



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.12.11

AUGUST 6, 2024

EFFECTIVE DATE

(08-06-2024)

PURPOSE

- (1) This transmits an editorial update to IRM 5.12.11, *Federal Tax Liens, Lien Special Topics*.

MATERIAL CHANGES

- (1) Editorial updates throughout to references, links, and terminology. Other formatting changes made to comply with current IRS standards.
- (2) 5.12.11.1. Expanded previous subsection to include internal controls and retitled to Program Scope and Objectives.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 5.12.11, dated October 14, 2013.

AUDIENCE

SBSE Collection, Centralized Lien Operation, Taxpayer Services (formerly Wage & Investment), and Appeals.

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5.12.11

Lien Special Topics

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5.12.11.1
(10-14-2013)
Program Scope and Objectives

- (1) **Purpose:** This IRM provides instructions for working lien issues when special circumstances are present, such as identity theft and disasters.
- (2) **Audience:** This IRM is used by IRS personnel who work lien issues.
- (3) **Policy Owner:** Director, Collection Policy. Small Business/Self-Employed Division (SBSE).
- (4) **Program Owner:** Collection Policy is responsible for overseeing the lien program and the guidance related to Notices of Federal Tax Lien (NFTLs).
- (5) **Primary Stakeholders:** SBSE Collection and Taxpayer Service (formerly Wage & Investment) employees working balance due cases. Other functions that are affected by, or have input to, the procedures include Chief Counsel, Appeals, and the Taxpayer Advocate Service (TAS).
- (6) **Program Goals:** To protect the interests of the government established through lien law while ensuring the fair and just treatment of taxpayers.

5.12.11.1.1
(08-06-2024)
Background

- (1) Federal tax liens exist by operation of law. The Internal Revenue Code (IRC 6321) states:

“if any person liable to pay any tax neglects or refuses to pay the same after demand, the amount ... shall be a lien in favor of the United States upon all property and rights to property...”
- (2) The federal tax lien, which is sometimes called the “statutory lien”, is the basis for the government’s claim against the taxpayer’s property as it attaches all the taxpayer’s property and rights to property, both tangible and intangible, both currently in existence and acquired in the future. The lien exists until the liability for the amount assessed is satisfied or becomes unenforceable.
- (3) While the federal tax lien protects the government’s interest, a Notice of Federal Tax Lien (NFTL) is filed for the federal tax lien to compete with certain classes of creditors (IRC 6323). The NFTL is a document filed with state and local jurisdictional recording offices to put the public on notice of the government’s outstanding lien against the taxpayer’s property.
- (4) The NFTL can affect the taxpayer’s financial situation. An NFTL filed against a taxpayer who is a victim of identity theft or fraud or a taxpayer who lives in a federally-declared disaster area may create additional, undue burden for them.

5.12.11.1.2
(08-06-2024)
Authority

- (1) Authorities relative to federal tax liens are found in the following IRC and Treasury Regulations sections:

26 U.S. Code Section	Code of Federal Regulations	Description
IRC 6321	26 CFR 301.6321-1	Lien for taxes
IRC 6322	no regulation	Period of lien
IRC 6323	26 CFR 301.6323(a)-1	Validity and priority against certain persons

26 U.S. Code Section	Code of Federal Regulations	Description
IRC 6324	26 CFR 301.6324-1	Special liens for estate and gift taxes
IRC 6324A	26 CFR 301.6324A-1	Special lien for estate tax deferred under section 6166
IRC 6324B	no regulation	Special lien for additional estate tax attributable to of farm, etc., valuation
IRC 6325	26 CFR 301.6325-1	Release of lien or discharge of property
IRC 6326	26 CFR 301.6326-1	Administrative appeal of liens

(2) The following Policy Statements and Delegation Orders regulate NFTL filings.

- IRM 1.2.1.6.2, *Policy Statement 5-2, Collecting Principles*
- IRM 1.2.1.6.13, *Policy Statement 5-47, Notices of lien generally filed only after taxpayer is contacted in person, by telephone or by notice*
- IRM 1.2.2.6.4, *Delegation Order 5-4, Federal Tax Lien Certificates*

5.12.11.1.3
(08-06-2024)
Roles and Responsibilities

- (1) The Director, Collection Policy is responsible for overseeing the policies and procedures regarding NFTLs and related certificates.
- (2) Collection Policy, Enforcement is responsible for development and delivery of policies pertaining to the lien program.
- (3) Employees involved in lien processing are responsible for ensuring procedures are properly followed.
- (4) Managers are responsible for ensuring employees are duly delegated to make decisions related to the lien program and that their actions are in accordance with policy and procedures.
- (5) Other roles and responsibilities related to the lien program can be found in IRM 5.12.1.5, *IRS Organizations Working Lien Issues*, and its subsections.

