



Release of IRS Tax Liens

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Common Scenario



- You owe the IRS for back taxes
- Your plan - sell your house - pay off mortgage - pay IRS - some money left over
- Line up a potential buyer - they back down - the IRS has lien on the property!
- IRS has a “silent lien” - it is created automatically once the tax obligation has been assessed
- The IRS has filed a Notice of Federal Tax Lien (NFTL) - in order to make public their interest in your property

Solution



- **Overall principle - the IRS want your money - not your assets**
- **They will allow for a sale of the property - they will provide a payoff letter to be used at closing**
- **The mortgage lender will first be paid, then IRS, then you - like a line of credit**
- **The IRS releases lien against the property - the buyer obtains property without the lien**

Other Sale Scenarios



- **Property sales proceeds sufficient to pay mortgage but not enough for the IRS**
- **Taxpayer can provide proof to the IRS - they will allow the sale provided they receive all equity after mortgage**
- **Short sale - taxpayer must prove no equity - IRS will allow sale to go through**
- **Where a tax debt remains the IRS continues to have a lien against all other property**

Refinancing



- The IRS will usually allow for a refinancing of the property - as long as they benefit
- Technically the IRS can't prevent a refinancing but a lender would not refinance if the IRS were ahead of them in terms of the interest in the property - in order to allow the refinancing the IRS may agree to stand behind the lender (a "subordination")
- For example if the interest rate is being lowered the IRS would expect the taxpayer to make larger monthly payments
- If home equity was being accessed the IRS would expect the equity to be used to pay down the tax debt

Smaller Tax Debts



- **IRS will allow for a lien removal before tax debt payment in limited situations**
- **Tax debt must be \$25k or less**
- **A direct-debit payment arrangement needs to be in place**
- **Three payments towards the debt must be made**

Self Release



- IRS liens are “self-releasing”
- IRS generally has 10 years to collect on debt - from the tax assessment date
- The notice of lien will state that the lien will automatically expire after a period of time (10 years from the assessment date)
- There is no formal lien release

Summary



- **The tax lien is a powerful tool used by the IRS in its tax collection activities**
- **The IRS does not want to own property - they want payment towards the tax debt**
- **The IRS will work with taxpayers to resolve issues related to the lien if doing so increases the likelihood of collection**