

ALASKA COURT SYSTEM
OFFICE OF THE ADMINISTRATIVE DIRECTOR
ADMINISTRATIVE BULLETIN NO. 33

TO: ALL HOLDERS OF ADMINISTRATIVE BULLETIN SETS:

Area Court Administrators	Presiding Judges
Clerk of the Appellate Courts	Senior Staff
Third District Rural Training Assistant	Administrative Associate
Full-Time Clerks of Court	
Magistrates at locations with no full-time clerk	
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SUBJECT: Internal Revenue Service Levies on Funds in the Court Registry

Under federal law, any person in possession of property or rights to property subject to levy upon which a levy has been made by the IRS shall, upon demand by IRS, surrender the property to IRS, except such part of the property or right as is, at the time of such demand, subject to an attachment or execution under any judicial process. (Internal Revenue Code, Section 6332 (a).)

When the IRS notifies a clerk of court of a levy, the clerk should take the following steps:

1. Identification of the taxpayer. The clerk must determine that the person against whom the levy is made is the same person for whom the court is holding funds. The IRS will attempt to provide courts with a case number and any other information in IRS files which will help confirm the identity of the person. If such information is not presented along with the notice, the clerk should call the revenue officer whose name and telephone number is listed on the back of the notice. If a clerk is not satisfied that there is sufficient information to identify the person, contact General Counsel, Alaska Court System, at 264-8228. General Counsel will contact the Special Procedures Division of the IRS to resolve any identification problems.
2. Ownership of the funds. Once a clerk determines that the taxpayer and the person for whom funds are held are the same, the next step is to make certain that the funds held belong to the person and are not subject to an attachment or

execution in favor of another person. Until such a determination is made, the funds are held in the custody of the law (see AS 09.35.330). For example, if a defendant has been ordered to make restitution to a taxpayer against whom IRS seeks a levy, restitution payments held by the court must be paid to IRS. If the taxpayer has obtained a judgment and is receiving funds under a writ of attachment, execution or garnishment, these funds belong to the taxpayer, and must be paid over to IRS. However, if the funds are bail posted by another person for a defendant against who IRS seeks to levy, these funds do not belong to the taxpayer and should not be paid to IRS.

3. Federal Exemption Rights. Clerks of court will not become involved in determining exemption rights under federal law. Exemptions under the IRS code are listed on the back of the taxpayer's copy of the notice of levy, and it is up to the taxpayer to contact IRS to assert any exemption rights.
4. Competing Claims. If another person or agency has obtained a prior writ or lien upon funds held for a taxpayer against whom IRS seeks to levy, the clerk must freeze all further payments, and notify the IRS Special Procedures Division about the other claim or claims. IRS will notify the other claimants of the IRS notice of levy. Clerks can contact Special Procedures by calling 261-4391 and asking for the Chief of Special Procedures. Although this office is located in Anchorage, it has statewide authority for the IRS. Clerks of court should take no further action to release funds to IRS or other claimants until the court receives either a signed stipulation from IRS and all claimants specifying how funds are to be released, or a court order establishing the priority of either the IRS or the other claimant.

Any questions about these procedures or about specific cases should be directed to General Counsel, 264-8228.

Dated: _____

In Effect Since: July 22, 1985

Arthur H. Snowden, II
Administrative Director

Originally issued as a memorandum from Karla Forsythe.

Original Distribution:

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