

# Making an Administrative Wrongful Levy Claim Under Internal Revenue Code (IRC) Section 6343(b)

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**What is an administrative wrongful levy claim under IRC section 6343(b)** – An administrative wrongful levy claim under IRC section 6325(b) is an administrative claim made when the IRS levies or seizes property to collect a tax debt and a person other than the taxpayer who owes the taxes believes the property levied or seized belongs to them, or that they have a superior claim to the property that is not being recognized by the IRS.

**Who may make an administrative wrongful levy claim** – Any person (other than the person against whom the tax is assessed and for which the IRS levied or seized property to collect) may make an administrative wrongful levy claim. If you believe the property levied or seized belongs to you and not the person against whom the tax is assessed, or if you believe you have a superior claim against the property that is not being recognized by the IRS, you may make an administrative wrongful levy claim.

**How does a person make an administrative wrongful levy claim** – You can submit a written request that the IRS return the levied or seized property, recognize your superior claim to the property, or return to you any proceeds the IRS received from the levy or from the sale of the seized property.

**NOTE:** As an alternative to making an administrative wrongful levy claim, IRC section 7426(a) provides that a third party may bring a civil action against the United States in a district court of the United States seeking the same relief. If you file an administrative wrongful levy claim and it is rejected by the IRS, you can still bring a civil action in district court. If you choose to bring a civil action, you should consult with an attorney to determine the proper procedure.

**Is there a time limit for making an administrative wrongful levy claim** –

1. If the United States has not yet sold seized property, a wrongful levy claim may be made.
2. If seized property has been sold, or if cash has been turned over to the IRS by the person upon whom a levy was served, a wrongful levy claim must be made before the expiration of 9 months from the date of the seizure or levy.

**NOTE:** If you choose to bring a civil action in district court, these same time limitations apply. The time for bringing a civil action is not suspended while the IRS considers an administrative wrongful claim, or during any period while the rejection of a claim is being administratively appealed.

**Where should an administrative wrongful levy claim be filed** – Your claim should be in the form of a letter addressed to the Internal Revenue Service, and marked for the attention of the Advisory Territory Manager for the area where the taxpayer whose tax liability was the basis for the levy or seizure resides. Publication 4235, *Technical Services (Advisory) Addresses*, provides the mailing address for the appropriate Advisory Territory Manager.

**What information should be included with an administrative wrongful levy claim** – Your claim should include the following:

1. The name and address of the person making the claim.
2. A detailed description of the levied or seized property.
3. A detailed description of your basis for claiming an interest in the levied or seized property.
4. The name and address of the person against whom the tax was assessed.
5. The IRS office that issued the levy or made the seizure.
6. A copy of the levy (Form 668-A, Form 668-B, or Form 668-W) or a statement why a copy of the levy is not available.
7. A copy of any Notice(s) of Federal Tax Lien that has been filed, if available.
8. Any documents that support your claim.

**If the IRS decides to reject your administrative wrongful levy claim, may the determination be appealed** – If your claim is rejected, you have the right to appeal this determination through the Collection Appeals Program (CAP), as explained in Publication 1660, *Collection Appeal Rights*.

