

Key IRS Enforcement Provisions:

A Summary

I. Examination and Investigation

This part covers the IRS's authority to investigate taxpayers, examine their records, and compel testimony to determine tax liability.

- **IRC § 7601 - Canvass of districts for taxable persons and objects**
 - **Summary:** This section provides the foundational authority for the IRS to conduct investigations. It authorizes the Secretary of the Treasury to direct IRS officers to canvass every internal revenue district to identify all persons and property subject to internal revenue tax and to inquire after and concerning all persons therein who may be liable to pay any internal revenue tax.
 - **Critical Case Law:** While this section is foundational, it is rarely the direct subject of litigation. Its broad grant of authority is generally accepted and provides the basis for the more specific powers in subsequent sections.
- **IRC § 7602 - Examination of books and witnesses**
 - **Summary:** This section grants the IRS broad authority to examine any books, papers, records, or other data and to summon individuals to produce such materials and give testimony under oath. This power can be used for ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any internal revenue tax, or inquiring into any offense connected with the administration or enforcement of the internal revenue laws. The section also places limitations on this power, such as prohibiting summonses when a Justice Department referral for criminal prosecution is in effect.
 - **Critical Case Law:**
 - ***United States v. Powell*, 379 U.S. 48 (1964):** Established the four-part test the IRS must meet to obtain judicial enforcement of a summons. The IRS must show that: (1) the investigation will be conducted pursuant to a legitimate purpose; (2) the inquiry may be relevant to that purpose; (3) the information sought is not already within the IRS's possession; and (4) the administrative steps required by the Code have been followed.
- **IRC § 7603 - Service of summons**

- **Summary:** This section specifies the procedures for serving a summons issued under § 7602. A summons must be served by an attested copy delivered in hand to the person to whom it is directed, or left at his last and usual place of abode.
- **IRC § 7604 - Enforcement of summons**
 - **Summary:** This section provides the mechanism for judicial enforcement of an IRS summons. If a person summoned neglects or refuses to comply, the IRS may bring a proceeding in the U.S. district court for the district in which the person resides or is found. The court has the power to compel attendance, testimony, and production of documents and may use its contempt powers to punish noncompliance.
 - **Critical Case Law:**
 - ***Reisman v. Caplin*, 375 U.S. 440 (1964):** Held that a summons enforcement proceeding under § 7604 is the appropriate venue for a taxpayer or third party to challenge the validity of an IRS summons.
- **IRC § 7605 - Time and place of examination; repeat examinations**
 - **Summary:** This section regulates the logistics of an examination. It requires that the time and place of examination be reasonable under the circumstances. It also protects taxpayers from unnecessary examinations by requiring the IRS to provide written notice for any second examination of a taxpayer's books of account for the same taxable year, unless the Secretary determines such examination is necessary.
- **IRC § 7609 - Special procedures for third-party summonses**
 - **Summary:** This section establishes special procedures when the IRS issues a summons to a third-party recordkeeper (e.g., a bank, attorney, or accountant) for a taxpayer's records. It requires the IRS to notify the taxpayer, who then has the right to file a petition to quash the summons. The statute of limitations for assessment and collection is suspended during the period of any related litigation. The section also includes heightened requirements for "John Doe" summonses, where the taxpayer is not specifically identified.
 - **Critical Case Law:**
 - ***Tiffany Fine Arts, Inc. v. United States*, 469 U.S. 310 (1985):** Clarified that when the IRS serves a summons on a third party for a dual purpose (investigating both the third party's and other unnamed taxpayers' liabilities), it does not need to follow the "John Doe" summons procedures of § 7609(f) as long as all the information sought is relevant to a legitimate investigation of the summoned party.

II. Assessment and Abatement

This part addresses the formal recording of a tax liability and the authority to reduce or eliminate an assessed tax.

