

property by purchase or otherwise will, upon presentation by him of satisfactory evidence be considered to have a proper interest. Any person desiring this information may make his request to the office of the Internal Revenue Service named on the notice of lien with respect to which the request is made. The request should clearly describe the property subject to the lien, identify the applicable lien, and give the reasons for requesting the information.

[T.D. 7429, 41 FR 35511, Aug. 23, 1976]

§ 301.6323(j)-1 Withdrawal of notice of federal tax lien in certain circumstances.

(a) *In general.* The Commissioner or his delegate (Commissioner) may withdraw a notice of federal tax lien filed under this section, if the Commissioner determines that any of the conditions in paragraph (b) of this section exist. A notice of federal tax lien is withdrawn by the filing by the Commissioner of a notice of withdrawal in the office in which the notice of federal tax lien is filed. If a notice of withdrawal is filed, chapter 64 of subtitle F, relating to collection, will be applied as if the withdrawn notice had never been filed. A copy of the notice of withdrawal will be provided to the taxpayer. Upon written request by a taxpayer with respect to whom a notice of federal tax lien has been or will be withdrawn, the Commissioner will promptly make reasonable efforts to notify any credit reporting agency and any financial institution or creditor identified by the taxpayer of the withdrawal of such notice. The withdrawal of a notice of federal tax lien will not affect the underlying federal tax lien.

(b) *Conditions authorizing withdrawal.* The Commissioner may authorize the withdrawal of a notice of federal tax lien upon determining that one of the following conditions exists:

(1) *Premature or not in accordance with administrative procedures.* The filing of the notice of federal tax lien was premature or otherwise not in accordance with the administrative procedures of the Secretary.

(2) *Installment agreement.* The taxpayer has entered into an agreement under section 6159 to satisfy the liabil-

ity for which the lien was imposed by means of installment payments. Entry into an installment agreement may not, however, be the basis for withdrawal of a notice of lien if the installment agreement specifically provides that a notice of federal tax lien will not be withdrawn.

(3) *Facilitate collection.* The withdrawal of the notice of federal tax lien will facilitate the collection of the tax liability for which the lien was imposed.

(4) *Best interests of the United States and the taxpayer—(i) In general.* The taxpayer or the National Taxpayer Advocate (or his delegate) has consented to the withdrawal of the notice of federal tax lien, and withdrawal of the notice would be in the best interest of the taxpayer, as determined by the taxpayer or the National Taxpayer Advocate (or his delegate), and in the best interest of the United States, as determined by the Commissioner.

(ii) *Best interest of the taxpayer.* When a taxpayer requests the withdrawal of notice of federal tax lien based on the best interests of the United States and the taxpayer, the National Taxpayer Advocate (or his delegate) generally will determine whether the withdrawal of the notice of federal tax lien is in the best interest of the taxpayer. If, however, a taxpayer requests the Commissioner to withdraw a notice and has not specifically requested the National Taxpayer Advocate (or his delegate) to determine the taxpayer's best interest, a finding by the Commissioner that the withdrawal of notice is in the best interest of the taxpayer will be sufficient to support withdrawal. If the Commissioner decides independently of a request by the taxpayer to withdraw a notice of federal tax lien, the taxpayer or the National Taxpayer Advocate (or his delegate) must consent to the withdrawal.

(5) *Examples.* The following examples illustrate the provisions of this paragraph (b):

Example 1. A owes \$1,000 in Federal income taxes. The IRS files a notice of federal tax lien to secure A's tax liability. However, the IRS failed to follow procedure provided by the Internal Revenue Manual (but not required by statute) with regard to managerial

approval prior to the filing of a notice of federal tax lien. The Commissioner may withdraw the notice of federal tax lien because the filing of the notice was not in accordance with the Secretary's administrative procedures.

Example 2. A owes \$1,000 in federal income taxes. A enters into an agreement to pay the outstanding federal income tax liability in installments. The agreement provides that a notice of federal tax lien may be filed if the taxpayer defaults. A timely pays the installments each month and has not defaulted in any way. Eleven months after entering into the installment agreement, the Internal Revenue Service files a notice of federal tax lien. Noting that there has been no default, the taxpayer asks the Internal Revenue Service to withdraw the notice of federal tax lien. In this situation, the Commissioner may withdraw the notice of federal tax lien because the taxpayer has entered into an installment agreement.

Example 3. A is an employee of X Corporation. A notice of federal tax lien has been filed to secure an outstanding tax liability against A. A, who has no assets and no other secured creditors, has agreed to pay the balance of tax due through payroll deductions at a rate higher than the Internal Revenue Service could obtain through a wage levy in order to get the notice of federal tax lien withdrawn. X Corporation has agreed to allow A to enter into a payroll deduction agreement. In this situation, the Commissioner may withdraw the notice of federal tax lien to facilitate collection.

Example 4. A is owner of a farm machinery dealership against whom a notice of federal tax lien has been filed to secure an outstanding tax liability. A currently is paying the tax liability by an installment agreement. X Corporation has agreed to provide A with 100 tractors to increase A's inventory if the notice of federal tax lien is withdrawn. A asks the Internal Revenue Service to withdraw the notice of federal tax lien. The Commissioner determines that the larger inventory would enable A to generate additional tractor sales. Increased sales would enable A to increase the amount of installment payments and, consequently, reduce the amount of time needed to satisfy the liability. A, who has no other assets or secured creditors, has agreed to modify the installment agreement. The Commissioner may withdraw the notice of federal tax lien because the withdrawal is in the best interest of the taxpayer and the United States.

