

Federal Tax Liens

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Gene Moren
Enrolled Agent

Federal Tax Liens



IRC 6321

- Statutory Lien.
 - ❑ Attaches to a taxpayer's property and rights to property in existence.
 - ❑ Attaches to future property coming into existence at a later date.
 - ❑ Silent/assessment lien/10 year statute
-

Federal Tax Liens



IRC 6323

- Notice of Federal Tax Lien
 - ❑ Establishes government's priority over other creditors.
 - ❑ Federal law decides priority/State law decides ownership.
 - ❑ First in Time > First in Line
-

Federal Tax Liens

- Protected Interest:
 - Real Property tax/special assessments
 - Ad Valorem
 - Utility liens
 - Mowing liens (City/County)
 - Certain Mechanic's Liens
 - Construction or improvement
 - Limited to \$7,630.00 (2016)
-

Federal Tax Liens

- Unprotected Interest:
 - State Tax Liens
 - Landlord Liens
 - Business Personal Property taxes
 - ABJ's do not attach to homestead
 - Persons receiving property in a:
 - Divorce
 - Heirs/gifts/donations/Trust
-

Federal Tax Liens

■ To Obtain a Release of Notice of Federal Tax Lien?

Full payment of all the periods shown on a NFTL is required.



Federal Tax Liens

Lien Payoff/Release Request:

Lien Processing

Internal Revenue Service

P.O. Box 145595

Mail Stop 8420 G

Cincinnati, Ohio 45250

Ph# 800-913-6050

Fax#859-669-3805

(or contact assigned Revenue Officer)

Payoff Letter Request

Request for Lien Payoff must include the following:

- Request must include taxpayers name and identification number/lien serial number.
 - Date pay-off should be calculated through.
 - Taxpayer authorization to release information (form 8821 or 2848)
 - Name, phone number and address where requestor may be contacted
-

Federal Tax Liens

- Self-Release Feature on a Notice of Federal Tax Lien?

Yes

No

Notice of Federal Tax Lien

Serial Number

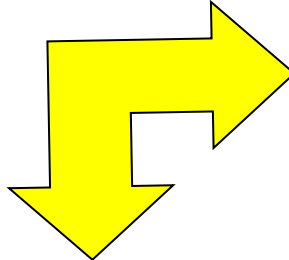
For Optional Use by Recording Office

As provided by sections 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

Name of Taxpayer

Residence

IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).



Kind of Tax (a)	Tax Period Ended (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)

IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Place of Filing

Total

This notice was prepared and signed at , on this, the_ day of_ .

Signature

Title

, Employee # -

, Phone # -

Purchase Money Mortgages

A loan made to purchase real property.

- The lender may obtain a Purchase Money Mortgage (PMM)
- IRS Publication 785



Purchase Money Security Interest

A loan made to purchase personal property.

- The lender may obtain a Purchase Money Security Interest (PMSI)
- IRS Publication 785



PMM & PMSI

Revenue Ruling 68-57:

It is the position of the IRS that a PMM or a PMSI given in "*good faith*" to secure a loan for the purchase of real property or goods, has priority over an already recorded Notice of Federal Tax Lien



Lien Documents



What are the different lien documents you may encounter?

Certificate of Discharge

IRC
6325(b)



Divested of
all Rights
and title....

Certificate of Discharge

Removes a specific piece of property from the Federal Tax Lien.

Real or **Personal** Property

Certificate of Discharge

Reasons for Discharge

IRC 6325(b)(1) - Value of property remaining attached by the lien(s) is at least double the liability of the federal tax lien(s) plus other encumbrances senior to the lien(s)

IRC 6325(b)(2a) -The United States receives an amount not less than the value of the United States' interest.

Certificate of Discharge

IRC 6325(b)(2b) - Interest of the United States in the property to be discharged has no value.

IRC 6325 (b)(3) - Proceeds from property sale held in escrow subject to the liens and claims of the United States.

IRC 6325 (b)(4) - Deposit made or bond furnished in an amount equal to the value of the United States' interest.

Certificate of Discharge

- Prepare application (F14135) as per Publication 783
- Attachments to application (shown on F14135 and local laundry list).

A yellow callout box with a black border and rounded corners, featuring a scroll-like top edge. It contains the text "See Handout" in black font.

