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PARTS 306–399 [RESERVED]

PART 400—TEMPORARY REGULATIONS UNDER THE FEDERAL TAX LIEN ACT OF 1966

Sec.
400.1–1 Refiling of notice of tax lien.
400.2–1 Discharge of property by substitution of proceeds of sale; subordination of lien.
400.4–1 Notice required with respect to a nonjudicial sale.
400.5–1 Redemption by United States.

AUTHORITY: Sec. 7805, Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805, unless otherwise noted.

§ 400.1–1 Refiling of notice of tax lien.

(a) *Scope*. This section provides rules with respect to the provisions contained in section 6323(g), relating to the refiling of a notice of lien arising under section 6321. In general, section 6323(g) contains new rules requiring the Internal Revenue Service to refile a notice of lien during the 1-year period ending 30 days after the expiration of the normal 6-year statutory period for collection of an assessed tax liability, and each succeeding period of 6 years, in order to maintain the effectiveness of a notice of lien. These provisions in section 6323 were added by section 101(a) of the Federal Tax Lien Act of 1966 (80 Stat. 1125), effective after November 2, 1966.

(b) *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 (c) of this section during the required refiling period (described in paragraph (d) 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 (c)(1)(i) and (d) of this section in respect of one of the notices of lien does not affect the effectiveness of the refiling of the other notice or notices of lien. Thus, except for the filing of a notice of lien required by paragraph (c)(1)(ii) of this section relating to a change of residence, the validity of any refiling of a notice of lien is not affected by the refiling or non-refiling of any other notice of lien. The effectiveness of a timely refiled notice of lien relates back to the date on which the notice of lien was effective before the refiling. If the district director fails to refile a notice of lien in the manner described in paragraphs (c) and (d) of this section, the notice of lien is not effective, after the expiration of the required refiling period, as against any person without regard to when the interest of the person in the property subject to the lien was acquired. However, the failure of the district director to refile a notice of lien during the required refiling period will not affect the effectiveness of the notice with respect to (1) property which is the subject matter of a suit, to which the United States is a party, commenced prior to the expiration of the required refiling period, or (2) property which has been levied upon by the United States prior to the expiration of the required refiling period. Failure to refile a notice of lien does not affect the existence of the lien. If a notice of lien is not refiled, and if the lien is still in existence, the Internal Revenue Service may nevertheless file a new notice of lien either on the form prescribed for the filing of a notice of lien or on the form prescribed for refiling a notice of lien. This new filing must meet the requirements of section 6323(f) and is effective from the date on which such filing is made. Upon written request of any person who has a proper interest, any district director may issue a certificate of release of lien if notice of the lien has not been refiled within the required refiling period and the entire liability for the tax has been satisfied or has become unenforceable as a matter of law. Such request should be sent to the district director for the internal revenue district shown on the notice of lien. For provisions relating to certificates of release of lien, see section 6325.

(c) *Place for refiling notice of lien*— (1) *In general*. A notice of lien refiled during the required refiling period (described in paragraph (d) of this section) shall be effective only—

(i) If the notice of lien is refiled in the office in which the prior notice of lien (including a refiled notice) was filed under the provisions of section 6323; and

(ii) In any case in which 90 days or more prior to the date the refiling of