5.12.11.1.4
(08-06-2024)
Program Management and Review

- (1) NFTL activity is reviewed and documented in numerous ways, including those shown on the following table.

Type	Source	Occurrence	Description
Report	IRS.gov	Annual	NFTL program numbers are published yearly in the <i>IRS Data Book: Collections, Activities, Penalties, and Appeals</i> (https://www.irs.gov/uac/enforcement-collections-penalties-criminal-investigation), Table 25
Review	NQRS	On-going	NFTL quality for CEASO is monitored through reviews conducted using the Embedded Quality Job Aid Field Collection standards identified with Attribute 410, NFTL Determination/Filing and IRM 5.13.1, <i>Embedded Quality Collection Field Organizations Administrative Guidelines</i>

- (2) Management ensures compliance with policy and procedures through case reviews and operational reviews.

5.12.11.1.5
(08-06-2024)

Program Controls

- (1) IRM 1.2.2.6.4, *Delegation Order 5-4, Federal Tax Lien Certificates*, stipulates the IRS positions authorized for lien activities.
- (2) Lien certificate requests worked by Field Collection are generally controlled and documented through the Integrated Collection System (ICS).
- (3) Access to systems used in the NFTL process is controlled following standard access guidelines through the Business Entitlement Access Request System (BEARS, formerly Online 5081). The primary systems used when working lien related certificates include, but are not limited to:
- Automated Lien System (ALS)
 - Integrated Data Retrieval System (IDRS)
 - Integrated Collection System (ICS)
 - Account Management System (AMS)

Reminder: This IRM is for procedural use and does not provide instruction on the use of any system. User Guides for the systems should be consulted for specific instructions on their usage.

- (4) Closed records associated with NFTL case work are retained in accordance with Document 12990, *Records Control Schedules*, the *Internal Revenue Service Records Control Schedule (RCS 28)*, *Tax Administration - Collection*.

5.12.11.1.6
(08-06-2024)

Terms/Definitions/ Acronyms

- (1) The table below differentiates between key terms used in the lien program:

Term	Definition
Lien	The federal tax lien (aka "statutory lien") that arises when tax is assessed, demand is made, and the liability is not paid.
Notice of Federal Tax Lien	The document filed in the public record to put third parties on notice of the existence of the federal tax lien. One notice of lien can list as many as 15 individual statutory liens.

Caution: The term "lien" is often used generically by external and internal customers when referring to the NFTL. Also, certain systems broadly use "lien" in their functional titles when referring to NFTL actions (e.g., "lien determination"). It is important to be aware of the legal distinctions between the NFTL and statutory federal tax lien. See IRM 5.12.1, *Lien Program Overview*, and IRM 5.17.2, *Federal Tax Liens*.

- (2) The table below lists common acronyms used in the lien program and throughout this IRM.

Acronym	Definition
ACR	Advisory Consolidated Receipts
ALS	Automated Lien System
CEASO	Civil Enforcement Advice and Support Operations
CLO	Centralized Lien Operation
ICS	Integrated Collection System
NFTL	Notice of Federal Tax Lien
SLID	Serial Lien Identification number

Note: Throughout this IRM, “Advisory” is used generically to denote the CEASO office primarily responsible for processing and reviewing requests for lien related certificates. The term can refer to either the local Advisory offices or ACR, based on the responsibilities assigned to them by CEASO management.

- (3) See Exhibit in IRM 5.12.1-2, *Glossary of Common Acronyms*, for a listing of other terms and acronyms used in the federal tax lien program.

5.12.11.1.7
(08-06-2024)

Related Resources

- (1) The form used to provide notice of the lien is Form 668(Y) (C), *Notice of Federal Tax Lien*. The form, when properly annotated, is also used for NFTL variations, including amended and special condition NFTLs.

