payments continuously levied and the extent to which tax delinquent accounts are added to or subtracted from the continuous levy program.

Source: GAO analysis of IRS and FMS data.

As table 1 shows, about 65 percent of the potential revenue generated by this program would come from levying Social Security benefit payments. Levying business and individual vendor payments would account for about 22 percent,⁹ while federal salary and retirement benefit payments would account for about 13 percent of the annual revenues.

On the basis of FMS' proposed fee of \$10.06 to be charged for each payment levied, the annual cost to IRS could be as much as \$34.8 million annually. This cost could be lower if taxpayers receiving a notice of intent to levy make other arrangements with IRS to pay their taxes, thus negating the need to levy their federal payments. For example, in an effort to avoid a pending levy, some taxpayers may contact IRS to arrange to pay their delinquent tax in full or through an installment agreement or an offer in compromise.¹⁰ Others may consider the 15 percent levy preferable to an installment agreement. Still others may contact IRS to challenge the basis for the tax assessment that resulted in the pending levy. IRS officials indicated that if taxpayers react to a pending levy by arranging other

⁹The revenue generated by levying business and individual vendor payments may be less because IRS will be unable to levy one-time vendor payments due to the time IRS must allow a taxpayer to respond to a notice of levy.

¹⁰ An offer in compromise is a taxpayer proposal to settle a tax debt for less than the amount owed.

means of payment, such as an installment agreement, such action on the part of taxpayers could be as beneficial as the levy itself.

Reaching Full Program Potential Will Be Delayed

As indicated previously, Social Security benefits and federal salaries will not be available for offset in the Treasury Offset Program by July 2000 and therefore, will not be available for continuous levy at that time. The availability of Social Security benefits for continuous levy could be further delayed due to a disagreement between SSA and IRS concerning a tax disclosure issue. In addition, the specific details concerning how the amount of federal salary payments available for levy is to be calculated has yet to be determined.

SSA Wants Access to Information on Beneficiaries Subject to a Tax Levy

SSA has not yet agreed on how to participate in the continuous levy program because of a disagreement with IRS on SSA's access to the names of Social Security beneficiaries who receive an intent to levy notice from IRS indicating that IRS intends to levy their Social Security payments.

IRS plans to send all delinquent taxpayers whose federal payments may be levied a required combined notice of a right to a hearing and notice of intent to levy, which states that their federal payment is to be levied. IRS must then allow the taxpayers 30 days to respond before instructing FMS to levy their payments. According to IRS officials, because of the sensitivity of levying Social Security benefits, IRS plans to send Social Security beneficiaries an additional notice of intent to levy before instructing FMS to levy their payments. This additional notice will allow Social Security beneficiaries an additional 30 days to respond, specifically state that their Social Security benefits are to be levied, and inform them that they should contact IRS with any questions concerning the notice. IRS plans to inform SSA of the levy when it actually occurs, rather than when a Social Security beneficiary is sent an intent to levy notice.

SSA insists that IRS provide it with names of all Social Security beneficiaries who receive an intent to levy notice so that SSA customer service representatives can effectively respond to inquiries received from beneficiaries concerning these notices. SSA wants IRS to follow the procedures to be used in the Treasury Offset Program, whereby a copy of warning letters to Social Security beneficiaries, as well as letters indicating that an offset has been made for nontax debts, are to be provided to SSA. SSA believes that some beneficiaries will contact SSA upon receiving a notice of intent to levy because they are accustomed to dealing with SSA staff on matters affecting their Social Security payments. Without knowledge that a tax levy notice had been sent, SSA staff would not have a basis to direct the beneficiaries to IRS to resolve their questions.

IRS contends that unless SSA can explain how providing the names of Social Security beneficiaries who receive an intent to levy notice to SSA will be used for a tax administration purpose, the tax disclosure provisions of the Internal Revenue Code prohibit disclosing such information until after a levy has been served. According to IRS officials, even if IRS were to provide this information, SSA staff would have no knowledge concerning the specifics of the SSA beneficiary's tax debt and could only refer the beneficiary to IRS. As of March 2000, senior IRS and SSA officials were working to resolve this issue.

When Salary Payments Are to Be Available for Levy Is Uncertain

Federal salary payments will not be included in the continuous levy program until such time as they are included in the Treasury Offset Program. As of March 2000, FMS did not have a specific date for including salary payments in the program. Also, specific details on how the amount of salary payments available for levy is to be calculated had not been determined. Federal employees have deductions taken out of their gross salary for purposes such as savings accounts, health insurance, retirement, and federal income tax. For the Treasury Offset Program, FMS plans to have federal agencies offset employees' net disposable income, which FMS defines as gross salary minus taxes, retirement, and court-ordered child support. For tax levies, IRS is considering having the agencies apply the 15-percent levy to employees' net disposable income, which IRS defines as gross salary minus taxes, health insurance premiums, and court-ordered child support. After IRS makes a final determination on how the calculation is to be made, FMS said it will provide direction on how to calculate the levy to the agencies.

Another issue to be determined involving salary payments is whether federal agencies will expect to be reimbursed for their involvement in the continuous levy program. IRS does not plan to reimburse the agencies for calculating the amount of salary to be continuously levied. Whether the agencies will agree to this remains to be determined.

IRS' Plans to Test Program Controls Are Limited

In developing the continuous levy program, IRS plans to include controls to prevent levying taxpayers who are not subject to levy and to protect against levying payments for more than taxpayers owe. How well these controls will work is unclear because IRS does not plan to contact taxpayers during testing prior to initial program implementation in July 2000. Without taxpayer contact during testing, IRS cannot be totally certain that adequate controls will be in place when the program is initially implemented to prevent inappropriate levies. In addition, we found a situation in which planned controls may not be adequate to prevent inappropriate levies.

According to IRS officials, contacting taxpayers during testing is not necessary because IRS plans to phase in various groups of delinquent taxpayers when the program is first implemented in July 2000. They believe this will allow them to identify and correct any problems before adding additional groups of delinquent taxpayers to the program. We found that only 155 federal payments made to the first group of delinquent taxpayers to be phased in are likely to be levied. This may not result in enough taxpayer contacts for IRS to adequately assess either its overall program controls or how taxpayers will react in general upon receiving intent to levy notices. However, in commenting on a draft of this report, IRS indicated that it now plans to phase in subsequent groups of taxpayers slowly, thereby providing additional taxpayer contacts from which to assess its controls prior to full program implementation.

IRS Has Planned Controls to Prevent Inappropriate Levies

IRS plans to include controls in the continuous levy program that, coupled with existing controls, it believes will prevent an inappropriate levy from occurring. For example, before instructing FMS to levy a federal payment, IRS plans to ensure that the taxpayer is sent the required combined notice of a right to a hearing and intent to levy. Before sending this notice to the taxpayer, IRS plans to systemically review the taxpayer's account to ensure that it does not meet any levy exclusion criteria. IRS also has specific controls planned to prevent a levy from resulting in more taxes being collected than a taxpayer owes. For example, IRS plans to provide FMS with a weekly file updating the balance due for each account subject to a continuous levy. In the meantime, FMS is to have the capability to update the balance due for each account after each payment is levied, thus enabling FMS to identify when an account balance is reduced to zero. In addition, selected staff in each IRS district office and service center are to be authorized to directly access FMS' levy database to rescind a levy if necessary. The latter control could be particularly important if a taxpayer whose federal payments are subject to a continuous levy decides to fully pay the tax debt or enter into an installment agreement.

According to IRS officials, if an inappropriate levy occurs, IRS plans to follow its current procedures for making a refund. When IRS is made aware of an erroneous levy or one that results in an overpayment, the levy is to be deactivated; and the taxpayer is to receive a refund, usually within 2 to 3 weeks. However, if the inappropriate levy results in a hardship to the taxpayer, IRS is to generate a manual refund to be sent to the taxpayer in 2 to 3 days.