- **IRC § 6201 - Assessment Authority**
 - **Summary:** This section grants the Secretary of the Treasury the authority to make inquiries, determinations, and assessments of all taxes, interest, and penalties. Subsection (a)(4) specifically requires the IRS to assess and collect criminal restitution ordered for tax offenses in the same manner as a tax, but only after the restitution order is final. A taxpayer cannot challenge the existence or amount of the underlying tax liability in a proceeding related to a restitution-based assessment.
 - **Critical Case Law:** This section is primarily procedural. Litigation often focuses on whether an assessment was properly made, which is a prerequisite for most collection actions.
- **IRC § 6404 - Abatements**
 - **Summary:** This section authorizes the Secretary to abate the unpaid portion of an assessment if the liability is excessive, assessed after the statute of limitations has expired, or was erroneously or illegally assessed. It also provides for the abatement of interest and certain penalties attributable to IRS errors or delays.

III. Collection: Liens and Levies

This part details the IRS's primary tools for collecting unpaid taxes: the federal tax lien and the administrative levy.

A. Lien for Taxes

- **IRC § 6321 - Lien for Taxes**
 - **Summary:** This section provides that if any person liable to pay any tax neglects or refuses to pay after demand, the amount due becomes a lien in favor of the United States. The lien attaches to "all property and rights to property, whether real or personal, belonging to such person."
 - **Critical Case Law:**
 - ***United States v. National Bank of Commerce, 472 U.S. 713 (1985):*** Interpreted the phrase "all property and rights to property" broadly, holding that the tax lien attaches to any right that a taxpayer has to property under state law.

- ***United States v. Craft*, 535 U.S. 274 (2002):** Held that a federal tax lien can attach to a taxpayer's interest in property held as a tenancy by the entirety, even if state law protects such property from creditors of one spouse.
- **IRC § 6322 - Period of Lien**
 - **Summary:** The federal tax lien arises automatically at the time of assessment and continues until the underlying tax liability is satisfied or becomes unenforceable by reason of lapse of time (typically 10 years after assessment, per § 6502).
- **IRC § 6323 - Validity and Priority Against Certain Persons**
 - **Summary:** While the tax lien arises automatically upon assessment, this section governs its priority against other creditors. To have priority over certain protected parties—purchasers, holders of security interests, mechanic's lienors, and judgment lien creditors—the IRS must first file a Notice of Federal Tax Lien (NFTL). The section also grants "superpriority" status to certain interests, allowing them to prime a filed NFTL.

B. Levy and Distraint

- **IRC § 6331 - Levy and Distraint**
 - **Summary:** This section authorizes the IRS to collect taxes by levy (an administrative seizure) upon a taxpayer's property or rights to property. The IRS may levy only after providing notice and demand for payment and a final notice of intent to levy at least 30 days prior to the seizure. A levy extends to property possessed by the taxpayer and obligations existing at the time of the levy, with special rules for continuing levies on wages and other payments.
 - **Critical Case Law:**
 - ***United States v. Rodgers*, 461 U.S. 677 (1983):** While addressing judicial foreclosure under § 7403, its principles are influential. The case affirmed the government's power to force the sale of a home to satisfy one spouse's tax debt, even if the other spouse is not liable, provided the non-liable spouse is compensated for their interest.
- **IRC § 6334 - Property Exempt from Levy**
 - **Summary:** This section lists specific types of property that are exempt from IRS levy. These include certain personal effects, a portion of wages and other income, unemployment benefits, and certain annuity and pension payments. Only the property types specifically listed are exempt.

- **IRC § 6343 - Authority to Release Levy and Return Property**
 - **Summary:** This section outlines the circumstances under which the IRS must release a levy, such as when the liability is satisfied, the collection period has expired, or the release will facilitate collection. It also provides for the return of property that was wrongfully levied upon or when the levy creates an economic hardship.

C. Transferee Liability

- **IRC § 6901 - Transferee Liability**
 - **Summary:** This section provides a procedural mechanism for the IRS to assess and collect a taxpayer's liability from a transferee of the taxpayer's assets (e.g., under a fraudulent transfer theory). The IRS may proceed against the transferee in the same manner as against the original taxpayer, but the existence and extent of the transferee's liability are determined by applicable state law.
 - **Critical Case Law:**
 - ***Commissioner v. Stern, 357 U.S. 39 (1958)*:** Established that state law, not federal law, governs whether a transferee is liable for the transferor's unpaid taxes.

IV. Judicial Enforcement and Civil Actions

This part covers the role of the courts in enforcing tax laws and resolving disputes.

