

lien so satisfied is entitled to priority over the lien imposed by section 6321.

(b) *Collection expenses.* The reasonable expenses described in paragraph (a)(3) of this section include expenditures incurred by the protected holder of the lien or security interest to establish the priority of his interest or to collect, by foreclosure or otherwise, the amount due him from the property subject to his lien. Accordingly, the amount of the encumbrance which is protected is increased by the amounts so expended by the holder of the security interest.

(c) *Costs of insuring, preserving, etc.* The reasonable costs of insuring, preserving, or repairing described in paragraph (a)(4) of this section include expenditures by the holder of a security interest for fire and casualty insurance on the property subject to the security interest and amounts paid by the holder of the lien or security interest to repair the property. Such reasonable costs also include the amounts paid by the holder of the lien or security interest in a leasehold to the lessor of the leasehold to preserve the leasehold subject to the lien or security interest. Accordingly, the amount of the lien or security interest which is protected is increased by the amounts so expended by the holder of the lien or security interest.

(d) *Satisfaction of liens.* The amounts described in paragraph (a)(6) of this section include expenditures incurred by the protected holder of a lien or security interest to discharge a statutory lien for State sales taxes on the property subject to his lien or security interest if both his lien or security interest and the sales tax lien have priority over a Federal tax lien. Accordingly, the amount of the lien or security interest is increased by the amounts so expended by the holder of the lien or security interest even though under local law the holder of the lien or security interest is not subrogated to the rights of the holder of the State sales tax lien. However, if the holder of the lien or security interest is subrogated, within the meaning of paragraph (b) of §301.6323(i)-1, to the rights of the holder of the sales tax lien, he will also be

entitled to any additional protection afforded by section 6323(i)(2).

[T.D. 7429, 41 FR 35506, Aug. 23, 1976]

§ 301.6323(f)-1 Place for filing notice; form.

(a) *Place for filing.* The notice of lien referred to in §301.6323(a)-1 shall be filed as follows:

(1) *Under State laws—(i) Real property.* In the case of real property, notice shall be filed in one office within the State (or the county or other governmental subdivision), as designated by the laws of the State, in which the property subject to the lien is deemed situated under the provisions of paragraph (b)(1) of this section.

(ii) *Personal property.* In the case of personal property, whether tangible or intangible, the notice shall be filed in one office within the State (or the county or other governmental subdivision), as designated by the laws of the State, in which the property subject to the lien is deemed situated under the provisions of paragraph (b)(2) of this section.

(2) *With the clerk of the United States district court.* Whenever a State has not by law designated one office which meets the requirements of subparagraph (1)(i) or (1)(ii) of this paragraph (a), the notice shall be filed in the office of the clerk of the U.S. district court for the judicial district in which the property subject to the lien is deemed situated under the provisions of paragraph (b) of this section. For example, a State has not by law designated one office meeting the requirements of subparagraph (1)(i) of this paragraph (a), if more than one office is designated within the State, county, or other governmental subdivision for filing notices with respect to all real property located in such State, county, or other governmental subdivision. A State has not by law designated one office meeting the requirements of subparagraph (1)(ii) of this paragraph (a), if more than one office is designated in the State, county, or other governmental subdivision for filing notices with respect to all of the personal property of a particular taxpayer. A state law that conforms to or reenacts a federal law establishing a national filing

system does not constitute a designation by state law of an office for filing liens against personal property. Thus, if state law provides that a notice of lien affecting personal property must be filed in the office of the county clerk for the county in which the taxpayer resides and also adopts a federal law that requires a notice of lien to be filed in another location in order to attach to a specific type of property, the state is considered to have designated only one office for the filing of the notice of lien, and to protect its lien the Internal Revenue Service need only file its notice in the office of the county clerk for the county in which the taxpayer resides.

(3) *With the Recorder of Deeds of the District of Columbia.* If the property subject to the lien imposed by section 5321 is deemed situated, under the provisions of paragraph (b) of this section, in the District of Columbia, the notice shall be filed in the office of the Recorder of Deeds of the District of Columbia.

(b) *Situs of property subject to lien.* For purposes of paragraph (a) of this section, property is deemed situated as follows:

(1) *Real property.* Real property is deemed situated at its physical location.

(2) *Personal property.* Personal property, whether tangible or intangible, is deemed situated at the residence of the taxpayer at the time the notice of lien is filed.

For purposes of subparagraph (2) of this paragraph (b), the residence of a corporation or partnership is 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 not within the United States is deemed to be in the District of Columbia.

(c) *National filing system.* The filing of federal tax liens is to be governed solely by the Internal Revenue Code and is not subject to any other federal law that may establish a national system for filing liens and encumbrances against a particular type of personal property. Thus, for example, the Service is not subject to the requirements established by the Federal Aviation

Agency for filing liens against civil aircraft in Oklahoma City, Oklahoma.

(d) *Form—(1) In general.* The notice referred to in §301.6323(a)-1 shall be filed on Form 668, “Notice of Federal Tax Lien Under Internal Revenue Laws”. Such notice is valid notwithstanding any other provision of law regarding the form or content of a notice of lien. For example, omission from the notice of lien of a description of the property subject to the lien does not affect the validity thereof even though State law may require that the notice contain a description of the property subject to the lien.