Testing of Controls Will Not Include Taxpayer Contact

According to IRS officials, IRS plans to conduct 3 months of detailed system testing in conjunction with FMS before program implementation. However, the officials stated that the testing will not include any contacts with taxpayers, such as sending intent to levy notices to gauge taxpayer's reaction. Rather, beginning in April 2000, IRS plans to send taxpayer delinquent accounts that meet its levy criteria to FMS; and FMS is to use them to establish a potential levy database. Then, each week, IRS is to provide information to FMS to update accounts already in the database, add new accounts to the database, and identify accounts for simulated levy. FMS is to match the delinquent accounts IRS has identified for levy to federal payment records and is to provide IRS with a list of those that matched so that IRS can determine whether these accounts continue to meet its levy criteria.

This testing should enable IRS and FMS to identify how well their respective systems can process simulated program information. However, the taxpayer also plays a role in the system of controls, and failure to include taxpayer contacts during testing could result in IRS being unable to determine with any certainty whether adequate controls are in place to ensure that inappropriate levies are not made.

Planned Controls May Not Prevent All Inappropriate Levies

Planned controls may not prevent inappropriate levies in certain situations. For example, IRS plans to levy federal payments to satisfy tax delinquencies resulting from Trust Fund Recovery Penalties.¹¹ While this penalty can be assessed against more than one responsible party for the same tax delinquency, the total amount of delinquent payroll taxes is to be collected only once. Therefore, if one or more responsible parties pay some or all of the delinquency, the tax liability for all related parties should be reduced or eliminated from IRS' records. Consequently, if a payment is not credited to all related parties, IRS could continue to levy payments to responsible parties for tax delinquencies that have already been paid.

We identified an estimated 2,217 instances¹² in which more than one responsible party was assessed a Trust Fund Recovery Penalty for the same tax delinquency. IRS officials told us they are working on a system that will eventually allow them to automate the posting of payments to the accounts of all responsible parties, but they added that the system would not be fully operational for 2 to 3 years. Until then, it is unlikely that

¹¹IRS can assess a Trust Fund Recovery Penalty against an individual, such as a corporate officer, whom it determines was willful and responsible for not forwarding to the government federal payroll taxes withheld from employees' salaries.

¹²The 95-percent confidence interval for the 2,217 estimate ranges from 2,005 to 2,430.

planned controls would enable IRS to ensure that the accounts of each responsible party had been credited with a levy payment for a Trust Fund Recovery Penalty.

Taxpayers Will Not Be Contacted Until the Program is Implemented

As indicated earlier, IRS will not contact taxpayers concerning the possibility of having their federal payments continuously levied during testing before program implementation. IRS first plans to contact taxpayers about a possible levy when it sends them intent to levy notices when the program is implemented in July 2000. At that time, IRS intends to phase in the program by first levying the federal payments of taxpayers whose delinquent accounts have been in a queue for at least 1 year awaiting assignment for enforced collection. IRS officials stated that with this phase-in approach, IRS should be able to make any needed changes to the program and its controls before it phases in an additional group of delinquent taxpayers subject to levy.

We found that IRS is likely to levy only 155 payments made to taxpayers with delinquent accounts in the queue for at least 1 year, since only vendor and federal retirement payments are to be available for levy in July 2000. Sending intent to levy notices for only 155 payments may not result in enough taxpayer contacts to adequately test all controls. However, in commenting on a draft of this report, IRS indicated that it now plans to phase in subsequent groups of taxpayers slowly, thereby providing additional taxpayer contacts from which to assess its controls prior to full program implementation.

Changes to the Program Could Increase the Amount of Revenues Generated

We estimate that as much as \$74 million in annual revenues could be generated if taxpayers were required to use the same TIN and name on their federal payment records as they use on their tax returns. IRS has a TIN verification program for use by agencies for information return reporting that, if expanded, could be used by agencies to verify whether the agencies' TIN/name combination provided by vendors matched the TIN and name on taxpayer records maintained by IRS. The levy program could also generate an estimated \$77.7 million annually if IRS could continuously levy federal payments made to both spouses if they have been determined by IRS to be jointly liable for tax delinquencies, and payments received by individuals under an SSN for tax delinquencies incurred under their EIN or vice versa. To include these payments in the levy program would require FMS to make changes to its computer systems that is used for matching federal payment records to IRS' accounts receivable records.

Additional Revenue Could Be Generated If More Payment Records Were Suitable for Matching

We estimated that about 33 percent¹³ of 2.9 million vendor payment records totaling \$19.9 billion¹⁴ submitted to FMS were unsuitable for matching against IRS' accounts receivable records.¹⁵ About 6 percent of the payment records contained TINs that were invalid because they differed from TINs on IRS' accounts receivable records. For example, some TINs in the payment records included all zeros and others included letters rather than the required nine digits. In addition, about 27 percent of the payment records contained names that differed from the names on IRS' accounts receivable records.

TINs on Vendor Payment Records Are Often Invalid

The Debt Collection Improvement Act of 1996 requires federal agencies to include valid TINs on payment records submitted to FMS for payment. However, FMS does not verify TINs included on the payment records. Rather, FMS will process federal payments provided that designated payment agency officials have certified that the payments are valid.

To encourage federal agencies to include accurate TINs in payment records, FMS issued a policy statement in 1998 requiring agencies to submit a report to FMS documenting (1) the current status of agency compliance with the TIN requirement, (2) barriers to collecting and providing TINs, and (3) strategies and time frames for resolving such barriers. As of December 31, 1999, FMS had received 34 such reports from federal agencies. One barrier identified by some of these agencies was the lack of a systemic method to validate TINs provided to them by vendors. FMS plans to review the reports to determine, among other things, the effectiveness and credibility of proposed strategies to achieve TIN compliance and to formulate guidance to assist agencies in collecting and providing valid TINs on federal payment records.

Names on Payment Records Often Differ From Names on IRS' Records

While the Debt Collection Improvement Act of 1996 requires federal agencies to submit a valid payee TIN on each payment record, there is no requirement that the name submitted by the agencies reflect the same name used on the payee's most recent tax return. We identified 32,584 federal payments in which the TINs in federal payment records matched the TINs in IRS' records, but the names differed. We estimate that

¹³The 95-percent confidence interval for the 32.8 percent estimate ranges from 24.3 percent to 41.3 percent.

¹⁴The 95-percent confidence interval for the \$19.9 billion estimate ranges from \$13.7 billion to \$26.2 billion.

¹⁵Although we found invalid TINs or names in the other types of payment records, such as salary payments, the occurrence of such errors was insignificant in relation to the number of payment records submitted and the payment amount. For example, we found 4,845 invalid TINs or names in 2.1 million salary payment records.

resolving inconsistencies between the name payees use to receive federal payments and the name payees use on their federal tax returns could generate an additional \$74 million in revenue annually.

We identified several reasons why the payment record matched IRS on TIN but not name. One example of name mismatch occurred because payments, particularly Social Security benefits, were issued to a representative payee, such as a nursing home. This created a mismatch because the space allotted for the payee name on the Social Security payment record is 22 characters, which in most cases, is not sufficient to include both the name of the benefit recipient and the representative payee. In other examples, name mismatches occurred because payees' last names on payment records were spelled differently than on IRS' accounts receivable records or payees used their maiden names while IRS records reflected their married name or vice versa.

IRS Has a Program to Verify the TINs and Names on Federal Agency Records

Since 1997, IRS has had a TIN-matching program that federal agencies can use to verify the accuracy of TIN and name combinations furnished by payees that are used in issuing information returns. This program was intended to reduce the number of notices of incorrect TIN and name combinations issued for backup withholding¹⁶ by allowing agencies the opportunity to contact the payee for correction before issuing an information return. The program does not apply to payments under \$5,000 made to corporations for goods sold to federal executive agencies, since by regulation such payments generally are not subject to information reporting.

