

revenue district in which the sale was held is authorized to disclose, to any person who has a proper interest, whether an adequate notice of sale was given under subparagraph (1) of this paragraph (f). Any person desiring this information should submit to the district director a written request which clearly describes the property sold, identifies the applicable notice of lien, gives the reasons for requesting the information, and states the name and address of the person making the request.

[T.D. 6944, 33 FR 734, Jan. 20, 1968; 33 FR 916, Jan. 25, 1968]

§ 400.5-1 Redemption by United States.

(a) *Scope.* The purpose of this section is to prescribe rules with respect to the provisions contained in section 7425(d), relating to redemption of real property by the United States. Section 109 of the Federal Tax Lien Act of 1966 (80 Stat. 1141) amended the Internal Revenue Code of 1954 by adding a new section 7425, relating to the discharge of tax liens, effective after November 2, 1966.

(b) *Right to redeem*—(1) *In general.* In the case of a nonjudicial sale of real property to satisfy a lien prior to the tax lien, the district director may redeem the property within the redemption period (as described in subparagraph (2) of this paragraph (b)). The right of redemption of the United States exists under section 7425(d) even though the district director has consented to the sale under section 7425(c)(2) and paragraph (d) of § 400.4-1. For purposes of this section, the term “nonjudicial sale” shall have the same meaning as when used in paragraph (b)(1) of § 400.4-1.

(2) *Redemption period.* For purposes of this section, the redemption period shall be—

(i) The period beginning with the date of the sale (as determined under paragraph (b)(1)(iv), (v), and (vi) of § 400.4-1) and ending with the 120th day after such date, or

(ii) The period for redemption of real property allowable, with respect to other secured creditors, under local law of the place where the real property is located,

whichever is longer.

(3) *Limitations.* In the event a sale does not ultimately discharge the prop-

erty from the tax lien (whether by reason of local law or the provisions of section 7425(b)), the provisions of this section do not apply since the tax lien will continue to attach to the property after the sale. In a case in which the Internal Revenue Service is not entitled to a notice of sale under section 7425(b) and § 400.4-1, the United States does not have a right of redemption under section 7425(d). However, in such a case, if a tax lien has attached to the property at the time of sale, the United States has the same right of redemption, if any, which is afforded to any secured creditor under the local law of the place in which the property is situated.

(c) *Amount to be paid*—(1) *In general.* In any case in which a district director exercises the right to redeem real property, the amount to be paid is the sum of the following amounts—

(i) The actual amount paid for the property being redeemed (which, in the case of a purchaser who is the holder of the lien being foreclosed, shall include the amount of the obligation secured by such lien to the extent legally satisfied by reason of the sale);

(ii) Interest on the amount paid (described in subdivision (i) of this subparagraph) at the sale by the purchaser of the real property computed at the rate of 6 percent per annum for the period from the date of the sale (as determined under paragraphs (b)(1)(iv), (v), and (vi) of § 400.4-1) to the date of redemption; and

(iii) The amount, if any, equal to the excess of (a) the expenses necessarily incurred in connection with such property by the purchaser, over (b) the income from such property realized by the purchaser plus a reasonable rental value of such property (to the extent the property is used by or with the consent of the purchaser, or is rented at less than its reasonable rental value).

(2) *Examples.* The provisions of subparagraph (1)(i) of this paragraph (b), may be illustrated by the following examples:

Example 1. A, a delinquent taxpayer, owns Blackacre located in X State upon which B holds a mortgage. After the mortgage is properly recorded, a notice of tax lien is filed which is applicable to Blackacre. Subsequently, A defaults on the mortgage and B

forecloses on the mortgage which has an outstanding obligation in the amount of \$100,000. At the foreclosure sale, B bids \$50,000 and obtains title to Blackacre as a result of the sale. At the time of the foreclosure sale, Blackacre has a fair market value of \$75,000. Under the laws of X State, the mortgage obligation is fully satisfied as a result of the foreclosure sale and the mortgagee cannot obtain a deficiency judgment. Under subparagraph (1)(i) of this paragraph, the district director must pay \$100,000 in order to redeem Blackacre.

Example 2. Assume the same facts as in example 1, except that under the laws of X State, the fair market value of the property foreclosed is the amount of the obligation legally satisfied as a result of the foreclosure sale, and in a case in which the amount of the obligation exceeds the amount of the fair market value of the property, the mortgagee has the right to a judgment for the deficiency computed as the difference between the obligation and the fair market value of the property. In such a case the district director must, under subparagraph (1)(i) of this paragraph, pay \$75,000 in order to redeem Blackacre, whether or not B seeks a judgment for the deficiency.

Example 3. Assume the same facts as in example 1, except that under the laws of X State, the amount bid is the amount of the obligation legally satisfied as a result of the foreclosure sale, and in the case in which the amount of the obligation exceeds the amount bid, the mortgagee has the right to a judgment for the deficiency computed as the difference between the amount of the obligation and the amount bid. In such a case, the district director must under subparagraph (1)(i) of this paragraph, pay \$50,000 in order to redeem Blackacre, whether or not B seeks a judgment for the deficiency.

(d) *Certificate of redemption—(1) In general.* If a district director exercises the right of redemption of the United States described in paragraph (b) of this section, he shall apply to the officer designated by local law, if any, for the documents necessary to evidence the fact of redemption and to record title to the redeemed property in the name of the United States. If no such officer has been designated by local law or if the officer designated by local law fails to issue the necessary documents, the district director is authorized to issue a certificate of redemption for the property redeemed by the United States.

(2) *Filing.* The district director shall, without delay, cause either the documents issued by the local officer or the certificate of redemption executed by

the district director, described in subparagraph (1) of this paragraph (d), to be duly recorded in the proper registry of deeds. If a certificate of redemption is issued by the district director and if the State in which the real property redeemed by the United States is situated has not by law designated an office in which the certificate of redemption may be recorded, the district director shall file the certificate of redemption in the office of the clerk of the U.S. district court for the judicial district in which the redeemed property is situated.

(3) *Effect of certificate of redemption.* A certificate of redemption executed pursuant to subparagraph (1) of this paragraph (d), shall constitute prima facie evidence of the regularity of the redemption. When a certificate of redemption is recorded, it shall transfer to the United States all the rights, title, and interest in and to the redeemed property acquired by the person from whom the district director redeemed the property by virtue of the sale of the property.

(4) *Application for release of right of redemption.* Upon application of a party with a proper interest in the real property sold in a nonjudicial sale described in section 7425(b) and paragraph (b) of § 400.4-1, which real property is subject to the right of redemption of the United States described in this section, the district director may, in his discretion, release the right of redemption with respect to the property. The application for the release shall be submitted in writing to a district director and shall contain such information as the district director may require. If the district director determines that the right of redemption of the United States is without value, no amount shall be required to be paid with respect to the release of the right of redemption.

[T.D. 6944, 33 FR 737, Jan. 20, 1968]

PART 402 [RESERVED]