Note: Form 668(Y)(c) is a computer-generated form through ALS. Manually prepared templates may show Form 668(Y).

- (2) IRM 5.17.2, *Legal Reference Guide for Revenue Officers, Federal Tax Liens*, provides additional details about lien law such as the types of property subject to the federal tax lien and the priority of the federal tax lien versus other competing encumbrances.
- (3) IRM 5.12.1, *Lien Program Overview*, provides additional information, websites, and job aids related to the lien program.
- (4) Links to tools and references to assist IRS employees with lien processes may be found on the *SBSE Collection* page on IRS Source (<https://irssource.web.irs.gov/SBSE/Pages/Collection.aspx>). Similar information for taxpayers may be found on the *Understanding a Federal Tax Lien* page on IRS.gov (<https://www.irs.gov/businesses/small-businesses-self-employed/understanding-a-federal-tax-lien>).
- (5) This IRM is for procedural use and does not provide detailed instruction on the use of any system. User Guides such as the ICS User Guide should be consulted, as needed.
- (6) Taxpayer rights with regard to IRS processes are stipulated in IRC 7803(a)(3) and on the *Taxpayer Bill of Rights* intranet page (<https://irssource.web.irs.gov/SitePages/TaxpayerBillOfRights.aspx>). Specific rights regarding lien processes are referenced throughout this IRM, as needed.

5.12.11.2

(10-14-2013)

Identity Theft Overview

- (1) Identity theft is the use of another person's identifying information stolen from a wide variety of places and through a wide variety of means. If identity theft is established, the appropriate steps should be taken immediately to ensure the innocent taxpayer is not harmed.
- (2) With respect to the IRS, identity theft manifests itself in several ways.
 - a. It is used to defraud the government of funds through the filing of fraudulent refund claims.
 - b. In many instances it victimizes an innocent taxpayer by impeding his or her ability to get a refund from us.
 - c. In some cases the Identity Theft is for personal or business purposes such as obtaining employment.
 - d. Fraudulent filings may also cause us to initiate an adverse enforcement action against the innocent taxpayer.

Note: For a more in depth discussion of the ways in which identity theft can manifest itself, see IRM 25.23.1, *Identity Protection and Victim Assistance - Policy Guidance*.

- (3) For Collection purposes, IRM 5.1.28, *Identity Theft for Collection Employees*, and any associated Interim Guidance should be followed in resolving these cases.

5.12.11.2.1

(10-14-2013)

Identity Theft and Liens

- (1) Notices of Federal Tax Lien may have been filed against taxpayers indicating there is a statutory lien against the victim(s) of identity theft. See IRM 5.12.2.4.2(3)(e), *Do Not File (DNF) Criteria*, for information on NFTL filing determinations in identity theft situations.
- (2) The IRS has standards when requesting documentation and resolving cases involving identity theft. See IRM 5.1.28, *Identity Theft for Collection Employees*, and IRM 25.23.2, *Identity Protection and Victim Assistance - General Case Processing*, for those standards and instructions.
- (3) Because of the variety of types of identity theft, there are differing solutions for Revenue Officers to follow. See the various sections of IRM 25.23, *Identity Protection and Victim Assistance*.
- (4) Taxpayers may also be directed to IRS.gov for the following information:
 - a. *Identity Theft Central* (<https://www.irs.gov/identity-theft-central>)
 - b. *IRS Identity Theft videos on YouTube* (<http://www.youtube.com/playlist?list=PL388D1AC3B539E4F1>)
 - c. Pub 5027, *Identity Theft Information for Taxpayers*
 - d. Form 14039, *Identity Theft Affidavit*

5.12.11.2.2

(10-14-2013)

Recorded NFTLs

- (1) This section provides instructions when an NFTL has been filed and:
 - you establish identity theft has occurred, and
 - you have taken the appropriate case action steps to adjust the liability.
- (2) When the NFTL will retain a tax liability for the taxpayer after the identity theft abatement(s), below are the potential resolutions that can be utilized if requested by the taxpayer:

- If only a portion of an existing module's liability is abated then amend the NFTL. (See IRM 5.1.28, *Identity Theft for Collection Employees*, and IRM 5.12.7.9.3, *Amending the NFTL Using the ALS Amend Option*).