Monthly, federal agencies may submit a batch of TIN and name combinations to IRS for verification. IRS matches each record submitted against its records and reports the results back to the agency. Overall, IRS found that 11 percent of the records submitted by federal agencies in 1999 did not match IRS records.¹⁷

¹⁶ Under backup withholding, a payer is to withhold 31 percent of payments to an individual who fails to provide the payer with a valid TIN.

¹⁷ IRS cannot supply explicit TIN or name information to the agencies, because to do so would violate tax disclosure laws.

Millions of Dollars in Additional Federal Payments Could Be Subject to Levy

As indicated earlier, we estimate that as much as \$478 million in delinquent taxes could be collected annually through the continuous levy program, although this amount could be lower because some taxpayers might make other arrangements to resolve their tax debts. In addition, we estimated that \$77.7 million could be collected annually if the program included levying payments made to both spouses if they have been determined by IRS to be jointly liable for tax delinquencies, and payments received by individuals under an SSN for tax delinquencies incurred under their EIN or vice versa. (Appendix IV presents details on the types of payments that could provide this additional revenue.)

Payments Made to Jointly Liable Spouses Will Not Be Levied When the Program Is Initially Implemented

IRS data showed that nearly one-third of 3.3 million individual taxpayers meeting IRS' criteria for inclusion in the continuous levy program were married and had filed joint tax returns with their spouses. Our match of the spouses' TINs against payment records identified 53,605 cases where associated spouses were receiving about \$461 million in federal payments annually. IRS could generate an estimated \$42.8 million in additional revenue annually by levying those payments.¹⁸ We also estimate that an additional \$4.7 million¹⁹ in annual revenue could eventually be generated by levying Social Security benefits received by one spouse under the other spouse's entitlement when both spouses are jointly liable.

IRS does not plan to submit spouses' TINs to FMS for matching against federal payments when the continuous levy program is implemented in July 2000. IRS officials told us that the decision to exclude payments to jointly liable spouses was made because FMS had indicated that the Treasury Offset Program, as currently designed, is unable to match more than one TIN against federal payment records per each debt submitted by creditor agencies. According to both IRS and FMS officials, enabling the program to match more than one TIN per each debt would require program modifications that are not currently planned and that will not be in place by July 2000.

Not All Payment Received Under an Individual's SSN and EIN Will Be Levied

IRS has a file that cross-references SSNs and EINs assigned to the same individual,²⁰ but it does not plan to provide both TINs to FMS for matching against federal payment records. IRS officials said they decided not to send both TINs to FMS because FMS does not currently have the

¹⁸About 72 percent of the 53,605 spouses were jointly liable for the tax debt.

¹⁹The 95-percent confidence interval for the \$4.7 million estimate ranges from \$3.8 million to \$5.6 million.

²⁰We did not test the reliability of the data from the EIN/SSN Cross-Reference File, but IRS uses the file as part of its Underreporter Program to identify taxpayers who underreport their income.

capability to match more than one TIN per federal debt to its payment records. As a result, taxpayers who receive payments under an EIN but are delinquent for individual taxes under their SSN or vice versa, will not be levied.

IRS data showed that 432,737 of the 4.4 million delinquent individual and business taxpayers had both an SSN and EIN assigned to them. The SSN is used to report individual tax liabilities, such as income taxes; and the EIN is used to report business tax liabilities, such as employment taxes. We found that 17,913 of these taxpayers received federal payments, which could total an estimated \$217 million annually. Of these taxpayers, 17,460 received an estimated \$195 million in federal payments annually under their SSN, but they were delinquent for business taxes recorded under their EIN. Likewise, 453 taxpayers received an estimated \$22 million in federal payments under their EIN but were delinquent for individual income taxes recorded under their SSN. Identifying and levying such payments could generate an estimated \$30.2 million annually.

Conclusions

As designed, as much as \$478 million in delinquent taxes could be collected under the continuous levy program annually, although this amount could be lower if taxpayers make other arrangements to resolve their tax debts after they receive a notice of levy. However, the majority of the revenue will not be forthcoming until IRS and SSA resolve the issue of disclosing to SSA the names of Social Security beneficiaries who are to receive an intent to levy notice. Inability to resolve this issue, thereby preventing IRS from continuously levying Social Security benefits, could reduce the annual revenues from the program by about \$300 million.

IRS plans to phase in various groups of delinquent taxpayers when the continuous levy program is implemented. The likely number of levies to be made in the first phase of program implementation is only 155, which may be insufficient to provide IRS and FMS an opportunity to assess overall program controls to ensure inappropriate levies are not made. Thoroughly assessing these controls during the initial phase of program implementation should reduce the likelihood of inappropriate levies occurring when additional types of federal payments, such as Social Security benefits and federal salary payments, become available for levy. If any inappropriate levies or overpayments due to levy occur, timely refunds, such as in 2 to 3 days as is done for hardship cases, could minimize negative public reaction to the program and the frustration of taxpayers whose payments are inappropriately levied.

Millions of dollars more in delinquent taxes could be collected if (1) federal payee TINs and names were consistent with the TINs and names used on their federal tax returns, (2) federal agencies could validate vendor TINs and names through IRS' TIN-matching program, and (3) program changes were made to FMS' computer program to enable FMS to match more than one TIN and name per tax delinquency to its payment records when appropriate.

Recommendations to the Commissioner of Internal Revenue and Commissioner of Financial Management Service

To ensure that adequate controls are in place to prevent inappropriate levies, we recommend that the Commissioner of Internal Revenue

- ensure that IRS contacts a sufficient number of taxpayers when testing program controls during the first phase of program implementation;
- develop a procedure to provide that refunds resulting from an inappropriate levy are made in a timely manner, similar to refunds issued in cases involving taxpayer hardship;
- ensure that IRS excludes from levy any Trust Fund Recovery Penalty involving more than one responsible party until IRS has a system in place to ensure that all responsible parties' accounts receive appropriate credit for any payments levied; and
- assess the feasibility of permitting federal agencies to submit vendors' TINs and names to IRS as part of its TIN-matching program for purposes other than information reporting.

To ensure that future payment records submitted to FMS by federal agencies will include valid payee TINs and names, we recommend that the Commissioner of Financial Management Service issue guidance directing federal agencies to use IRS' TIN-matching program, if IRS decides that it can validate vendor TINs and names through this program.

To increase the number of tax delinquencies that could be collected through continuous levy, we recommend that the Commissioner of Internal Revenue and the Commissioner of Financial Management Service respectively direct IRS and FMS to coordinate their efforts in preparing the necessary files and making the programming changes needed to enable FMS to match more than one TIN and name from IRS' accounts receivable records to its payment records for each tax debt submitted by IRS.

Agency Comments and Our Evaluation

In written comments on our draft report, the Commissioner of Internal Revenue (see appendix V) and the Commissioner of the Financial Management Service (see appendix VI) agreed with most of our recommendations and provided technical comments that we have incorporated throughout this report when appropriate.

The Commissioner of Internal Revenue agreed with four of five recommendations applicable to IRS. The Commissioner agreed to ensure that IRS contacts a sufficient number of taxpayers when testing program controls during program implementation. The Commissioner stated that IRS now plans to implement the program as a pilot. As part of this pilot, IRS will gradually add various debt types to the program. With successful piloting of each debt type, IRS plans to add another type until all appropriate debts are included in the program and the program is moved into full implementation. The Commissioner stated that by phasing cases slowly into the system, IRS will be able to contact sufficient numbers of taxpayers to ensure that adequate controls are in place before it fully implements the program, and we concur with this approach.

The Commissioner agreed with our recommendation to develop a procedure to provide that refunds resulting from an inappropriate levy are made in a timely manner, similar to cases involving taxpayer hardship, by directing employees to issue manual refunds whenever IRS determines that the Service is not entitled to funds secured from an inappropriate levy. We agree that this change should meet the intent of our recommendation.

