

Instructions on how to apply for

Certificate of Discharge of Property From Federal Tax Lien

Since there is no standard form available for an application for a certificate of discharge of property from a Federal tax lien, a typewritten request will be considered as an application. Submit your written request and all accompanying documents in duplicate to:

District Director of Internal Revenue
(Address to District in which the property is located.)

Attention of: Chief, Special Procedures Staff
Give date of application.

Information required on application

Please give the name and address of the person applying under section 6325(b) of the Internal Revenue Code, for a certificate of discharge. See the reverse of this publication for applicable Internal Revenue Code sections. Give the name and address of the taxpayer, and describe the property as follows:

1. Give a detailed description, including the location of the property for which you are requesting the certificate of discharge. If real property is involved, submit a legible copy of the title or deed to the property, and the complete address (street, city, state). If the certificate is requested under section 6325(b)(1), also give a description of all the taxpayer's remaining property subject to the lien.

2. Show how and when the taxpayer has been or will be, divested of all rights, title and interest in and to the property for which a certificate of discharge is requested.

3. Attach a copy of each notice of Federal tax lien, or furnish the following information as it appears on each filed notice of Federal tax lien:

- a. The name of the Internal Revenue District;
- b. The name and address of the taxpayer against whom the notice was filed;
- c. The serial number shown on the lien;
- d. The taxpayer social security number or employer identification number shown on the lien; and
- e. The date and place the notice was filed.

4. In lieu of the above, a preliminary title report may be substituted listing the required information.

5. List the encumbrances (or attach a copy of the instrument that created each encumbrance) on the property, which you believe, have priority over the Federal tax lien. For each encumbrance show:

- a. The name and address of the holder.
- b. A description of the encumbrance.
- c. The date of the agreement.
- d. The date and place of the recording, if any.
- e. The original principal amount and the interest rate.
- f. The amount due as of the date of the application, if known (show costs and accrued interest separately).
- g. Your family relationship, if any, to the taxpayer and to the holders of any other encumbrances on the property.

6. In lieu of the above, a preliminary title report may be substituted listing the required information.

7. Itemize all proposed or actual costs, commissions and expenses of any transfer or sale associated with the property.

8. Furnish information to establish the value of the property, if the certificate is requested under section 6325(b)(1) furnish an estimate of the fair market value of the property, which will remain subject to the lien. In addition,

- a. If private sale-Submit written appraisals by two disinterested people qualified to appraise the property, and a brief statement of each appraiser's qualification.
- b. If public sale (auction) already held-Give the date and place the sale was held, and the amount for which the property was sold.
- c. If public sale (auction) to be held-Give the proposed date and place of the sale, and include a statement that the United States will be paid in the proper priority from the proceeds of the sale.

9. Give any other information that might, in your opinion, have bearing upon the application, such as pending judicial actions.

10. The District Director may request that you furnish additional information.

11. If you are submitting the application under the provisions of section 6325(b)(3), dealing with the substitution of proceeds of sale, attach a copy of the proposed agreement containing the following:

- a. The name and address of the proposed escrow agent.
- b. The caption, type of account, name and address of depositary for the account.
- c. The condition under which the escrow funds are to be held.

- d. The conditions under which payment will be made from escrow, including the limitation for negotiated settlement of claims against the fund.
- e. The estimated costs of the escrow.
- f. The name and address of any other party you and the District Director determine to be a party to the escrow agreement.
- g. Your signature, and those of the escrow agent, the District Director and any other party to the escrow agreement; and
- h. Any other specific information the District Director requests.

12. Give the name, address and telephone number where you may be reached.

13. Give the name, address and telephone number of your attorney or other representative, if any.

14. Make the following declaration over your signature and title: "Under penalties of perjury, I declare that I have examined this application, including any accompanying schedules, exhibits, affidavits, and statements, and to the best of my knowledge and belief it is true, correct, and complete."

Additional Information

Please follow the instructions in this publication when applying for a Certificate of Discharge of Property From Federal Tax Lien.