- **IRC § 7402 - Jurisdiction of district courts**
 - **Summary:** This section grants U.S. district courts broad jurisdiction to issue orders, processes, and judgments necessary or appropriate for the enforcement of the internal revenue laws, including the enforcement of IRS summonses.
- **IRC § 7403 - Action to enforce lien or to subject property to payment of tax**
 - **Summary:** This section authorizes the United States to file a civil action in federal court to enforce a tax lien or to subject a taxpayer's property to the payment of tax. The court may order the sale of the property and distribute the proceeds according to the priority of the interests of all parties, including the government.
- **IRC § 7426 - Civil Actions by Persons Other Than Taxpayers**
 - **Summary:** This section provides a cause of action for third parties whose property has been wrongfully levied upon by the IRS. A third party with an

interest in or lien on the property may sue the United States to challenge the levy, seek the return of the property, or claim surplus proceeds from a sale.

V. Civil Penalties

This part details the various civil penalties the IRS can impose to encourage compliance with filing, reporting, and payment obligations.

- **IRC § 6651 - Failure to file tax return or to pay tax:** Imposes penalties for failing to file a return on time and for failing to pay the tax shown on the return.
- **IRC § 6652 - Failure to file certain information returns:** Imposes penalties for failure to file various information returns.
- **IRC § 6654 - Failure by individual to pay estimated income tax:** Imposes a penalty on individuals who underpay their estimated taxes.
- **IRC § 6656 - Failure to make deposit of taxes:** Imposes a penalty for failure to deposit employment taxes and other taxes in a timely manner.
- **IRC § 6662 - Imposition of accuracy-related penalty on underpayments:** Imposes a 20% penalty on underpayments attributable to negligence, substantial understatement of income tax, and other specified valuation misstatements.
- **IRC § 6663 - Imposition of fraud penalty:** Imposes a 75% penalty on any portion of an underpayment that is attributable to fraud.
- **IRC § 6672 - Failure to collect and pay over tax (Trust Fund Recovery Penalty):** Imposes a 100% penalty on any "responsible person" who willfully fails to collect, account for, and pay over trust fund taxes (e.g., withheld income and FICA taxes).
 - **Critical Case Law:**
 - ***Slodov v. United States*, 436 U.S. 238 (1978):** Held that a person who becomes responsible after taxes have accrued and funds have been dissipated is not liable under § 6672 for failing to use after-acquired funds to pay the past-due taxes.
- **IRC § 6694 - Understatement of taxpayer's liability by tax return preparer:** Imposes penalties on tax return preparers for understatements due to unreasonable positions or willful or reckless conduct.
- **IRC § 6702 - Frivolous tax submissions:** Imposes a penalty for filing what the IRS deems a "frivolous" tax return or submission.
- **IRC § 6721 & § 6722:** Impose penalties for failure to file correct information returns (§ 6721) and for failure to furnish correct payee statements (§ 6722).

VI. Criminal Offenses

This part outlines the key criminal statutes used to prosecute tax crimes, which require proof of "willfulness."

- **IRC § 7201 - Attempt to evade or defeat tax:** The most serious tax crime, a felony, prohibiting a willful attempt in any manner to evade or defeat any tax.
 - **Critical Case Law:**
 - *Spies v. United States*, 317 U.S. 492 (1943): Distinguished the felony of tax evasion from the misdemeanor of willful failure to file/pay, holding that evasion requires an affirmative act of wrongdoing, such as keeping a double set of books, making false invoices, or concealing assets.
 - *Cheek v. United States*, 498 U.S. 192 (1991): Defined "willfulness" for criminal tax purposes as the "voluntary, intentional violation of a known legal duty." A defendant's good-faith belief that he is not violating the law, even if that belief is unreasonable, is a valid defense.
- **IRC § 7202 - Willful failure to collect or pay over tax:** A felony charge against any person required to collect, account for, and pay over any tax (e.g., employment taxes) who willfully fails to do so.
- **IRC § 7203 - Willful failure to file return, supply information, or pay tax:** A misdemeanor charge for the willful failure to file a return, pay a tax, keep records, or supply information as required by law.
- **IRC § 7206 - Fraud and false statements:** A felony statute with several clauses, the most common being § 7206(1) for willfully making and subscribing any return, statement, or other document under penalties of perjury which the person does not believe to be true and correct as to every material matter.
- **IRC § 7207 - Fraudulent returns, statements, or other documents:** A misdemeanor charge for willfully delivering to the IRS any document known by the person to be fraudulent or false as to any material matter.
- **IRC § 7210 - Penalty for failure to obey summons:** A criminal misdemeanor for any person who, being duly summoned, neglects to appear, produce records, or give testimony as required.
- **IRC § 7212 - Attempts to interfere with administration of internal revenue laws:** Makes it a crime to corruptly or by force or threats of force endeavor to intimidate or impede any IRS officer or employee or to obstruct the due administration of the tax laws.