The Commissioner agreed to assess the feasibility of permitting federal agencies to submit vendors' TINs and names to IRS as part of its TIN-matching program for purposes other than information reporting. Because of disclosure issues related to this recommendation, which may bar IRS from providing feedback to federal agencies, IRS is currently developing a proposal for a legislative change.

As a future program enhancement, the Commissioner agreed to coordinate with FMS in preparing the necessary files and making the programming changes needed to enable FMS to match more than one TIN and name from IRS' accounts receivables to FMS' payment records for each tax debt submitted by IRS.

The Commissioner of Internal Revenue did not agree to implement the recommendation to exclude from levy any Trust Fund Recovery Penalty cases involving more than one responsible party until IRS has a system in place to ensure that all responsible parties' accounts receive appropriate credit for any payments levied. The Commissioner stated that IRS is currently developing a system to cross-reference payments on both the Business Master File and the Individual Master File for Trust Fund Recovery Penalty cases. However, because this system will not be in place at the time the continuous levy program is implemented in July 2000, IRS plans to monitor the impact of including these cases during the phased in

implementation before making a determination whether to exclude such cases from levy. Until the system is in place, we still believe IRS should exclude Trust Fund Recovery Penalty cases from levy because IRS has no systemic means to ensure that the accounts of each responsible party are credited if a federal payment is levied for a Trust Fund Recovery Penalty.

The Commissioner in his letter also pointed out that the program probably will not generate the full \$478 million annually in revenue that we estimated could result when the program reaches its full potential. The Commissioner stated that, considering past experience, many taxpayers take action to resolve their account before a levy is issued. We agree that the program may not generate the estimated \$478 million annually directly from tax levies because taxpayers who receive a notice of intent to levy may act to resolve their account by paying the amount owed in full, entering into an installment agreement, or filing an offer in compromise. Neither we nor IRS know how much revenue may be generated indirectly as a result of taxpayers reacting to the receipt of intent to levy notices. IRS officials told us that they plan to eventually develop an estimate of the revenue that is being generated indirectly from the continuous levy program.

The Commissioner of the Financial Management Service agreed to issue guidance directing federal agencies to use IRS' TIN-matching program, provided that IRS determines that it can use the program to validate vendor TINs and names submitted by agencies for purposes other than document matching. The Commissioner also agreed to coordinate with IRS in preparing the necessary files and making the programming changes needed to enable FMS to match more than one TIN and name for each tax debt submitted by IRS to FMS' payment records. However, he said FMS' efforts in the near future will be directed at other enhancements and suggested 2003 as the target completion date for this TIN matching enhancement.

The Commissioner's letter also discussed a recommendation, in our draft report, that FMS issue guidance to federal agencies to require vendors doing business with the federal government to use the same business name for federal payments for services rendered that they use on their federal tax return. The Commissioner stated that FMS does not have the legal authority to impose this requirement on federal agencies and vendors, and that this requirement would have to be included in the

Federal Acquisition Regulations,²¹ which are administered by the General Services Administration (GSA). We agree with the Commissioner that GSA would be the appropriate agency to impose such a requirement and, as a result, we have dropped this recommendation from our report.

We also received written comments from the Commissioner of Social Security (see appendix VII) concerning how we characterized their planned participation in the tax levy program. We made changes to the report to reflect the Commissioner's concerns when appropriate.

As agreed with your office, unless you announce the contents of this report earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies of this report to Representative Charles B. Rangel, Ranking Minority Member, House Committee on Ways and Means; Representative William J. Coyne, Ranking Minority Member, Subcommittee on Oversight, House Committee on Ways and Means; and Senator William V. Roth, Jr., Chairman, and Senator Daniel P. Moynihan, Ranking Minority Member, Senate Committee on Finance. We are also sending copies to the Honorable Lawrence H. Summers, Secretary of the Treasury; the Honorable Charles O. Rossotti, Commissioner of Internal Revenue; the Honorable Richard L. Gregg, Commissioner of Financial Management Service; the Honorable Kenneth S. Apfel, Commissioner of Social Security; the Honorable Jacob J. Lew, Director, Office of Management and Budget; and other interested parties. Copies of this report will be made available to others upon request.

If you have any questions regarding this report, please contact me at (202) 512-9110 or Ralph Block at (415) 904-2150. Key contributors to this report are acknowledged in appendix VIII.



Cornelia M. Ashby
Associate Director, Tax Policy
and Administration Issues

²¹ The Federal Acquisition Regulations are implementing regulations for the Federal Property and Administrative Services Act of 1949, which govern standard federal contracts and provide uniform policies and procedures for acquisition by all executive agencies.

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Abbreviations

ACS	Automated Collection System
CNC	currently-not-collectible
EIN	employer identification number
FMS	Financial Management Service
IRS	Internal Revenue Service
OPM	Office of Personnel Management
SSA	Social Security Administration
SSN	Social Security Number
TIN	taxpayer identification number

Objectives, Scope, and Methodology

Objectives

Our objectives in this report are to (1) determine the number of taxpayers that could be subject to a continuous levy, the revenue that might be generated, and the cost to the Internal Revenue Service (IRS) to have the Financial Management Service (FMS) levy federal payments of those taxpayers; (2) identify issues that could delay program implementation or otherwise affect revenues from the program; (3) examine the controls and testing that IRS and FMS have planned to prevent levying taxpayers not subject to levy and to prevent levying payments for more than the taxpayer owes; and (4) identify changes, if any, IRS and FMS could make to yield increased revenues from the program.

Scope and Methodology

To estimate the number of taxpayers that could be subject to continuous levy and the potential revenues that could be generated, we obtained and matched IRS' accounts receivable records as of February 1999 that met IRS' continuous levy program criteria with agency payment records obtained from FMS.¹ All estimates of revenues throughout this report have been annualized. To estimate the cost to IRS for having FMS levy federal payments, we discussed the fee to be charged with both agencies. We then used this fee in conjunction with our estimate for the number of annual payments to be levied to calculate the estimated annual cost.

To identify issues that may delay program implementation, we interviewed IRS and FMS officials responsible for the program. In addition, we interviewed officials at the Social Security Administration (SSA) and the Office of Personnel Management (OPM) to discuss issues that could delay implementation and to discuss how such issues could be resolved.

To examine the controls and testing that IRS and FMS have planned to prevent levying taxpayers not subject to levy and to protect against levying payments for more than the taxpayer owes, we interviewed IRS and FMS officials responsible for developing the controls and discussed with them the testing planned to ensure that the controls worked as intended. We also reviewed the joint program requirements developed by IRS and FMS and analyzed IRS' Request for Information Services, which describe internal controls and the automated exchange of information between IRS and FMS, including the posting of payments received by IRS through this levy program to taxpayer accounts.

¹ The payment records cover various periods of time. Vendor payments are for the first quarter of calendar year 1999, salary payments represent one biweekly pay period in March 1999, and all other payments are for the month of March 1999. This was the latest data available from IRS and FMS, respectively.

To identify changes, if any, that IRS and FMS could make to increase revenues from the program, we developed a methodology to identify payment records that may contain invalid taxpayer identification numbers (TIN) or names and that, if corrected, could generate additional revenues. In reviewing the validity of TINs and names that were submitted to FMS on payment records, we selected and analyzed a random sample of payment records. We also interviewed IRS and FMS officials responsible for designing the continuous levy program, as well as payment agency officials in six agencies to discuss the suitability of agencies' payment records for matching to IRS' accounts receivable records. The six agencies were the Departments of Housing and Urban Development, State, Transportation, and Veteran Affairs, as well as the Small Business Administration, and the Bureau of Prisons. We selected these agencies primarily because their payment records appeared to have a significant number of either TINs or names that were unsuitable for matching against IRS' accounts receivable records. In addition, we reviewed (1) provisions of the Debt Collection Improvement Act of 1996 that require federal agencies to submit valid TINs for payees, (2) FMS' policy that requires agencies to submit a TIN Implementation Report to FMS documenting agency compliance with the TIN requirement provisions of the Debt Collection Improvement Act, and (3) copies of 34 TIN Implementation Reports submitted by payment agencies.

