

**TITLE 4: ECONOMIC RESOURCES**  
**DIVISION 1: REVENUE AND TAXATION**

**§ 1872. Levy and Distraint.**

(a) *Authority.* 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 sums 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 1874 of this Chapter) belonging to such person or on which there is a lien 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, the Commonwealth, or any agency or instrumentality of the United States or the District of Columbia, or the Commonwealth by serving a notice of levy on the employer (as defined in section 3401(d)) of the NMTIT) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, as defined in §1872(d)(2), 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.

(b) *Seizure and Sale of Property.* The term “levy” as used in the Division includes the power of distraint and seizure by any means. Except as otherwise provided, a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).

(c) *Successive Seizures.* Whenever any property or right to property upon which levy has been made by virtue of subsection (a) is not sufficient to satisfy the claim of the Commonwealth for which levy is made, the Secretary may, thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property liable to levy of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid.

(d) *Requirement of Notice Before Levy.*

(1) Notice. A levy under subsection (a) may only be made after the Secretary has notified the person in writing of his intention. Such notice must be made at least 30 days before the day of levy by giving the taxpayer the notice in person, leaving the notice at the taxpayer’s dwelling or usual place of business, or by sending the notice by certified or registered mail to such taxpayer’s last known address.

(2) Jeopardy. Paragraph (1) shall not apply to a levy in cases of “jeopardy.” “Jeopardy” is defined as a determination by the Secretary that a taxpayer designs quickly to depart from the Commonwealth or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act (including in the case of a corporation distributing all or a part of its assets in liquidation or otherwise) tending to prejudice or to render wholly or partially ineffectual proceedings to collect tax by this Division.

(3) Contents of Notice. The notice required under paragraph (1) shall include a brief statement which sets forth in simple and nontechnical terms:

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- (A) The provisions of this Division relating to levy and sale of property;
- (B) The procedures applicable to the levy and sale of property under this chapter;
- (C) The administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals;
- (D) The alternatives available to taxpayers which could prevent levy on the property (including installment agreements);
- (E) The provisions of this Division relating to redemption of property and release of liens on property; and
- (F) The procedures applicable to the redemption of property and the release of a lien on property under this chapter.

(e) *Continuing levy on salary and wages.* The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released under section 1882.

(f) *Uneconomical levy.* No levy may be made on any property if the amount of the expenses which the Secretary estimates (at the time of levy) would be incurred by the Secretary with respect to the levy and sale of such property exceeds the fair market value of such property at the time of levy.

(g) *Levy on appearance date of summons.*

(1) In General. No levy may be made on the property of any person on any day on which such person (or officer or employee of such person) is required to appear in response to a summons issued by the Secretary for the purpose of collecting any underpayment of tax.

(2) No application in case of jeopardy. This subsection shall not apply if the Secretary finds that the collection of tax is in jeopardy.

**Source:** PL 14-35, § 4 (1871), modified.

**Commission Comment:** In subsections (a) and (e) above, the Commission changed the section numbers originally referenced in PL 14-35 to the proper renumbered section numbers pursuant to its authority by 1 CMC § 3806(c).