

not completed performance of his obligation, such as the consideration in an installment purchase contract, even though the purchaser has not completed the installment payments.

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example 1. A enters into a contract for the purchase of a house and lot from B. Under the terms of the contract A makes a down payment and is to pay the balance of the purchase price in 120 monthly installments. After payment of the last installment, A is to receive a deed to the property. A enters into possession, which under local law protects his interest in the property against subsequent purchasers without actual notice. After A has paid five monthly installments, a notice of lien for Federal taxes is filed against B in accordance with § 301.6323(f)-1. Because the contract is an executory contract to purchase property and is valid under local law against subsequent purchasers without actual notice, A qualifies as a purchaser under this paragraph.

Example 2. C owns a residence which he leases to his son-in-law, D, for a period of 5 years commencing January 1, 1968. The lease provides for payment of \$100 a year, although the fair rental value of the residence is \$2,500 a year. The lease is recorded on December 31, 1967. On March 1, 1968, a notice of tax lien for unpaid Federal taxes of C is filed in accordance with § 301.6323(f)-1. Under local law, D's interest is protected against subsequent purchasers without actual notice. However, because the rental paid by D has no reasonable relationship to the value of the interest in property acquired, D does not qualify as a purchaser under this paragraph.

(g) *Judgment lien creditor.* The term "judgment lien creditor" means a person who has obtained a valid judgment, in a court of record and of competent jurisdiction, for the recovery of specifically designated property or for a certain sum of money. In the case of a judgment for the recovery of a certain sum of money, a judgment lien creditor is a person who has perfected a lien under the judgment on the property involved. A judgment lien is not perfected until the identity of the lienor, the property subject to the lien, and the amount of the lien are established. Accordingly, a judgment lien does not include an attachment or garnishment lien until the lien has ripened into judgment, even though under local law the lien of the judgment relates back to an earlier date. If recording or dock-

eting is necessary under local law before a judgment becomes effective against third parties acquiring liens on real property, a judgment lien under such local law is not perfected with respect to real property until the time of such recordation or docketing. If under local law levy or seizure is necessary before a judgment lien becomes effective against third parties acquiring liens on personal property, then a judgment lien under such local law is not perfected until levy or seizure of the personal property involved. The term "judgment" does not include the determination of a quasi-judicial body or of an individual acting in a quasi-judicial capacity such as the action of State taxing authorities.

[T.D. 7429, 41 FR 35511, Aug. 23, 1976]

§ 301.6323(i)-1 Special rules.

(a) *Actual notice or knowledge.* For purposes of subchapter C (section 6321 and following), chapter 64 of the Code, an organization is deemed, in any transaction, to have actual notice or knowledge of any fact from the time the fact is brought to the attention of the individual conducting the transaction, and in any event from the time the fact would have been brought to the individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(b) *Subrogation—(1) In general.* Where, under local law, one person is subrogated to the rights of another with respect to a lien or interest, such person shall be subrogated to such rights for purposes of any lien imposed by section 6321 or 6324. Thus, if a tax lien imposed by section 6321 or 6324 is not valid with respect to a particular interest as against the holder of that interest, then the tax lien also is not valid

with respect to that interest as against any person who, under local law, is a successor in interest to the holder of that interest.

(2) *Example.* The application of this paragraph may be illustrated by the following example:

Example. On February 1, 1968, an assessment is made and a tax lien arises with respect to A's delinquent tax liability. On February 25, 1968, in accordance with § 301.6323(f)-1, a notice of lien is properly filed. On March 1, 1968, A negotiates a loan from B, the security for which is a second mortgage on property owned by A. The first mortgage on the property is held by C and has priority over the tax lien. Upon default by A, C begins proceedings to foreclose upon the first mortgage. On September 1, 1968, B pays the amount of principal and interest in default to C in order to protect the second mortgage against the pending foreclosure of C's senior mortgage. Under local law, B is subrogated to C's rights to the extent of the payment to C. Therefore, the tax lien is invalid against B to the extent he became subrogated to C's rights even though the tax lien is valid against B's second mortgage on the property.

(c) *Disclosure of amount of outstanding lien.* If a notice of lien has been filed (see § 301.6323(f)-1), the amount of the outstanding obligation secured by the lien is authorized to be disclosed as a matter of public record on Form 668 "Notice of Federal Tax Lien Under Internal Revenue Laws." The amount of the outstanding obligation secured by the lien remaining unpaid at the time of an inquiry is authorized to be disclosed to any person who has a proper interest in determining this amount. Any person who has a right in the property or intends to obtain a right in the property by purchase or otherwise will, upon presentation by him of satisfactory evidence be considered to have a proper interest. Any person desiring this information may make his request to the office of the Internal Revenue Service named on the notice of lien with respect to which the request is made. The request should clearly describe the property subject to the lien, identify the applicable lien, and give the reasons for requesting the information.

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§ 301.6323(j)-1 Withdrawal of notice of federal tax lien in certain circumstances.

(a) *In general.* The Commissioner or his delegate (Commissioner) may withdraw a notice of federal tax lien filed under this section, if the Commissioner determines that any of the conditions in paragraph (b) of this section exist. A notice of federal tax lien is withdrawn by the filing by the Commissioner of a notice of withdrawal in the office in which the notice of federal tax lien is filed. If a notice of withdrawal is filed, chapter 64 of subtitle F, relating to collection, will be applied as if the withdrawn notice had never been filed. A copy of the notice of withdrawal will be provided to the taxpayer. Upon written request by a taxpayer with respect to whom a notice of federal tax lien has been or will be withdrawn, the Commissioner will promptly make reasonable efforts to notify any credit reporting agency and any financial institution or creditor identified by the taxpayer of the withdrawal of such notice. The withdrawal of a notice of federal tax lien will not affect the underlying federal tax lien.

(b) *Conditions authorizing withdrawal.* The Commissioner may authorize the withdrawal of a notice of federal tax lien upon determining that one of the following conditions exists:

(1) *Premature or not in accordance with administrative procedures.* The filing of the notice of federal tax lien was premature or otherwise not in accordance with the administrative procedures of the Secretary.

(2) *Installment agreement.* The taxpayer has entered into an agreement under section 6159 to satisfy the liability for which the lien was imposed by means of installment payments. Entry into an installment agreement may not, however, be the basis for withdrawal of a notice of lien if the installment agreement specifically provides that a notice of federal tax lien will not be withdrawn.

(3) *Facilitate collection.* The withdrawal of the notice of federal tax lien will facilitate the collection of the tax liability for which the lien was imposed.

(4) *Best interests of the United States and the taxpayer*—(1) *In general.* The