



# IRS Tax Liens - What Are They?

March 25, 2022

# Highlights



- Will the IRS take my house?
- US tax system - “voluntary”
- Tax assessment - 10 year collection period
- Return filed - no payment made - IRS demands payment - no payment made - collection activity can begin
- Lien is automatically created upon assessment
- Does not mean the IRS immediately seizes assets



# Example 1

- 2019 purchase home - \$300k with \$60k cash and \$240 borrowed
- 4/11/21: file 2020 tax returns filed - \$10k balance due - not paid
- 4/14/21: IRS records the liability - tax is assessed
- 4/24/21: IRS demands payment
- “Silent Lien” created automatically - effective 4/14/21

# Example 1 (continued)



- IRS discovers the home
- IRS files a formal lien notice with the registry of deeds
- Public notice - impact credit, job application, etc.
- In order to satisfy the debt you decide to sell the home - value at this point is \$350k and loan amount is \$230k

# Example 1 (continued)



- Is the IRS entitled to \$350k - no - they “step into your shoes” - in other words they are only entitled to what you have a right to - in this case the selling price less the loan so \$120k - since the bank loan arose before the IRS debt it gets paid first
- So they get to keep \$120k? No they are only entitled to the amount of the tax debt - you would receive the balance

# Example 2



- In 2019 you purchase an RV for \$30k - \$5k down and \$25k loan
- Same situation as Example 1 - owe the IRS \$10k
- You sell the RV when the value is \$25k and the loan amount is \$22k - the IRS is entitled to the excess - \$3k
- Since this amount is less than due they get all the equity but there still exists a tax debt

# Example 3



- **IRA balance of \$15k**
- **You are under 59.5 years so the 10% penalty applies to distributions**
- **IRS has a lien against the IRA**
- **Fact that a penalty would be incurred is irrelevant**

# Example 4



- Your employer maintains a defined benefit plan
- The plan does not allow for distribution prior to age 59.5
- If you are under age 59.5 you have no rights to distributions therefore the IRS does not
- If you later become eligible for distributions the IRS will obtain rights

# Example 5



- Your mother owns parcel of land worth \$50k
- She gifts the property to you
- Since you now have legal ownership of the property the IRS steps into your shoes and obtains rights in the property

# Notice of Lien



- **As discussed the lien automatically arises on assessment**
- **Only you and the IRS are aware of the lien**
- **IRS files “Notice of Federal Tax Lien”**
- **Public notice of the tax debt**