Example: An NFTL is filed on the taxpayer's 2021 income tax showing an original assessment on a Transaction Code (TC) 150 along with an additional assessment (TC 290). The TC 290 additional assessment is subsequently found to have been the result of Identity Theft and is abated. The NFTL can be amended to remove the additional assessment.

- If an entire module's liability is abated but the NFTL contains other modules which will not be abated, a partial release may be requested under the IRC 6326 erroneous lien provisions. See IRM 5.12.3, *Lien Release and Related Topics*, for those instructions.

Example: An NFTL has been filed for the taxpayer's 2018, 2019, and 2020 income tax liabilities. The 2020 liability is subsequently found to have been the result of Identity Theft and is abated in full. A partial erroneous lien release may be issued for the 2020 liability.

- (3) If the requested abatement results in eliminating the tax liability for all the periods listed on an NFTL, request a release under IRC 6326 erroneous lien provisions. See IRM 5.12.3, *Lien Release and Related Topics*, for those instructions. Ensure that the release under IRC 6326 is requested before the liability is abated and before a systemic release is issued through the Automated Lien System (ALS).
- (4) A withdrawal of the NFTL may be considered in lieu of an amended NFTL or erroneous lien release. (See IRM 5.12.9, *Withdrawal of Notice of Federal Tax Lien*). The withdrawal recommendation must include not only the identity theft determination but any additional factors being considered for the withdrawal.
- (5) Document the ICS and the Automated Lien System (ALS) case histories with the identity theft determination and the actions taken.

5.12.11.2.3 (10-14-2013)

Unrecorded NFTLs

- (1) NFTLs may be corrected prior to being mailed to the recording office. Immediately contact the *Centralized Lien Operation (CLO)* (<https://serp.enterprise.irs.gov/databases/who-where.dr/centralized-lien-processing.html>) via secure email, followed by a phone call to request the correction.
- (2) Corrections must be made before 8:00 AM Eastern Time on Tuesday and Thursday. (CLO prints all documents twice weekly.)
- (3) Document the ICS and ALS history with any changes requested.

5.12.11.2.4 (10-14-2013)

Where CLO Refers Identity Theft Receipts

- (1) Centralized Lien Operation refers all cases regarding identity theft to the function currently controlling the case.
 - a. Status Code 26 - to the requesting field employee
 - b. Status Code 71 - to the appropriate OIC Unit
 - c. Status Code 72 where the last TC 520 on module is cc 70, 71, 73, 74, 75, 80 or 82 - to the appropriate Advisory office

Note: TC 520 cc 71 - 74 are cases generally assigned to either Exam or Counsel.

Note: TC 520 cc 76 and 77 are cases assigned to Appeals.

- d. Status Code 72 where the last TC 520 on the module is cc 76 or 77 - to the appropriate Appeals office
- e. Status Code 72 where the last TC 520 on module is cc 60-67, 81, 83-89 - to the Centralized Insolvency Office
- f. Innocent Spouse - identified by MFT 31, TC 971, AC 104 - if appropriate, to the Innocent Spouse Unit
- g. Cases no longer in inventory are referred to the Advisory office where the taxpayer resides.

- (2) CLO documents the referral in the ALS history, including the date the referral is made, the status and name of the employee or office where the referral was forwarded.
- (3) These are all the actions CLO is required to take. The referred function identified by CLO takes over and will follow the instructions in IRM 5.12.11.2.2, *Recorded NFTLs*, IRM 5.1.28, *Identity Theft for Collection Employees*, and/or any associated Interim Guidance.

5.12.11.3
(10-14-2013)
Return Preparer Misconduct

- (1) Return Preparer Misconduct can occur when a tax return preparer completes a return for a taxpayer and, without the taxpayer's knowledge, makes changes to the return, which results in an improper refund to the preparer or a third party. Taxpayers may not know there is an issue until the IRS contacts them about the return well after refunds have been issued. See also IRM 25.24.4, *Return Preparer Misconduct Field Collection*.
- (2) If a taxpayer alleges that this type of misconduct has occurred and a NFTL determination is or needs to be made, defer the filing determination until the circumstances are clarified. Taxpayers can report this activity on a Form 14157, Return Preparer Complaint, accompanied by a Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit.
- (3) If return preparer misconduct is confirmed and a NFTL has been filed, follow the instructions in IRM 5.12.3.9, *Erroneously Filed Notice of Federal Tax Lien*, to initiate an erroneous lien release.