To identify additional revenues that could be generated through program enhancements, we selected and analyzed a series of random samples using the accounts receivable and payment records. In addition, we used IRS' EIN/SSN Cross-Reference File to identify taxpayers, delinquent under an SSN for individual taxes, who received federal payments under their EIN or vice versa. All sample results used in this report have been weighted and are subject to sampling error. Unless otherwise indicated, all estimates are surrounded by a 95-percent confidence interval of plus or minus 10 percent.

We did our work at IRS and FMS headquarters in Washington, D.C.; IRS Return Processing Centers in Kansas City, MO, and Fresno, CA; and FMS Regional Finance Centers in Kansas City and Philadelphia. In addition, we did work at the Departments of Housing and Urban Development, State, and Transportation, the Bureau of Prisons, and OPM headquarters in Washington, D.C.; SSA headquarters in Baltimore; Department of Veteran Affairs in Austin, TX; and Small Business Administration in Denver. The fieldwork was done between March 1999 and January 2000 in accordance with generally accepted government auditing standards.

Delinquent Taxes and Federal Payments to Be Included in the Continuous Levy Program

This appendix sets forth the specific types of delinquent tax accounts that the Internal Revenue Service (IRS) plans to send to the Financial Management Service (FMS) to be matched with federal payment records, as well as those to be excluded from the tax debtor database. Also listed are the federal payments that IRS plans to include in the continuous levy program, as well as federal payments to be excluded. IRS has decided that some eligible federal payments authorized by the Taxpayer Relief Act of 1997 will not be subject to continuous levy.

Delinquent Taxes to Be Included in the Continuous Levy Program

IRS plans to select delinquent tax accounts to be sent to FMS for matching against federal payment records on the basis of the following criteria:

1. The tax account must have a valid Social Security Number (SSN) or employer identification number (EIN).
2. The delinquent tax balance, including accruals, must be greater than a specified amount.
3. The type of delinquent tax, such as individual income tax, must be processible through the Electronic Federal Tax Payment System, a system for processing any federal payments electronically.
4. The tax account must be in one of the following collection statuses, which are to be phased in when the program is first implemented in the following order:
 - A tax delinquent account that has been in a queue for at least 1 year awaiting assignment to either revenue officers in the field or the Automated Collection System (ACS) for enforced collection;
 - A tax delinquent account assigned to ACS with either an invalid address or invalid phone number;
 - A tax delinquent account in a currently-not-collectible (CNC) status for one of the following reasons: (1) IRS is unable to locate the taxpayer, (2) IRS is unable to contact the taxpayer, (3) the taxpayer is residing outside the United States, (4) the taxpayer is a defunct corporation, (5) the taxpayer is an in-business corporation, or (6) the Resource and Workload Management System¹ score for the tax delinquent account is low and the account had been worked in either the field or IRS' ACS immediately preceding the CNC status;

¹The Resource and Workload Management System is a Collection Division case scoring and ordering system intended to have a meaningful impact on Collection case processing. The system prioritizes cases so as to maximize yield and minimize cost.

- A tax delinquent account that has been deferred based on low-dollar value for at least 1 year; or
- A tax delinquent account being worked in the field.

Delinquent Taxes to Be Excluded From the Continuous Levy Program

Before sending a delinquent tax account to FMS, IRS plans to systemically verify that the taxpayer's account does not contain one of the following conditions, which would exclude any type of tax delinquency for any tax period within the taxpayer's account from continuous levy:

- A military deferment freeze,
- A criminal investigation hold,
- An offer in compromise that is pending or approved,
- Currently not collectible because of hardship,
- Currently not collectible because taxpayer is deceased,
- An installment agreement that is pending or approved,
- A Taxpayer Assistance Order is in place,
- A collateral agreement is in place,
- An open disaster case,
- A bankruptcy freeze,
- IRS has instituted litigation,
- A duplicate return freeze, or
- A taxpayer claim is pending.

Before sending a delinquent tax account to FMS, IRS also plans to systemically verify that a taxpayer's account does not contain one of the following conditions, which would exclude only a specific type of tax delinquency for a specific period² from continuous levy:

- The collection statute expiration date is within 3 months of expiring,
- The delinquent tax accounts include a code blocking an FMS levy, or
- Either an injured or innocent spouse is involved.

Eligible Federal Payments to Be Included in the Continuous Levy Program

IRS plans to include the following federal payments in the continuous levy program:

- Vendor payments,
- Federal retirement,
- Federal salary,
- Social Security retirement, and

²For example, individual income tax for calendar year 1998 or employment withholding tax for the first quarter of 1998.

- Railroad Retirement Board benefits.
-

Eligible Federal Payments to Be Excluded From the Continuous Levy Program

Owing to the potential negative impact that a tax levy could have on recipients of certain federal benefits, IRS plans to exclude some federal payments from the levy program. The following payments are to be excluded:

- Supplemental Security Income,
- SSA special benefits for persons reaching age 72 by 1971,
- Black Lung benefits,
- Department of Labor Longshore and Workers' Compensation Act payments,
- Department of Agriculture Food and Nutrition Services benefits,
- Federal Emergency Management Agency payments for disaster relief and emergency assistance, and
- Judgments for support of minor children.

IRS may exclude other types of Social Security payments, but this decision had not been made at the time of our review.

Sampling and Data Analysis Methodology

This appendix describes how we determined the number of taxpayers that could be subject to continuous levy and the potential revenues that could be generated. In addition, it describes how we selected and analyzed sample data for four random samples taken to enable us to better respond to our job objectives. The samples pertain to (1) the number of responsible parties associated with Trust Fund Recovery Penalties, (2) vendor payment records submitted to the Financial Management Service (FMS) with taxpayer identification numbers (TINs) that were unsuitable for matching or names that differed from the names on IRS' accounts receivable records, (3) the tax liability of spouses receiving federal payments, and (4) the tax liability of spouses who are receiving Social Security benefits under the primary spouse's entitlement. Finally, this appendix describes the methodology we used to determine the amount of additional revenue the Internal Revenue Service (IRS) could generate by using its Employer Identification Number (EIN)/Social Security number (SSN) Cross-Reference File to identify and levy payments made to taxpayers under an SSN for tax delinquencies incurred under their EIN or vice versa.

Determining the Number of Taxpayers Subject to Continuous Levy and Potential Revenue Generated

To determine the number of taxpayers that could be subject to continuous levy and the potential revenues that could be generated, we obtained accounts receivable information from IRS, and federal payment records from FMS, and we matched the two sets of records using IRS' levy criteria. We obtained an extract of accounts receivable information from IRS' Individual and Business Master Files, as of February 1999. The accounts receivable records included all delinquent tax accounts that met IRS' criteria for inclusion in the tax debtor database sent to FMS for potential levy. (In appendix II, we describe the criteria used by IRS in selecting such tax delinquencies.) In all, we obtained accounts receivable information on 8.7 million delinquent tax accounts, representing 4.4 million taxpayers¹ owing over \$58 billion in delinquent taxes. Individuals accounted for 5.6 million tax delinquent accounts, representing 3.3 million taxpayers owing \$31 billion in delinquent taxes. Businesses accounted for 3.1 million tax delinquent accounts, representing 1.1 million taxpayers that owed \$27.8 billion in delinquent taxes.

From FMS, we obtained an extract of payment records for selected periods. We obtained Social Security benefit payments, federal retirement payments and Railroad Retirement Board payments for the month of March 1999; federal agency vendor payments for the first 3 months of

¹ Taxpayers could have multiple delinquent tax accounts. For example, a taxpayer could be delinquent in 3 different tax years each of which would represent a separate delinquent account.

calendar year 1999; and federal salary payments for one biweekly pay period in March 1999. All revenue estimates presented throughout the report have been annualized.