(c) *Determinations by the Commissioner.* The Commissioner must determine whether any of the conditions authorizing the withdrawal of a notice of federal tax lien exist if a taxpayer submits a request for withdrawal in accordance

with paragraph (d) of this section. The Commissioner may also make this determination independent of a request from the taxpayer based on information received from a source other than the taxpayer. If the Commissioner determines that conditions authorizing the withdrawal are not present, the Commissioner may not authorize the withdrawal. If the Commissioner determines conditions for withdrawal are present, the Commissioner may (but is not required to) authorize the withdrawal.

(d) *Procedures for request for withdrawal—(1) Manner.* A request for the withdrawal of a notice of federal tax lien must be made in writing in accordance with procedures prescribed by the Commissioner.

(2) *Form.* The written request will include the following information and documents—

(i) Name, current address, and taxpayer identification number of the person requesting the withdrawal of notice of federal tax lien;

(ii) A copy of the notice of federal tax lien affecting the taxpayer's property, if available;

(iii) The grounds upon which the withdrawal of notice of federal tax lien is being requested;

(iv) A list of the names and addresses of any credit reporting agency and any financial institution or creditor that the taxpayer wishes the Commissioner to notify of the withdrawal of notice of federal tax lien; and

(v) A request to disclose the withdrawal of notice of federal tax lien to the persons listed in paragraph (d)(2)(iv) of this section.

(e) *Supplemental list of credit agencies, financial institutions, and creditors—(1) In general.* If the Commissioner grants a withdrawal of notice of federal tax lien, the taxpayer may supplement the list in paragraph (d)(2)(iv) of this section. If no list was provided in the request to withdraw the notice of federal tax lien, the list in paragraph (d)(2)(iv) of this section and the request for notification in paragraph (d)(2)(v) of this section may be submitted after the notice is withdrawn.

(2) *Manner.* A request to supplement the list of any credit agencies and any financial institutions or creditors that

the taxpayer wishes the Commissioner to notify of the withdrawal of notice of federal tax lien must be made in writing in accordance with procedures prescribed by the Commissioner.

(3) *Form.* The request must include the following information and documents—

(i) Name, current address, and taxpayer identification number of the taxpayer requesting the notification of any credit agency or any financial institution or creditor of the withdrawal of notice of federal tax lien;

(ii) A copy of the notice of withdrawal, if available;

(iii) A supplemental list, identified as such, of the names and addresses of any credit reporting agency and any financial institution or creditor that the taxpayer wishes the Commissioner to notify of the withdrawal of notice of federal tax lien; and

(iv) A request to disclose the withdrawal of notice of federal tax lien to the persons listed in paragraph (e)(3)(iii) of this section.

(f) *Effective date.* This section applies on or after June 22, 2001, with respect to a withdrawal of any notice of federal tax lien.

[T.D. 8951, 66 FR 33465, June 22, 2001]

§ 301.6324-1 Special liens for estate and gift taxes; personal liability of transferees and others.

(a) *Estate tax.* (1) A lien for estate tax attaches at the date of the decedent's death to every part of the gross estate, whether or not the property comes into possession of the duly qualified executor or administrator. The lien attaches to the extent of the tax shown to be due by the return and of any deficiency in tax found to be due upon review and audit. If the estate tax is not paid when due, then the spouse, transferee, trustee (except the trustee of an employee's trust which meets the requirements of section 401(a)), surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate under sections 2034 to 2042, inclusive, shall be personally liable for the tax to the ex-

tent of the value, at the time of the decedent's death, of the property.

(2) Unless the tax is paid in full or becomes unenforceable by reason of lapse of time, and except as otherwise provided in paragraph (c) of this section, the lien upon the entire property constituting the gross estate continues for a period of 10 years after the decedent's death, except that the lien shall be divested with respect to—

(i) The portion of the gross estate used for the payment of charges against the estate and expenses of its administration allowed by any court having jurisdiction thereof;

(ii) Property included in the gross estate under sections 2034 to 2042, inclusive, which is transferred by (or transferred by the transferee of) the spouse, transferee, trustee, surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary to a purchaser or holder of a security interest. In such case a like lien attaches to all the property of the spouse, transferee, trustee, surviving tenant, person in possession, beneficiary, or transferee of any such person, except the part which is transferred to a purchaser or a holder of a security interest. See section 6323(h) (1) and (6) and the regulations thereunder, respectively, for the definitions of "security interest" and "purchaser";

(iii) The portion of the gross estate (or any interest therein) which has been transferred to a purchaser or holder of a security interest if payment is made of the full amount of tax determined by the district director pursuant to a request of the fiduciary (executor, in the case of the estate of a decedent dying before January 1, 1971) for discharge from personal liability as authorized by section 2204 (relating to discharge of fiduciary from personal liability) but there is substituted a like lien upon the consideration received from the purchaser or holder of a security interest; and

(iv) Property as to which the district director has issued a certificate releasing a lien under section 6325(a) and the regulations thereunder.

(b) *Lien for gift tax.* Except as provided in paragraph (c) of this section, a