## Appendix VI

# Internal Revenue Service Examples of Flagrant Behavior by Taxpayers

This appendix presents the following examples of flagrant taxpayer conduct for revenue officers[1] issuing a levy on a taxpayer's retirement account as listed in IRM 5.11.6.2(6).[2]

- Taxpayers whose failure to pay is based on frivolous arguments which are listed in Notice 2010–33, IRB 2010–1 C.B. 609, or subsequent updates.
- Taxpayers who voluntarily contributed to retirement accounts during the time period the taxpayer knew unpaid taxes were accruing.
  - Caution: When the taxpayer verifies they have been automatically enrolled to have a limited percentage of their basic pay deducted and deposited into a retirement account do not consider this flagrant conduct.
- Taxpayers who continue to make voluntary contributions to retirement accounts while asserting an inability to pay an amount that is owed while the IRS determined voluntary contributions not necessary living expenses and disallowed them for the purpose of determining taxpayers' ability to pay.
  - Caution: Where a tax liability has been discharged in bankruptcy, the IRS may continue to have a valid tax lien on certain retirement assets that existed prior to the bankruptcy.
  - Caution: When the taxpayer verifies they have been automatically enrolled to have a limited percentage of their basic pay deducted and deposited into a retirement account do not consider this flagrant conduct.
- Taxpayers convicted of tax evasion for the tax debt.
- Taxpayers assessed with a fraud penalty for the tax debt.
- Taxpayers assisting others in evading tax.
- Taxpayers with liabilities based on illegal income.

[1] See Appendix VI for a glossary of terms.
[2] June 14, 2016.

- Taxpayers who are in business, pyramiding unpaid trust fund taxes, and fail to provide a complete Collection Information Statement, and do not comply with the results of the IRS's financial analysis or fail to timely make Federal Tax Deposits.
- Individual taxpayers who are accumulating unpaid income taxes over multiple tax periods and will not adjust their withholding or make timely and adequate estimated tax payments to prevent future delinquencies.
- Trust Fund Recovery Penalty modules have been assessed at different times or against more than one business entity.
- Taxpayers who have demonstrated a pattern of uncooperative or unresponsive behavior that delays the collection of the tax due, *e.g.*, failing to meet established deadlines, failing to attend scheduled appointments, documented broken promises to pay, failing to respond to IRS employee's attempts to contact. In such cases, determining alternatives and the taxpayer's dependence on the money in the retirement accounts (final step) may not be possible, so a levy may need to be served without making those determinations.
- Taxpayers who have placed other assets beyond the reach of the Government, *e.g.*, sending them outside the country, concealing them, dissipating them, or transferring them to other people.
- Taxpayers with jeopardy or termination assessments subject to collection.

The IRM also directs revenue officers to keep in mind extenuating circumstances that may mitigate the taxpayer's flagrant conduct, such as illness, loss of employment, a personal loss (family or loved one), identity theft/return preparer misconduct/embezzlement, or natural acts of nature.