VII. Statutes of Limitations

This part sets the time limits within which the government must act.

- **IRC § 6501 - Limitations on assessment and collection:** Generally, the IRS has three years from the date a return is filed to assess a tax liability. This period extends to six years in cases of a substantial omission of gross income and is unlimited in cases of fraud or failure to file a return.
- **IRC § 6502 - Collection after assessment:** Once a tax is assessed, the IRS generally has 10 years to collect the tax by levy or a court proceeding.
- **IRC § 6531 - Periods of limitation on criminal prosecutions:** The statute of limitations for most criminal tax offenses is six years (e.g., for § 7201 and § 7206). For some lesser offenses, the period is three years.

VIII. Administrative Provisions

This part covers the general authority and structure of the IRS.

- **IRC § 7801 & § 7803 - Authority of the Secretary and Commissioner:** These sections delegate authority from the Secretary of the Treasury to the Commissioner of Internal Revenue to administer and enforce the internal revenue laws, including the power to make inquiries, determinations, and assessments.

IX. Payroll and Employment Taxes

This part details the specific rules governing taxes related to employee wages.

A. Substantive Tax Provisions

- **IRC § 3101, § 3111, § 3121 (FICA):** These sections impose Social Security and Medicare taxes on both employees (§ 3101) and employers (§ 3111) and define key terms like "wages" and "employment" (§ 3121).
- **IRC § 3301, § 3306 (FUTA):** These sections impose the Federal Unemployment Tax on employers (§ 3301) and define relevant terms (§ 3306).
- **IRC § 3401, § 3402, § 3403 (FITW):** These sections require employers to deduct and withhold federal income tax from employee wages (§ 3402), make employers liable for the withheld tax (§ 3403), and define key terms (§ 3401).

B. Third-Party Liability

- **IRC § 3504 - Acts to be performed by agents:** Allows employers to authorize agents (like payroll service providers) to perform required acts, but both the agent and the employer remain liable for the taxes.
- **IRC § 3505 - Liability of third parties paying or providing for wages:** This section imposes liability for unpaid withholding taxes on third parties in two situations:

- **§ 3505(a):** A lender, surety, or other person who directly pays wages to a company's employees is personally liable for the full amount of the withholding taxes.
- **§ 3505(b):** A lender, surety, or other person who supplies funds to an employer for the specific purpose of paying wages, with actual notice or knowledge that the employer will not be able to pay the withholding taxes, is personally liable up to 25% of the amount supplied.
- **Critical Case Law:**
 - ***United States v. Algernon Blair, Inc.*, 441 F.2d 1379 (5th Cir. 1971):** A leading case upholding the constitutionality and application of § 3505(b), holding a general contractor liable when it provided funds to a subcontractor for payroll knowing the subcontractor could not pay its employment taxes.

C. Related Enforcement and Penalty Provisions

- **IRC § 6672 - Trust Fund Recovery Penalty (TFRP):** As noted in Part V, this is the primary tool used to collect unpaid trust fund taxes from the individuals within a business who were responsible for collecting and paying them over and who willfully failed to do so. This liability is separate and distinct from the employer's liability.

Here is a summary table of the key tax enforcement provisions, organized by category.