In total, we obtained the entire population of 51.8 million payment records from FMS, representing \$83.3 billion in payments for the selected periods. Social Security benefit payments accounted for 84.4 percent of the payments and 35.6 percent of the payment amount. Vendor payments accounted for only 5.6 percent of the number of payments, but 57.4 percent of the amount.

Following IRS' criteria for levying federal payments, we matched IRS' accounts receivable records against FMS' payment records. We compared the TIN and payee name on FMS' payment records to the TIN and name control on IRS' accounts receivable records as well as additional name controls from IRS' National Account Profile (NAP).² FMS is to levy a payment when the TIN and IRS name control of the delinquent debtor match the TIN and name of the FMS payee. Following this procedure, we identified from the entire population 264,137 taxpayers with delinquent tax liabilities of \$2.8 billion that could be subject to a continuous levy. The estimated annual revenues that could be generated from levying payments to these individuals could be \$478 million. However, this does not take into account that some of these taxpayers, upon receipt of the notification of intent to levy, will contact IRS to make other arrangements to pay or present evidence that would prevent IRS from levying their federal payments.

Determining the Number of Responsible Parties Associated With Trust Fund Recovery Penalties

Our computer analysis of IRS and FMS records showed that 3,925 delinquent tax accounts matching on both TIN and name represented Trust Fund Recovery Penalties under which the taxpayers owed about \$201 million in delinquent taxes. Of those tax delinquencies, 3,755 (96 percent) were tied to taxpayers receiving Social Security benefit payments, and the remaining 170 were associated with taxpayers receiving federal salary, federal retirement, Railroad Retirement Board, and vendor payments. When a business does not pay its quarterly employment taxes, IRS can assess a Trust Fund Recovery Penalty against any officer or employee of the business determined by IRS to be responsible for not paying the employment taxes. Therefore, it is possible to have more than one responsible party for a particular tax liability.

²The NAP is an IRS-maintained database of specific entity information for a taxpayer. This information is consolidated under a TIN and includes information such as name controls, filing status, and current address. By using the NAP, we were able to identify additional payments for potential levy as will FMS.

To determine the number of responsible parties associated with these Trust Fund Recovery Penalty delinquencies, we reviewed 353 accounts from the 3,925. We selected all 170 Trust Fund Recovery Penalty tax delinquent accounts associated with federal salary, federal retirement, Railroad Retirement Board, and vendor payments. In addition, we selected a random sample of 183 tax delinquent accounts from the 3,755 Trust Fund Recovery Penalty delinquencies associated with taxpayers receiving Social Security benefit payments. For each of these tax delinquencies, we reviewed IRS transcripts of the accounts to determine how many responsible parties were assessed the Trust Fund Recovery Penalty.

In reviewing the transcripts, we learned that some of the 3,925 delinquencies we had identified were not Trust Fund Recovery Penalties but were other types of miscellaneous penalties for such things as filing a frivolous return or understatement of taxpayers' liability by return preparers. As a result, 61 of the 353 sampled delinquencies were not included in the analysis. In our analysis, the sample tax delinquencies have been weighted to represent the estimated total population of 3,025 Trust Fund Recovery Penalties³ for which IRS' accounts receivable records and agency payment records matched on both TIN and name control.

Vendor Payment Records Submitted With Invalid TINs or Names

Of the 2.9 million vendor payments submitted to FMS for the first quarter of calendar year 1999, we knew from a cursory review of the data that some of the TINs or names were not suitable for matching against IRS' accounts receivable records. For example, some TINs contained all zeros or included alpha characters, and some names differed from the names on IRS' accounts receivable records. To determine the extent to which payment records submitted to FMS had invalid TINs or names, we selected a stratified random sample of 400 payments from the population of 2.9 million business and individual vendor payments. The sample was proportionately allocated across 5 strata, shown in table III.1, defined by the payment amounts to ensure selection of all ranges of payment amounts.

Table III.1: Invalid TIN or Name Sample

Stratum	Population	Sample	Weight
Less than \$19,999.99	2,695,504	220	12,252.290
\$19,999.99 to less than \$199,999.99	171,673	45	3,814.96
\$199,999.99 to less than \$1,999,999.99	23,460	44	533.18
\$1,999,999.99 to less than \$9,999,999.99	2,214	27	82
\$9,999,999.99 and greater	432	64	6.750
Total	2,893,283	400	

³The 95-percent confidence interval ranges from 2,794 to 3,256 tax delinquencies.

Source: GAO analysis of IRS and FMS data.

For each of the TINs associated with the 400 payments in our sample, we obtained transcripts of accounts from IRS and reviewed them to determine the validity of TINs and names on payment records. In our analysis, the sample payments were subsequently weighted to account statistically for the entire population of 2.9 million payment records with invalid TINs or names.

Determining the Number of Spouses Receiving Payments Under Own TIN Who Are Jointly Liable for Delinquent Taxes

For each of the 3.3 million individual taxpayers in IRS' accounts receivable database, IRS provided the TIN for the spouse if available. In total, IRS provided TINs for 1,027,872 spouses. IRS does not plan to submit spouse's TINs to FMS for matching against federal payments when the continuous levy program is implemented because the Treasury Offset Program is not currently able to match more than one TIN against federal payment records per each debt.

To determine the amount of potential revenue IRS could generate from levying such payments, we compared the TIN and name on the entire FMS population of 51.8 million payments to the TIN and name control on IRS' accounts receivable records. As a result, we identified 53,605 tax returns where associated spouses were receiving one or more federal payments. However, levy would be inappropriate if the spouses were not jointly liable for the delinquent taxes in question. To determine if the spouses were jointly liable for the delinquent taxes in question, we selected a stratified random sample of 432 tax returns for review. The population was divided into five strata based on the source of the payment received, as shown in table III.2.

Table III.2: Spouses' TIN sample

Payment type	Population		Sample size	Weight
	Size	Proportion		
Social Security	46,166	86	371	124.44
Federal retirement	2,096	4	17	123.29
Railroad Retirement	607	1	5	121.40
Federal salary	3,576	7	29	123.31
Individual vendor	1,160	2	10	116.00
Total	53,605	100	432	

Source: GAO analysis of IRS and FMS data.

For the 432 tax returns, we reviewed IRS' transcripts of accounts to determine if the spouses receiving federal payments were liable for the delinquent taxes. The sample was subsequently weighted to represent the

total population of 53,605 tax returns where spouses received federal payments.

Determining the Number of Jointly Liable Taxpayers Receiving Social Security Benefits Under Spouse's Entitlement

We identified 12,484 of the 227,891 taxpayers matching on TIN and name that had spouses receiving Social Security benefits under the primary taxpayer's entitlement. These spouses received \$45 million in annual benefit payments while jointly owing about \$202 million in delinquent taxes. As previously stated, IRS does not plan to submit spouses' TINs to FMS for matching against federal payments when the continuous levy program is implemented because the Treasury Offset Program is not currently able to match more than one TIN against federal payment records per each debt.

To identify the amount of potential revenue that IRS could generate from levying such payments, we selected a random sample of 96 taxpayers whose spouses were receiving Social Security benefits under the primary taxpayer's entitlement. However, levy would be inappropriate if the spouses were not jointly liable for the delinquent taxes in question. To determine if the spouses were jointly liable, we reviewed IRS transcripts of accounts.

In our analysis, the taxpayer information in our sample was weighted to represent the total population of 12,484 taxpayers matching on TIN and name that had spouses receiving Social Security benefits under the primary spouse's entitlement.

Using the EIN/SSN Cross-Reference File in Matching Accounts Receivable Records to Payment Records

IRS data showed that 432,737 of the 4.4 million delinquent taxpayers had both an SSN, and an EIN for business purposes. IRS has a file that cross-references SSNs with EINs, but it does not plan to use this file to identify delinquent taxpayers with both an SSN and EIN because, as noted, FMS cannot currently match more than one TIN per federal debt to its payment records. As a result, taxpayers delinquent under an SSN on individual taxes who received payments under their EIN or vice versa will not be matched.

