IRS Tax Liens: What Every Taxpayer Needs to Know

by
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An IRS lien is a federal tax lien (FTL) that the IRS places against your property, similar to a mortgage on your home or a lien on your car. The difference is that the lien is placed against everything you (the taxpayer) own, right down to the cash in your wallet, clothing, and furniture in your home. Today, many Americans find themselves unable to pay their taxes due to personal debt, credit card debt or mounting mortgage payments. Accumulating unpaid taxes can sometimes be unavoidable for those already facing serious in financial problems.

The tax lien is non-consensual, which means IRS puts the federal tax lien on your property without your permission or consent. And, in its effect, it's relatively passive. The lien stays dormant on your personal property until you try to do something with it, such as sell it -- or until the IRS seeks to foreclose on the lien by going to court. In the meantime, you may use your property and even collect income from it. And, in some cases, you may spend your money or sell your personal property to someone who doesn't know about the federal tax lien, without incurring any legal obligation to the IRS.

You're Invited to Call or E-mail.

"If you have questions about bankruptcy, foreclosure, credit card debt, loan modifications,

tax liens or other financial problems, please send your e-mail today to

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A lien is different from a levy, which is when IRS seizes your property. And while a lien is not as forceful as a levy, a lien could surprise you at a time when you don't want any surprises. A lien is one of many powerful weapons IRS can use to force you to pay your taxes.

When can IRS put a lien on your property?

Three things must happen before IRS can put a lien on your property: The IRS must assess the tax liability, which it does by recording your tax return's liability in the office of the Secretary. Then the IRS must demand payment from you, which it does by sending you a computer letter. And third, you must neglect or refuse to pay the money to IRS. For IRS purposes, your inability to pay the taxes is considered your neglect or refusal to pay.

The lien on your property includes the amount of tax due, plus interest, any additional amounts, any addition to taxes, plus penalties, along with any costs that accrue. The lien goes against all of the real and personal property you own.

How long does the lien last?

The lien against your property will remain until you pay the full amount due -- or until it becomes legally unenforceable by the passage of time. In most cases, the lien remains in force until the legal time period expires, called the "statute of limitations." Usually that means ten years after the date your tax was assessed.

However, the statute of limitations may be extended by a waiver you sign (such as a waiver signed when submitting an offer in compromise) -- or suspended for the time you are in bankruptcy, plus an additional six months. Also, the statute of limitations is extended for the length of time you're out of the U.S. if you leave the country for a continuous period of at least six months.

One more exception to the length of time a lien remains in force is if IRS sues you in court and gets a judgment against you. In that case, there is no statute of limitations and the lien remains in force until it's paid.

And last, if IRS seizes your assets -- or serves a notice of levy on a third party -- before the collection period

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expires, the property seized can be sold or the levy enforced against the third party even after the collection statute and the lien have expired.

Once the tax is paid -- or when IRS gives up trying to collect the amount due -- the lien becomes no longer enforceable. At this time, the Secretary issues a certificate of release for the amount of the lien, including penalties.

Whether you can discharge a tax lien in personal bankruptcy is a complicated legal issue. If you think this might affect you, please call me so you and I can discuss your specific circumstances.

What property does the lien attach to?

The federal tax lien attaches to virtually all property you own.

Courts have interpreted the language in the statute to include all of your real, personal and intangible property. This includes future interests and property you acquire even after the lien comes into existence. As you can imagine, this opens a real can of worms about how property is owned and what happens in cases when you own property jointly with another person.

In addition, the statute's broad brush approach has given rise to many lawsuits challenging different types of property to which a lien can attach.

As you can see, liens are a complex area of tax law. So if you have any questions about tax liens, please feel free to call me at 312-969-0730 to discuss our tax lien services and your options.

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