Summary Table of U.S. Tax Enforcement Provisions

Category	IRC Section	Subject/Title	Summary of Provision	Critical Case Law
I. Examination & Investigation	§ 7601	Canvass of Districts	Grants foundational authority for the IRS to canvass districts and inquire about all persons who may be liable for tax.	N/A (Rarely litigated directly)
	§ 7602	Examination of Books and Witnesses	Authorizes the IRS to examine records and summon individuals to give testimony to determine tax liability	<i>United States v. Powell:</i> Established the four-part "Powell test" for judicial enforcement of a summons (legitimate

Category	IRC Section	Subject/Title	Summary of Provision	Critical Case Law
			or inquire into tax offenses.	purpose, relevance, not already in possession, administrative steps followed).
	§ 7603	Service of Summons	Specifies the proper procedures for serving an IRS summons (e.g., in-hand delivery or left at last and usual place of abode).	N/A
	§ 7604	Enforcement of Summons	Provides the judicial mechanism for the IRS to compel compliance with a summons through a district court proceeding.	<i>Reisman v. Caplin:</i> Confirmed that the summons enforcement proceeding is the proper forum to challenge a summons.
	§ 7605	Time and Place of Examination	Requires the time and place of an examination to be reasonable and restricts unnecessary repeat examinations of a taxpayer's books.	N/A
	§ 7609	Special Procedures for Third-Party Summonses	Establishes notice requirements for taxpayers when the IRS summons their records from a third-party recordkeeper (e.g., bank) and provides a right to petition to quash.	<i>Tiffany Fine Arts, Inc. v. United States:</i> Clarified that "John Doe" procedures are not required for a dual-purpose summons if the information is relevant to an investigation of the summoned party.
II. Assessment & Abatement	§ 6201	Assessment Authority	Grants the Secretary authority to make	N/A (Primarily procedural)

Category	IRC Section	Subject/Title	Summary of Provision	Critical Case Law
			assessments of all taxes, interest, and penalties. Includes specific rules for assessing criminal restitution orders.	
	§ 6404	Abatements	Authorizes the IRS to abate (reduce) an assessment that is excessive, untimely, or erroneous. Also allows for abatement of interest due to IRS error or delay.	N/A
III. Collection: Liens & Levies	§ 6321	Lien for Taxes	Creates a federal tax lien on "all property and rights to property" of a taxpayer who neglects or refuses to pay tax after demand.	<i>United States v. National Bank of Commerce:</i> Interpreted "all property and rights to property" broadly. <i>United States v. Craft:</i> Held that a tax lien can attach to an interest in property held as tenancy by the entirety.
	§ 6322	Period of Lien	States that the tax lien arises at the time of assessment and continues until the liability is satisfied or becomes unenforceable by lapse of time (typically 10 years).	N/A

Category	IRC Section	Subject/Title	Summary of Provision	Critical Case Law
	§ 6323	Validity and Priority of Lien	Governs the priority of the tax lien against other creditors. Requires a Notice of Federal Tax Lien (NFTL) to be filed for priority against purchasers, security interest holders, etc.	N/A
	§ 6331	Levy and Distraint	Authorizes the IRS to collect tax by seizing a taxpayer's property (levy) after providing notice and demand and a final notice of intent to levy.	<i>United States v. Rodgers:</i> Principles are influential in affirming the government's power to force the sale of property to satisfy one owner's tax debt, even with a non-liable co-owner.
	§ 6334	Property Exempt from Levy	Lists specific property that is exempt from IRS levy, such as a portion of wages, certain personal effects, and unemployment benefits.	N/A
	§ 6343	Release of Levy and Return of Property	Outlines when the IRS must release a levy (e.g., liability satisfied) and provides for the return of wrongfully levied property.	N/A
	§ 6901	Transferee Liability	Provides the procedure for the IRS to assess and collect a tax liability from a	<i>Commissioner v. Stern:</i> Established that state law, not federal law, determines the existence

Category	IRC Section	Subject/Title	Summary of Provision	Critical Case Law
			transferee of the taxpayer's assets.	and extent of a transferee's liability.
IV. Judicial Enforcement	§ 7402	Jurisdiction of District Courts	Grants U.S. district courts broad jurisdiction to issue orders and judgments necessary to enforce internal revenue laws.	N/A
	§ 7403	Action to Enforce Lien	Authorizes the U.S. to file a civil action in court to foreclose on a tax lien and force the sale of property to satisfy a tax debt.	N/A
	§ 7426	Civil Actions by Persons Other Than Taxpayers	Allows a third party whose property has been wrongfully levied upon to sue the United States for its return or for proceeds from its sale.	N/A
V. Civil Penalties	§ 6651	Failure to File or Pay	Imposes penalties for failing to file a tax return on time and for failing to pay the tax shown on the return.	N/A
	§ 6662	Accuracy-Related Penalty	Imposes a 20% penalty on underpayments due to negligence, substantial understatement of income tax, etc.	N/A