5.12.11.4
(10-14-2013)
Procedures for Natural Disasters and NFTL Filing

- (1) A major disaster is defined as any natural catastrophe in any part of the United States which causes sufficient damage to warrant major disaster assistance. Disasters may also be caused by terrorist or military action. Throughout the IRM, the term disaster encompasses all of the above causes. When a disaster or other emergency occurs and if the situation is beyond the capabilities of local and state authorities, the Governor may request that the President declare a "major disaster" or an "emergency". IRM 25.16.1, *Disaster Assistance and Emergency Relief, Program Guidelines*, contains an overview and service-wide disaster policies. Field Collection guidelines can be found in IRM 5.1.12.2, *Collection Relief for Taxpayers Impacted by a Disaster*.
 - Also see the SBSE web page *Disaster Tax Relief SharePoint for Collection* (https://irs.gov.sharepoint.com/sites/SbCHqCp_GSCDisasterPgm).

- Taxpayers can be directed to the IRS.gov page *Disaster Assistance* (<https://www.irs.gov/businesses/small-businesses-self-employed/disaster-assistance-and-emergency-relief-for-individuals-and-businesses>).

- (2) Collection Policy will simultaneously notify the CLO Program Manager as well as Compliance Services Operations when disaster procedures are implemented prior to a nationwide notification and will provide zip codes based on information obtained from master file and the Headquarters disaster recovery analyst.
- (3) The printing of the NFTL triggers the issuance of CDP notices. When the impact of the disaster may affect postal services, Policy may elect to stop the issuance of lien documents until a postal delivery determination is made. These procedures will be implemented as needed.
- (4) Functional Coordinators will input the appropriate state or zip codes into ALS to ensure that NFTLs are not created.
- (5) Collection Policy will simultaneously notify CLO and Operations when to resume NFTL generation. This decision will be based on the disaster provisions used nationwide (See IRM 25.16.1).

5.12.11.5 (10-14-2013)

Procedures for an Automated Lien System Disaster

- (1) The following procedures will **only** be followed if there is an ALS disaster (the database is not available), as identified by headquarters personnel, lasting three days or more, and when the recording offices are not impacted. Lien documents will not be filed in electronic filing courts without contingency plans, (i.e., New York City boroughs and US District Court, Boston, MA).
- (2) Lien documents will be prepared for jeopardy/termination or hardship situations.
- (3) Revenue officers and advisors will:
 - a. Use ICS template forms to prepare lien documents.
 - b. Create a SLID using the area/group/territory/employee TSIGN, then sequential numbering, e.g., 2110999901.
 - c. File documents locally, when appropriate.
 - d. Attach prepared documents to Form 3210 for lien documents requiring filing in other areas and secure e-mail a request to file the document after determining the appropriate group. The receiving group will file the lien document and return recording information to the requesting employee within 7 calendar days.
 - e. Post transaction codes TC 582 to set *lien filed* indicator and TC 360 with the appropriate filing fee.
 - f. Document case histories, including the date forwarded to CLO and the serial number from (3)(b).
 - g. Secure e-mail CLO copies of **recorded** documents.
- (4) Employees without ICS access will use the Intranet fillable forms to prepare lien documents. Requests will be secure emailed to CLO. The procedures outlined in (3)(a) through (3)(g) will be followed.

- (5) When an NFTL is issued, the appropriate collection due process notice with enclosures will be prepared and mailed by requesting employees. Certified or registered mail will be used when appropriate. Issue one of the following notices:
 - a. Letter 3172, *Notice of Federal Tax Lien Filing and Your Rights to a Hearing Under IRC 6320*,
 - b. Letter 3171, *Notice of Federal Tax Lien Additional Filing*,
 - c. Letter 3177, *Special Condition Notice of Federal Tax Lien Filing - Third Party*,
 - d. Letter 3527, *Notice of Federal Tax Lien Filing - Child Support Obligation*,
 - e. Letter 3886, *Special Condition Notice of Federal Tax Lien Filing - Taxpayer*.
- (6) Employees will document case histories with NFTL filing or release request information. Include sufficient information to identify the request.
- (7) When ALS production resumes, CLO will input these documents to the database using *Screate* from documents provided by the requesting employee.

