

UNOFFICIAL COPY

No. _____

United States

vs.

Notice of Tax Lien

Filed this _____

, 19_____, at _____ m.

Clerk (or Registrar)

Excerpts From Internal Revenue Code

Sec. 6321. Lien For Taxes

Any person who fails to pay any tax required by subtitle A, the personal and dependency tax, or the tax imposed by section 6664, or any part of any tax imposed by subtitle C, the alternative minimum tax, or any tax imposed by subtitle F, the tax on investment property, whether or not such tax is due or accrued, thereby shall have a lien created on the various classes of property and personal property, whether real or personal, belonging to such person.

Sec. 6322. Period Of Lien.

Unless another date is specifically fixed by law, the lien created by section 6321 shall commence at the time the amount due is paid, and shall continue until the liability for the amount so imposed, together with interest thereon, including additions and such other expenses as may become necessary, is paid in full.

Sec. 6323. Validity and Priority Against Certain Persons.

Purchaser's, Holders Of Security Interests, Mechanic's Liens, And Judgment Lien Creditors.—The lien imposed by section 6321 shall be valid as against any purchaser of a security interest, mechanic's lien, or judgment lien creditor, and notice thereof which meets the requirements of subsection (l) has been filed by the Secretary.

(1) Place For Filing Notice; Form.—

(i) **Place For Filing.**—The notice referred to in subsection (a)(1) shall be filed:

(A) **Other State Laws.**

Real property, in the case of real property in one office within the State or the county, or other governmental subdivision, as designated by the laws of such State in which the property subject to the lien is situated, and

(B) **Personal Property.**—In the case of personal property, whether tangible or intangible, in one office within the State (or the county, or other governmental subdivision), as designated by the laws of such State in which the property subject to the lien is situated, except that State law, merely conforming to requiring Federal law, establishing a recording system does not constitute a recording office for filing as provided by the laws of such State.

(ii) **Clerk Of District Court.**—In the office of the Clerk of the United States district court for the judicial district in which the property subject to the lien is situated, whenever the State has not by law designated one office which meets the requirements of subparagraph (A); or

(iii) **Recorder Of Deeds Of The District Of Columbia.**—In the office of the Recorder of Deeds of the District of Columbia, if the property subject to the lien is situated in the District of Columbia.

(2) **Situs Of Property Subject To Lien.**—For purposes of paragraphs (1) and (4), property shall be deemed to be situated:

(A) **Real Property.**—In the case of real property, at its physical location; or
(B) **Personal Property.**—In the case of personal property, whether tangible or intangible, at the residence of the taxpayer at the time notice of lien is filed.

For purposes of paragraph (2)(B), the residence of a corporation or partnership shall be deemed to be the place at which the principal executive office of the business is located, and the residence of a taxpayer whose residence is without the United States shall be deemed to be in the District of Columbia.

(3) **Form.**—The form and content of the notice referred to in subsection (a)(1) shall be prescribed by the Secretary. Such notice shall be valid notwithstanding any other provision of law regarding the form or content of a notice of lien.

Note: See section 6323(b) for protection for certain interests even though notice of lien imposed by section 6321 is filed with respect to:

- 1 Securities
- 2 Motor vehicles
- 3 Personal property purchased at retail
- 4 Personal property purchased in casual sales
- 5 Personal property subjected to possessory lien
- 6 Real property tax and special assessment liens
- 7 Residential property subject to mechanic's lien for certain repairs and improvements
- 8 Attorney's fees
- 9 Certain insurance contracts
- 10 Passbook loans

Refiling Of Notice.—For purposes of this section:

General Rule.—Unless notice of lien is refiled in the manner prescribed in paragraph (2) during the required rolling period, such notice of lien shall be treated as filed on the date on which it is filed in accordance with subsection (l) after the expiration of such rolling period.

(2) Place For Filing.—A notice of lien refiled during the required rolling period shall be effective only:

(A) **In:**

(i) such notice of lien is refiled in the office in which the prior notice of lien was filed; and

(ii) in the case of real property, and the fact of refiling is entered and recorded in an index to the extent required by subsection (l)(4); and

(B) in any case in which, 90 days or more prior to the date of a refiling of notice of lien under subparagraph (A), the

Secretary received written information (in the manner prescribed in regulations issued by the Secretary) concerning a change in the taxpayer's residence, the notice of such lien is also filed in accordance with subsection (l) in the State in which such residence is located.

(3) Required Refiling Period.—In the case of any notice of lien, the term "required rolling period" means:

(A) the one-year period ending 30 days after the expiration of 10 years after the date of the assessment of the tax; and

(B) the one-year period ending with the expiration of 10 years after the close of the preceding required refiling period for such notice of lien.

Sec. 6325. Release Of Lien Or Discharge Of Property.

(a) Release Of Lien.—Subject to such regulations as the Secretary may prescribe, the Secretary shall issue a certificate of release of any lien imposed with respect to any internal revenue tax not later than 30 days after the day on which:

(1) **Liability Satisfied or Unenforceable.**—The Secretary finds that the liability for the amount assessed, together with all interest in respect thereof, has been fully satisfied or has become legally unenforceable; or

(2) **Bond Accepted.**—There is furnished to the Secretary and accepted by him a bond that is conditioned upon the payment of the amount assessed, together with all interest in respect thereof, within the time prescribed by law (including any extension of such time), and that is in accordance with such requirements relating to terms, conditions, and form of the bond and sureties thereon, as may be specified by such regulations.

Sec. 6323. Confidentiality and Disclosure of Returns and Return Information.

(1) Disclosure of Certain Returns and Return Information For Tax Administration Purposes.—

(2) **Disclosure of amount of outstanding lien.**—If a notice of lien has been filed pursuant to section 6323(l), the amount of the outstanding obligation secured by such lien may be disclosed to any person who furnishes satisfactory written evidence that he has a right in the property subject to such lien or intends to obtain a right in such property.