

26 U.S. Code § 6331 - Levy and distraint

Current through Pub. L. [114-38](#). (See [Public Laws for the current Congress](#).)

(a) AUTHORITY OF SECRETARY

"If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax.

Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official.

If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section."

NOTE: There is no stated authority for the IRS to create a Notice of Levy against Americans other than those who work for the National Government. Private sector employees are not identified in the statute subsection for Levy.

This statute subsection at IRC 6331(a) conforms to the Legislative Intent of the Sixteenth Amendment written by former President of the United States William H. Taft on June 16, 1909, and is found on pages 3344-3345.

In part, the President stated to Congress the following:

"The decision of the Supreme Court in the income tax cases [**Pollock v. Farmer's Loan & Trust Co., 157 U.S. 429**] **deprived the National Government of a power** which, by reason of previous decision of the court, it was generally supposed that Government had."

Taft continued his narrative to the US Congress by stating:

"I therefore recommend to the Congress that both Houses, by a two-thirds vote, shall propose an amendment to the Constitution **conferring the power to levy an income tax upon the National Government without apportionment among the States in proportion to population.**"

Authenticated U.S. Government Information from the GPO states in part:

History and Purpose of the Amendment

"The ratification of this Amendment was the direct consequence of the Court's decision in 1895 in Pollock v. Farmers' Loan & Trust Co., whereby the attempt of Congress the previous year to tax incomes uniformly throughout the United States was held by a divided court to be **unconstitutional**. A tax on incomes derived from property, the Court declared, was a "direct tax" which Congress under the terms of Article I, § 2, and § 9, **could impose only by the rule of apportionment according to population...**" In order **not to violate the US Supreme Court decision**, the Congress passed the Sixteenth Amendment for its jurisdiction only, the District of Columbia & US Territories.