

**VOLUME 7B, CHAPTER 28: “COLLECTION OF DELINQUENT FEDERAL TAXES BY LEVY”**

**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an \* symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

The previous version dated **February 2013** is archived.

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
All	Chapter is formatted to comply with current administrative instructions.	Revision
All	Information in Chapter 28 titled “Collection of Debts” is moved to Volume 16, with the exception of the collection of delinquent federal taxes.	Revision
Title	Chapter 28 is re-titled to “Collection of Delinquent Federal Taxes”.	Revision
280201.A	Rephrased subparagraph to state, “As soon as you receive the levy... instead of “Within 3 working days from the date of receipt of the levy...” to conform with instructions on Form 668-W(c).	Revision

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## CHAPTER 28

COLLECTION OF DELINQUENT FEDERAL TAXES BY LEVY

## 2801 GENERAL

When a member does not pay any Federal income taxes due within 30 days after the [Internal Revenue Service \(IRS\)](#) has issued a notice and demand for payment to the member, the IRS may collect the tax by levy on the member's salary or other income, including retired or retainer pay. IRS tax levies are requests on IRS Form 668-W, Notice of Levy on Wages, Salary, and Other Income, for a continuous levy from a member's retired pay to collect taxes owed. The effect of a levy on wages, salary, or other income payable to or received by the member shall be continuous from the date such levy is first made until such levy is released by the IRS on Form 668-D, Release of Levy. Medal of Honor recipients are exempt from tax levy.

## 2802 COLLECTION OF DELINQUENT FEDERAL TAXES BY LEVY

**\*280201.** Procedures

The IRS will transmit IRS Form 668-W or [668-W\(c\)](#), in five parts (the letter "c" designates a computer-generated form which is the same as the version of the form without the "c"). [The IRS Form 668-W](#) will identify the member, specify the amount of the tax liability, give instructions for providing due process, show how to compute the levy based on input from the taxpayer, and give the [payment](#) address. [The General Processing Department \(hereinafter, "Department"\) within the Defense Finance and Accounting Service \(DFAS\) Retired and Annuitant Pay Directorate](#) must follow the instructions on the IRS Form 668-W. In general, [the Department](#) must notify the taxpayer, compute the amounts available for payment to the IRS, and make the payment. Currently, the IRS Form 668-W requires the employer to send to the IRS all of the taxpayer's net pay less what is exempt from levy. Net pay is gross retired pay less all deductions and allotments in effect as of the date of receipt of IRS Form 668-W. [The Department](#) must follow the instructions on that form when computing exemptions. Pursuant to the instructions, [the Department](#) must take the following actions:

\* A. [As soon as the Department](#) receives the levy, it must notify the taxpayer by using a formal letter and enclosing the member's copies of the IRS Form 668-W. See Figure 28-1 for an example of the formal letter.

B. If the date of receipt of the levy is between the 1st and the 15th day of the month, the [Department](#) must advise the member that the deduction from retired pay will be on the first business day of the second month after the current month. If the date of receipt of the levy is between the 16th and the last day of the month, then the [Department](#) must advise the member that the deduction will be on the first business day of the third month after current month. Thus, for example, if [DFAS](#) receives the levy on November 11, 2014, the deduction will be made from the retired pay check issued January 1, 2015. If the receipt of the levy is November 28, 2014, then the deduction will be on February 1, 2015.

C. The Department must notify affected former spouses with divorce dates prior to February 3, 1991 (division of property settlement cases only) that future payments will be reduced to reflect an adjustment to the member's disposable retired pay. The Department may not disclose the reason for the adjustment.

D. Even if the member's declaration of exemption is not timely, it should be honored if received prior to the last date for making changes to the member's retired pay account.

#### 280202. Problem Cases

When the IRS has determined the taxpayer's case is a "problem case," the taxpayer will be furnished with the IRS Form 668-W, a statement of the amount of delinquent taxes and a statement that "net pay" is not enough to pay the levy and that all available accrued pay should be sent to the IRS. Available accrued pay is gross retired pay less:

- A. Withholding for current Federal taxes (statutory amounts only);
- B. Amounts required to satisfy prior overpayments of pay;
- C. Amounts waived in favor of compensation from the VA;
- D. United States Government Life Insurance/National Service Life Insurance premiums;
- E. Deductions for Retired Serviceman's Family Protection Plan and/or Survivor Benefit Plan costs;
- G. Voluntary child-support allotments to satisfy court orders, provided the court order is dated prior to the date of the levy from the IRS;
- H. Pay attached or garnished for child support or alimony; and
- I. The levy exemptions calculated under normal levy procedures.

NOTE: The main difference between a regular levy and a problem case levy is that, under the latter, the Department must stop the member's voluntary allotments of retired pay to satisfy the levy. If it is not necessary to stop all allotments, the Department should request the member elect which allotments to stop. If the member does not respond to the request, the Department must stop such allotments as are necessary, stopping any commercial insurance allotments last.

Figure 28-1. Example of Notification Letter for IRS Notice of Levy

<p style="text-align: center;"><b>Defense Finance and Accounting Service Retired and Annuitant Pay</b></p> <p style="text-align: right;">December 1, 20XX</p> <p>CMSGT <b>John Doe</b>, U.S. Air Force (Retired) 1240 East 97<sup>th</sup> Street Cleveland, OH 44199-2055</p> <p>Dear Chief <b>Doe</b>,</p> <p>The IRS has sent us the attached IRS Form 668-W, (Notice of Levy on Wages, Salary, and Other Income). Please read the IRS Form 668-W carefully, as it may be advisable to discuss it with your attorney or other tax adviser.</p> <p>Complete the attached form and return it to us within 3 working days to claim your partial exemption. If we do not receive the completed form, we will compute your exemption for you, using the exemption for a married person filing separately with one personal exemption. Please note that the exemptions you claimed for tax withholding purposes are NOT the same and we will not use them to compute your exemption from levy.</p> <p>This is a continuous levy against your retired pay to collect delinquent federal taxes. We will deduct the levy from your (month/year) retired pay. <b>We will make a specified collection from your retired pay and continue the collection</b> until the levy has been satisfied. This levy remains in force and effect until the IRS serves our office with IRS Form 668-D, (Release of Levy).</p> <p>If you have been awarded the Medal of Honor, you are exempt from levy. Send us a copy of the citation awarding you the Medal of Honor to prevent the levy of your retired pay.</p> <p>Please contact the IRS office <b>that</b> issued the levy for questions that you may have concerning the levy.</p> <p style="text-align: right;">Sincerely,</p> <p style="text-align: right;">Military Pay Technician Retired and Annuitant Pay</p> <p>Attachment: As stated</p>
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BIBLIOGRAPHY

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26 U.S.C. 6321(a)

26 U.S.C. 6331, 6334

280201

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