The District Director has the authority to issue a certificate of discharge of a lien that is filed on any part of a taxpayer's property subject to the lien. The following sections and provisions of the Internal Revenue Code applies:

Section 6325(b)(1)-A specific property may be discharged; if the taxpayer's property remaining subject to the lien has a Fair Market Value (FMV) which is double the sum of the balance due a) all Federal Tax Liens b) all other liens. (FMV=(a+b)x2)

Section 6325(b)(2)(A)-If there is paid in partial satisfaction of the liability secured by the lien an amount determined to be not less than the value of the interest of the United States in the property to be discharged.

Section 6325(b)(2)(B)-It is determined that the interest of the United States in the property to be discharged has no value.

Section 6325(b)(3)-If the property subject to the lien is sold, and, under an agreement with the Internal Revenue Service, the proceeds from the sale are to be held as a fund subject to the liens and claims of the United States in the same manner and with the same priority as the liens and claims on the discharged property.

Section 6325(b)(4)-At the request of the non-taxpayer owner, a discharge will be issued on any property subject to a lien. But the owner must deposit an amount equal to the value of the government's interest or furnish an acceptable bond in an amount subject to the government's interest in the property.

1. No payment is required for the issuance of a certificate under **section 6325(b)(1) or 6325(b)(2)(B)** of the Internal Revenue Code. Payment is required for certificates issued under **section 6325(b)(2)(A)**. Do not send the payment with your application. The District Director will notify you after determining the amount due.

2. The District Director will have your application investigated to determine whether to issue the certificate, and will let you know the outcome.

3. A certificate of discharge under **section 6325(b)(2)(A)** will be issued upon receipt of the amount determined to be the interest of the United States in the subject property under the Federal tax lien. Make payments in cash, or by a certified, cashier's, or treasurer's check. It must be drawn on any bank or trust company incorporated under the laws of the United States, or of any state, or possession of the United States. Payment can also be made by United States postal, bank, express or telegraph money order. (If you pay by uncertified personal check, issuance of the certificate of discharge will be delayed until the bank honors the check.)

4. If application is made under **sections 6325(b)(2)(A) or 6325(b)(3)** and is for the sale of a principal residence, the taxpayer may be eligible for a relocation expense allowance based on an inability to pay, and subject to limitations. This allowance will be taken from sale proceeds and will not reduce the tax liability. To apply for the allowance complete and submit **Form 12451 Request for Relocation Expense Allowance**, **with** the application for discharge.

5. If application is made under the provisions of **section 6325(b)(2)(A), or 6325(b)(2)(B)** because a mortgage foreclosure is contemplated, there will be a determination of the amount required for discharge or a determination that the Federal tax lien interest in the property is valueless.

Within 30 days from the date of the application, the applicant will receive a written conditional commitment for a certificate of discharge. When the foreclosure proceeding has been concluded, a certificate of discharge will be issued in accordance with the terms of the commitment letter. Also, see Publication 487, *How to Prepare Application Requesting the United States to Release Its Right to Redeem Property Secured by a Federal Tax Lien*.

6. If application is made under the provisions of **section 6325(b)(3)**, the District Director has the authority to approve an escrow agent selected by the applicant. Any reasonable expenses incurred in connection with sale of the property, the holding of the fund, or the distribution of the fund shall be paid by the applicant or from the proceeds of the sale before satisfaction of any claims or liens. Submit a copy of the proposed escrow agreement as part of the application.

7. A certificate of discharge under section 6325(b)(4) will be issued when an amount equal to the United States interest in the property is received. The United States interest in the property may be made in the form of cash, other certified funds, or the posting of a bond acceptable to the Secretary.

8. Submit Form 12180, Third Party Authorization. Completing this document gives the Internal Revenue Service the authority to contact individuals or companies, if necessary, when determining if the discharge is appropriate.

9. Provide the name, address, and telephone number of your attorney or representative as well as the closing attorney or Settlement Company.



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