To determine the amount of additional revenue IRS could generate by using its cross-reference file to identify delinquent taxpayers with both an SSN and EIN, we matched the SSNs and EINs for the 432,737 taxpayers having both an SSN and EIN against the FMS payment records.

Sampling Errors for Key Estimates Used in the Report

Because we followed a probability procedure based on random selections for the samples we selected, each of these samples is only one of a large number of samples that we might have drawn. Since each sample could have provided different estimates, we express our confidence in the

precision of our particular sample's results as a 95-percent confidence interval (e.g., plus or minus 10 percentage points). This is the interval that would contain the actual population value for 95 percent of the samples we could have drawn. As a result, we are 95-percent confident that each of the confidence intervals in this report will include the true values in the study population.

Additional Revenues That Could Be Generated Through the Continuous Levy Program

This appendix describes the estimated \$77.7 million in additional revenue that could be generated through the continuous levy program. However, to generate this additional revenue, the Financial Management Service (FMS) would have to have the capability to match a second taxpayer identification number (TIN) from an Internal Revenue Service (IRS) accounts receivable record against its federal payment records. According to IRS and FMS officials, this will not be possible when the program is implemented in July 2000 because, as currently configured, FMS' Treasury Offset Program is only able to match one TIN per each debt against its payment records. In order to match a second TIN, the program would have to be modified.

Certain types of payments that could result in additional revenue, but will not be included in the continuous levy program when it is first implemented, are various federal payments to spouses under their own TIN who are jointly liable for delinquent taxes. As shown in table IV.1, an estimated \$42.8 million in additional revenue might be generated annually by levying such spousal payments.

Table IV.1: Additional Revenue Potential From Levying Jointly Liable Spouses Receiving Federal Payments

Payment type	Jointly liable spouses receiving payments ^a	Estimated annual revenue that could be generated (millions)
Social Security	34,744	\$34.2
Individual vendor	620	1.0
Federal salary	1,365	4.7
Federal retirement	1,489	2.3
Railroad Retirement	372	0.6
Total	38,591^b	\$42.8^c

^aThe number of jointly liable spouses by payment type may not add to the estimated total because of rounding.

^bThe 95-percent confidence interval ranges from 36,327 to 40,855.

^cThe 95-percent confidence interval ranges from \$38.7 million to \$46.9 million.

Source: GAO analysis of IRS and FMS data.

Another type of payment that will not be included initially when the program is implemented is Social Security benefits paid to jointly liable spouses when the benefits are being paid under the primary spouse's entitlement. We identified 12,484 spouses that were receiving Social Security benefits under the primary spouse's entitlement. Of that number, we estimated that 7,542¹ were jointly liable for the delinquent taxes, and

¹The 95-percent confidence interval ranges from 6,315 to 8,769.

Appendix IV
Additional Revenues That Could Be Generated Through the Continuous Levy Program

levying federal payments made to such spouses could generate an estimated \$4.7 million² in additional annual revenue.

Other payments that will not be included when the program is first implemented include payments received by a taxpayer under a Social Security Number (SSN) who owes taxes under an employer identification number (EIN) or vice versa. As shown in table IV.2, an estimated \$30.2 million in additional revenue could be generated if IRS were able to utilize its SSN/EIN cross-reference file to identify taxpayers assigned both an SSN and an EIN and to submit both TINs to FMS to be matched against federal payment records.

Table IV.2: Additional Revenue Potential by Levying Taxpayers Who Receive Payment Under an SSN While Delinquent Under an EIN or Vice Versa

Payments received	Number of taxpayers	Annual levy revenues (millions)
Under SSN (but delinquent under EIN)	17,640	\$28.3
Under EIN (but delinquent under SSN)	453	1.9
Total	17,913	\$30.2

Source: GAO analysis of IRS and FMS data.

²The 95-percent confidence interval ranges from \$3.8 million to \$5.6 million.

Comments From the Internal Revenue Service



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

March 23, 2000

Ms. Cornelia M. Ashby
Associate Director, Tax Policy and
Administration Issues
United States General Accounting Office
Washington, D.C. 20548

Dear Ms. Ashby:

Thank you for the opportunity to review and comment on your recent draft report entitled "IRS' Levy of Federal Payments Could Generate Millions of Dollars." We agree the levy of federal payments has the potential to generate significant revenues and appreciate the assistance your staff has provided during development of the continuous levy program. As stated in the report, we began simulation testing of the automated programs that will be used by the Federal Payment Levy Program on February 14, 2000. We intend to begin using these programs on actual taxpayer cases in a small scale, or pilot mode, when implementation begins in July 2000.

The estimate that the Internal Revenue Service (IRS) could generate \$500 million in annual revenues from these levies is based on an assumption that levies will be served on all the taxpayers receiving the required combined notice of a right to a hearing and of intent to levy. Based on our past experience, many taxpayers can take an action to contact the IRS and resolve their account before a levy is actually issued. The taxpayer may resolve their account by paying the amount owed in full, entering into an installment agreement, filing an offer in compromise, or identifying a hardship situation. Although the account may be resolved by any of these measures, the money secured may not be the total owed in all situations. Thus, the annual revenue projection of \$500 million is probably overstated.

We plan to use the Financial Management Service (FMS) Treasury Offset Program (TOP) to process levies served through this program. Currently, only Office of Personnel Management retirement and vendor payments are processed through TOP. We will work with FMS to include other payment types in the levy program as they are brought into the TOP.

As part of our overall development plan, we are working with FMS to ensure that all payment agencies included in the program are aware of the potential for levy. We will help these agencies to clarify the program to their customers.

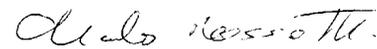
Appendix V
Comments From the Internal Revenue Service

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We agree that additional revenue could be generated if federal agencies required taxpayers to provide the same name they use on their federal tax return before entering into a contract. However, with respect to the TIN-matching program, a legislative mandate may be required to address issues relating to disclosure and enforcement.

We have enclosed our preliminary response to your recommendations and will use the guidance provided to improve the Federal Payment Levy Program. Our goal during the implementation of the continuous levy program is to increase revenues from delinquent taxpayers while ensuring that taxpayer rights are protected. We look forward to working with you and your staff in the future.

Sincerely,



Charles O. Rossotti

Enclosure

Appendix V
Comments From the Internal Revenue Service

Response to Recommendations from GAO
"Tax Administration
IRS' Levy of Federal Payments Could Generate Millions of Dollars"

The GAO draft report makes 5 recommendations for IRS. Each of these is discussed below:

Recommendation 1: Ensure that IRS contacts a sufficient number of taxpayers when testing program controls during the first phase of program implementation.

Response: The testing that started on February 14, 2000, between FMS and IRS was designed as a non-production test. The goal of the test is to ensure that the programs being created or changed will perform according to the established criteria and that the file exchanges between FMS and IRS will function as required. Once the initial testing is completed, we plan on implementing a pilot. As part of this pilot, we will gradually add various debt types to the program for levy. With a successful pilot of each debt type, we will add another until all appropriate debts are included for levy. Once all debt types are included in the program, we will move from pilot to full implementation. We believe that a measured addition of cases into the levy program will also provide us with the actual taxpayer contact that you are requesting. Although you state that the queue cases will result in only 155 federal payments that are likely to be levied, we will be adding additional cases in the second through fifth phases of the pilot, which will result in additional levies, and additional contact with taxpayers. By phasing cases slowly into the system, we will be able to continue to ensure that adequate controls are in place to prevent inappropriate levies and to resolve any problems.

Recommendation 2: Develop a procedure to provide that refunds resulting from an inappropriate levy are made in a timely manner, similar to refunds issued in cases involving taxpayer hardship.

Response: In situations where we determine that we are not entitled to the funds secured from an inappropriate levy, we will direct employees to issue a manual refund per IRM 21.10.2.4.7.4.