(2) *Form 668 defined.* The term “Form 668” generally means a paper form. However, if a state in which a notice referred to in §301.6323(a)-1 is filed permits a notice of Federal tax lien to be filed by the use of an electronic or magnetic medium, the term “Form 668” includes a Form 668 filed by the use of any electronic or magnetic medium permitted by that state. A Form 668 must identify the taxpayer, the tax liability giving rise to the lien, and the date the assessment arose regardless of the method used to file the notice of Federal tax lien.

(e) *Examples.* The provisions of this section may be illustrated by the following examples:

Example 1. The law of State X provides that notices of Federal tax lien affecting personal property are to be filed in the Office of the Recorder of Deeds of the county where the taxpayer resides. The laws of State X also provide that notices of lien affecting real property are to be filed with the recorder of deeds of the county where the real property is located. On June 1, 1970, in accordance with §301.6323(f)-1, a notice of lien is filed in county M with respect to the delinquent tax liability of A. At the time the notice is filed, A is a resident of county M and owns real property in that county. One year later A moves to county N and one year after that A moves to county O. Because the situs of personal property is deemed to be at the residence of the taxpayer at the time the notice of lien is filed, the notice continues to be effectively filed with respect to A’s personal property even though A no longer resides in county M. Furthermore, because the situs of real property is deemed to be at its physical location, the notice of lien also continues to be effectively filed with respect to A’s real property.

Example 2. B is a resident of Canada but owns personal property in the United States.

On January 4, 1971, in accordance with § 301.6323(f)-1, a notice of lien is filed with the Office of the Recorder of Deeds of the District of Columbia. On January 2, 1973, B changes his residence to State Y in the United States. Because the residence of a taxpayer who is not a resident of the United States is deemed to be in the District of Columbia and the situs of personal property is deemed to be at the residence of the taxpayer at the time of filing, the lien continues to be effectively filed with respect to the personal property of B located in the United States even though B has returned to the United States and taken up residence in State Y and even though B has at no time been in the District of Columbia.

Example 3. The law of State Z in effect before July 1, 1967, provides that notices of lien affecting real property are to be filed in the office of the recorder of deeds of the county in which the real property is located, but that if the real property is registered under the Torrens system of title registration the notice is to be filed with the registrar of titles rather than the recorder of deeds. The law of State Z in effect after June 30, 1967, provides that all notices of lien affecting real property are to be filed with the recorder of deeds of the county in which the real property is located. Accordingly, where the Torrens system is adopted by a county in State Z, there were before July 1, 1967, two offices designated for filing notices of Federal tax lien affecting real property in the county because one office was designated for Torrens real property and another office was designated for non-Torrens real property. Because State Z had not designated one office within the State, county, or other governmental subdivision for filing notices before July 1, 1967, with respect to all real property located in the State, county, or governmental subdivision, before July 1, 1967, the place for filing notices of lien under this section, affecting property located in counties adopting the Torrens system, was with the clerk of the U.S. district court for the judicial district in which the real property is located. However, after June 30, 1967, the place for filing notices of lien under this section, affecting both Torrens and non-Torrens real property in counties adopting the Torrens system is with the recorder of deeds for each such county. Notices of lien filed under this section with the clerk of the U.S. district court before July 1, 1967, remain validly filed whether or not refiled with the recorder of deeds after the change in State law or upon refiled during the required refile period.

Example 4. The law of State W provides that notices of lien affecting personal property of corporations and partnerships are to be filed in the office of the Secretary of State. Notices of lien affecting personal property of any other person are to be filed in the office of the clerk of court for the

county where the person resides. Because the State law designates only one filing office within State W with respect to personal property of any particular taxpayer, notices of lien filed under this section, affecting personal property, shall be filed in the office designated under State law.

Example 5. The law of State F provides that notices of lien affecting personal property are to be filed with the clerk of the circuit court in the county in which the personal property is located. State F has conformed state law to federal law to provide that all instruments affecting title to an interest in any civil aircraft of the United States must be recorded in the Office of the Federal Aviation Administrator (FAA) in Oklahoma City, Oklahoma. On July 1, 1990, a tax lien arises against ABC airline, which owns aircraft situated in State F. The Internal Revenue Service files a Notice of Federal Tax Lien with the clerk of the circuit court in the county in which the aircraft is located but does not file the notice with the FAA in Oklahoma City, Oklahoma. Because the FAA system adopted by State F does not constitute a second place of filing pursuant to section 6323(f), the federal tax lien is validly filed.

Example 6. Assume the same facts as *Example 5* except that State F did not reenact or conform state law to the FAA requirements. The result is the same because the filing of federal tax liens is governed solely by the Internal Revenue Code, and is not subject to any other national filing system.

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§ 301.6323(g)-1 Refiling of notice of tax lien.

(a) *In general*—(1) *Requirement to refile.* In order to continue the effect of a notice of lien, the notice must be refiled in the place described in paragraph (b) of this section during the required refile period (described in paragraph (c) of this section). In the event that two or more notices of lien are filed with respect to a particular tax assessment, the failure to comply with the provisions of paragraphs (b)(1)(i) and (c) of this section in respect of one of the notices of lien does not affect the effectiveness of the refile of any other notice of lien. Except for the filing of a notice of lien required by paragraph (bb)(1)(ii) of this section (relating to a change of residence) the validity of any refile of a