Category	IRC Section	Subject/Title	Summary of Provision	Critical Case Law
	§ 6663	Fraud Penalty	Imposes a 75% penalty on any portion of an underpayment attributable to fraud.	N/A
	§ 6672	Trust Fund Recovery Penalty (TFRP)	Imposes a 100% penalty on a "responsible person" who willfully fails to collect and pay over trust fund taxes (e.g., payroll taxes).	<i>Slodov v. United States:</i> A person who becomes responsible after funds are dissipated is not liable for failing to use after-acquired funds to pay past-due taxes.
	§ 6694	Preparer Penalties	Imposes penalties on tax return preparers for understatements due to unreasonable positions or willful/reckless conduct.	N/A
	§ 6702	Frivolous Tax Submissions	Imposes a penalty for filing a "frivolous" tax return or other submission.	N/A
VI. Criminal Offenses	§ 7201	Attempt to Evade or Defeat Tax	Felony for a willful attempt to evade or defeat any tax. Requires an affirmative act of evasion.	<i>Spies v. United States:</i> Distinguished felony evasion (requiring an affirmative act) from misdemeanor failure to file/pay. <i>Cheek v. United States:</i> Defined "willfulness" as the "voluntary, intentional violation of a known legal duty."

Category	IRC Section	Subject/Title	Summary of Provision	Critical Case Law
	§ 7202	Willful Failure to Collect or Pay Over Tax	Felony for willfully failing to collect, account for, and pay over any tax as required (e.g., employment taxes).	N/A
	§ 7203	Willful Failure to File, Supply Information, or Pay Tax	Misdemeanor for the willful failure to file a return, pay tax, or supply required information.	N/A
	§ 7206(1)	Fraud and False Statements	Felony for willfully subscribing to any return or document under penalties of perjury that one does not believe to be true and correct.	N/A
	§ 7212	Interference with Administration of Tax Laws	Crime to corruptly or by force endeavor to intimidate or impede an IRS officer or obstruct the administration of tax laws.	N/A
VII. Statutes of Limitations	§ 6501	Limitations on Assessment	Sets the time limit for the IRS to assess tax, generally 3 years from filing. Extends to 6 years for substantial understatements and is unlimited for fraud or failure to file.	N/A

Category	IRC Section	Subject/Title	Summary of Provision	Critical Case Law
	§ 6502	Limitations on Collection	Sets the time limit for the IRS to collect an assessed tax, generally 10 years from the date of assessment.	N/A
	§ 6531	Limitations on Criminal Prosecutions	Sets the time limit for criminal tax prosecutions, generally 6 years for major felonies like evasion (§ 7201) and fraud (§ 7206).	N/A
VIII. Administrative Provisions	§ 7801 & § 7803	Authority of Secretary and Commissioner	Delegates authority to the Commissioner of Internal Revenue to administer and enforce the tax laws.	N/A
IX. Payroll & Employment Taxes	§ 3101, § 3111, § 3121	FICA Taxes	Imposes Social Security and Medicare taxes on employees and employers and defines key terms.	N/A
	§ 3301, § 3306	FUTA Taxes	Imposes Federal Unemployment Tax on employers.	N/A
	§ 3401, § 3402, § 3403	Income Tax Withholding (FITW)	Requires employers to withhold federal income tax from wages and makes them liable for the withheld amount.	N/A

Category	IRC Section	Subject/Title	Summary of Provision	Critical Case Law
	§ 3505	Liability of Third Parties for Withholding Taxes	Imposes liability on third parties (e.g., lenders) who directly pay wages or supply funds for wages with knowledge that the employer cannot pay the withholding taxes.	<i>United States v. Algernon Blair, Inc.:</i> Upheld the application of § 3505(b) to a general contractor who funded a subcontractor's payroll knowing taxes would not be paid.