Recommendation 3: Ensure that IRS excludes from levy any Trust Fund Recovery Penalty (TFRP) involving more than one responsible party until IRS has a system in place to ensure that all responsible parties' accounts receive appropriate credit for any payments levied.

Response: We are currently developing a system to cross-reference payments on both the Business Master File and the Individual Master File for the TFRP. Because this system will not be in place for the Federal Payment Levy Program implementation, we

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will monitor the impact of including the TFRP cases during the phased in implementation (July 2000 through December 2000). After we assess the impact, we will then make a determination if we should exclude these cases.

Recommendation 4: Assess the feasibility of permitting federal agencies to submit vendor's taxpayer identification number (TIN) and names to the IRS as part of its TIN-matching program for purposes other than information reporting.

Response: We will assess the feasibility of this recommendation. However, there are disclosure issues related to this recommendation which may bar us from providing any feedback to agencies. We are currently developing a proposal for a legislative change.

Recommendation 5: The Commissioner of Internal Revenue and the Commissioner of Financial Management Service should direct IRS and FMS to coordinate their efforts in preparing the necessary files and making the programming changes needed to enable FMS to match more than one TIN and name from IRS' accounts receivable records to its payment records for each tax debt submitted by IRS.

Response: We agree with the recommendation as a future enhancement. This enhancement will require a considerable effort on the part of both FMS and IRS. As the TOP system is enhanced to incorporate this change, we will coordinate with FMS to ensure that IRS programming changes are completed.

Comments From the Financial Management Service



DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
WASHINGTON, D.C. 20227

March 27, 2000

Ms. Cornelia M. Ashby
Associate Director, Tax Policy
and Administration Issues
General Accounting Office
441 G Street, N.W.
Washington, DC 20548

Dear Ms. Ashby:

The Financial Management Service (FMS) has received for comment a copy of the recent draft audit report (GAO/GGD-00-65), entitled Tax Administration: IRS' Levy of Federal Payments Could Generate Millions of Dollars. This letter transmits FMS' response to that report.

Recommendations

The Commissioner of Financial Management Service should issue guidance directing federal agencies to require vendors doing business with the government to use the same business name for federal payments for services rendered that they use on their federal tax returns.

We do not concur. While a requirement to use the same name on payments as on federal tax returns might help to increase matches for levy, it could cause other problems. For example, some payees assign their payments; in such instances, the name on the payment would be the name of the assignee, not the vendor. In addition, it is legitimate for a corporation to file a consolidated tax return under the name of the parent company that might not have the same name as the company doing business with the government.

Even if this type of requirement is desired, FMS does not have legal authority to impose the recommended requirement on agencies. We believe that the appropriate place for such a requirement would be the Federal Acquisition Regulations, which are administered by the General Services Administration (GSA). GSA would be the appropriate agency to issue such guidance.

The Commissioner of Financial Management Service should issue guidance directing federal agencies to use IRS' TIN-matching program, if IRS decides that it can validate vendor TINs and names through this program.

We concur, with comment. FMS already has the capability to match TINs with "aliases," and is working with IRS and agencies to put appropriate TIN-matching procedures in place. Utilization of IRS' TIN-matching program specifically will be contingent on IRS' ability to validate vendor

Page 2

TINs and names and on consultations with agencies on the feasibility of using the program.

The Commissioner of Internal Revenue Service and the Commissioner of Financial Management Service should direct IRS and FMS to coordinate their efforts in preparing the necessary files and making the programming changes needed to enable FMS to match more than one TIN and name from IRS' accounts receivable records to its payment records for each tax debt submitted by IRS.

We concur, with comment. While we recognize the potential usefulness of matching multiple TINs between payment and accounts receivable records, our efforts over the next few years will be geared primarily toward other enhancements, e.g., salary offset, benefits offset, state tax debt, and other tax levy improvements.

Status: No action to date Target Completion Date: 2003

While we are otherwise in general agreement with the draft report from a technical standpoint, we offer two substantive comments in the interest of accuracy and clarity:

(1) Page 4, middle of last paragraph, and page 9, first sentence, states: "We were not able to determine when Social Security benefits and federal salaries will be available for levy because IRS, FMS, and the payment agencies have yet to agree on the final program requirements."

Comment: Final program requirements for both Salary Offset and Tax Levy have been developed, and system design is underway.

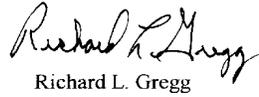
(2) Page 16, paragraph 1 states: "For the Treasury Offset Program, FMS plans to have federal agencies offset employees' net disposable income, which FMS defines as gross salary minus taxes, retirement and court-ordered child support. For tax levies, IRS would prefer to have agencies apply the 15-percent levy to employees' net disposable income, which IRS defines as gross salary minus taxes, health insurance premiums, and court ordered child support. If federal agencies decide to apply the 15-percent tax levy to net disposable income as defined by FMS, the amount levied could be substantially less."

Comment: This statement implies that FMS and IRS are at odds over how the levy amount is to be determined, and that salary-paying agencies can decide which formula, offset or levy, to apply. These implications are not correct. Once IRS makes a final determination on how the calculation is to be made, FMS will provide direction on how to calculate the levy to the salary-paying agencies. Offset and levy exist under separate legislation and have different legal requirements. Agencies will not have an option on how to take the levy.

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Thank you for the opportunity to respond to this draft GAO report. If you have any questions or wish to discuss these comments further, I can be reached at (202) 874-7000.

Sincerely,



Richard L. Gregg

cc: Don Hammond, OFAS

Comments From the Social Security Administration



SOCIAL SECURITY

Office of the Commissioner

March 20, 2000

Ms. Cornelia M. Ashby
Associate Director, Tax Policy
and Administration Issues
United States General Accounting Office
Washington, D.C. 20548

Dear Ms. Ashby:

Thank you for the opportunity to review your draft report, "IRS' Levy of Federal Payments Could Generate Millions of Dollars."

We are requesting revisions to two statements in the draft report regarding SSA's position on tax levy. The first statement describes SSA as being "reluctant" to participate in the tax levy program (see page 13). On the contrary, we support this program because it has the potential to recover large sums of delinquent tax debts for the U.S. Government. In concert with the Internal Revenue Service (IRS) and the Financial Management Service (FMS), we have been working toward developing the program. As with almost any complex undertaking, continuous tax levy has raised an issue. In this case, it is a tax disclosure issue, and the issue would limit SSA's ability to help IRS with tax administration, as well as our own ability to manage our beneficiaries' reaction to tax levy. Along with IRS and FMS, we are attempting to find solutions that we can all accept. To that end, we have written a letter to IRS proposing a solution for the disclosure issue (copy enclosed). I am optimistic that we will find a common ground in the very near future.

The other statement concerns the reaction of SSA beneficiaries to tax levies placed on their Social Security benefits. The draft report inaccurately states that SSA believes beneficiaries are more likely to contact SSA than IRS after receiving notice of the levy (see page 15). In actuality, we have said only that some beneficiaries will

SOCIAL SECURITY ADMINISTRATION BALTIMORE MD 21235-0001

Appendix VII
Comments From the Social Security Administration

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contact us regarding the levy. We have never predicted whether they are more or less likely to approach SSA. From experience, however, we know people come to SSA for answers whenever they perceive an impact on their Social Security benefits. Our goal is to be ready to redirect the beneficiaries to IRS when they do contact us about tax levy. Again, I am hopeful that resolution of the tax disclosure issue will help both SSA and IRS manage the public reaction to tax levy as efficiently and effectively as possible.

Sincerely,



Kenneth S. Apfel
Commissioner
of Social Security

Enclosure

GAO Contacts and Staff Acknowledgments

GAO Contacts

Cornelia M. Ashby (202) 512-9110
Ralph T. Block (415) 904-2000

Acknowledgments

In addition to those named above, Wendy Ahmed, Tom N. Bloom, Julie A. Cahalan, Robert C. McKay, Terry G. Tillotson, James J. Ungvarsky, and Elwood D. White made key contributions to this report.

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