See
Handout

Certificate of Discharge

- Allowable Hud1 Closing Cost
 - Industry standard with the following exceptions:
 - Attorney fees not related to the closing & excess attorney fees.
 - Option fee
 - Seller paid buyer's closing cost
 - Realtor fee over 6% (5% on sales of \$1 million or above)
-

Certificate of Discharge

- Commitment Letter Issued
 - Amount of lien interest
 - Title Company to Provide after closing:
 - Cashier check
 - Executed Hud1
 - Executed Warranty Deed
-

Certificate of Discharge

- Short Sales

- Additional Attachments to application:

- Current short sale agreement.

- Current payoff statement by same lender.

Certificate of Discharge

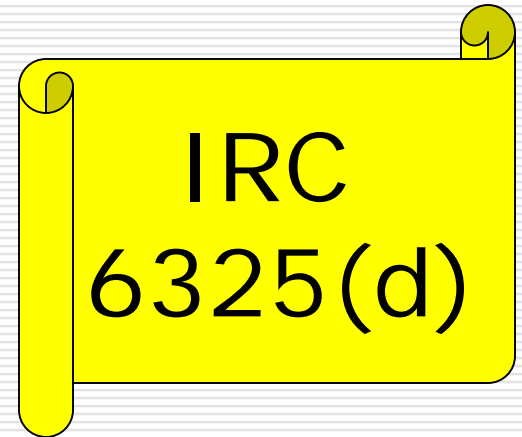
- Home Equity Line of Credit
 - Additional Attachments to application:
 - Disbursement schedule.
 - Current payoff statement only for disbursements made prior to NFTL.
-

Certificate of Discharge

Most Common Issues

- Seller paid closing costs/contributions
 - Excessive realtor fees
 - Unsecured creditors
 - Representative fees
 - Sales price not consistent with appraised value
 - Submitted without active contract
-

Certificate of Subordination



Certificate of Subordination

Allows a creditor to move



their junior position ahead of the

United States.

Certificate of Subordination

- Prepare application (F14134) as per Publication 784.
- Attachments needed.



See
Handout

Certificate of Subordination

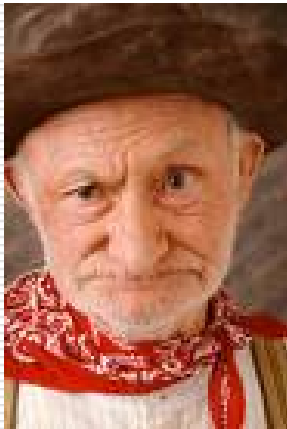
- Allowable Closing Cost

- Industry standard with the following exceptions:

- Excessive cost of obtaining new loan
-

Certificate of Nonattachment

That sure ain't me
on that ole tax lien!



Publication 1024

Certificate of Nonattachment

- Prepare memo/letter per Publication 1024 instructions and include:
 - Copies of documents that will prove identity of applicant (driver license, social security card, current utility bill).

 - Copy of NFTL in question.
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IRC
6323(j)

Withdrawal of NFTL

- The Notice of Federal Tax Lien was filed prematurely or not in accordance with IRS procedures.
 - The taxpayer entered into an installment agreement to satisfy the liability & the agreement did not provide for a Lien to be filed.
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Withdrawal of NFTL

- The taxpayer is under a Direct Debit Installment Agreement.
 - Balance of assessments = \$25,000 or less
 - Liability will be paid in 60 months or prior to the collection statute
 - Filing & payment compliance
 - At least 3 consecutive payments have been made via the DDIA

Note: not available for in-business taxpayers other than 1120 tax.

Withdrawal of NFTL

- Withdrawal will facilitate collection of the tax.
 - Withdrawal is in the best interest of the taxpayer and the government.
 - Withdrawal is not guaranteed.
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Withdrawal of NFTL

- Fax Form 12277 to:
 - #877-477-9209or
 - #855-389-1534 for already released liens

 - Call phone no. 615-250-5797
-

Collection Advisory Group Addresses

Publication 4235:

- Provides a list of certificates related to a Notice of Federal Tax Lien and
 - Provides the addresses for IRS Advisory Group by locations serviced.
-

Contact Information for North Texas

Call or write to:

Advisory Unit

Address: Internal Revenue Service

1100 Commerce Street

MC 5028DAL

Dallas, TX 75242

Telephone No. 214-413-5349



New Address

Internal Revenue Service
Advisory Unit, Stop 5012
230 Dearborn St, Rm. 2630
Chicago, IL 60604-2892

Phone: 312-292-2892

Fax: 877-477-8752
