

112TH CONGRESS
1ST SESSION

S. 1390

To amend the Internal Revenue Code of 1986 to simplify, modernize, and improve public notice of and access to tax lien information by providing for a national, Internet accessible, filing system for Federal tax liens, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 20 (legislative day, JULY 19), 2011

Mr. LEVIN (for himself and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to simplify, modernize, and improve public notice of and access to tax lien information by providing for a national, Internet accessible, filing system for Federal tax liens, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This title may be cited as the “Tax Lien Simplifica-
5 tion Act”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress makes the following find-
3 ings:

4 (1) The present decentralized system for filing
5 Federal tax liens in local property offices, which was
6 established before the advent of modern computers,
7 the Internet, and e-government programs, is ineffi-
8 cient, burdensome, and expensive.

9 (2) Current technology permits the creation of
10 a centralized Federal tax lien filing system which
11 can provide for enhanced public notice of and access
12 to accurate tax lien information in a manner that is
13 more efficient, more timely, and less burdensome
14 than the existing tax lien filing system; which would
15 expedite the release of liens; and which would be less
16 expensive for both taxpayers and users.

17 (b) PURPOSE.—The purpose of this Act is to simplify
18 and modernize the process for filing notices of Federal tax
19 liens, to improve public access to tax lien information, and
20 to save taxpayer dollars by establishing a nationwide,
21 Internet accessible, and fully searchable filing system for
22 Federal tax liens which would replace the current system
23 of local tax lien filings.

1 **SEC. 3. NATIONAL TAX LIEN FILING SYSTEM.**

2 (a) FILING OF NOTICE OF LIEN.—Subsection (f) of
3 section 6323 of the Internal Revenue Code of 1986 is
4 amended to read as follows:

5 “(f) FILING OF NOTICE; FORM.—

6 “(1) FILING OF NOTICE.—The notice referred
7 to in subsection (a) shall be filed in the Federal tax
8 lien registry operated under subsection (k). The fil-
9 ing of a notice of lien, or a certificate of release, dis-
10 charge, subordination, or nonattachment of lien, or
11 a notice of withdrawal of a notice of lien, in the Fed-
12 eral tax lien registry shall be effective for purposes
13 of determining lien priority regardless of the nature
14 or location of the property interest to which the lien
15 attaches.

16 “(2) FORM.—The form and content of the no-
17 tice referred to in subsection (a) shall be prescribed
18 by the Secretary. Such notice shall be valid notwith-
19 standing any other provision of law regarding the
20 form or content of a notice of lien.

21 “(3) OTHER NATIONAL FILING SYSTEMS.—
22 Once the Federal tax lien registry is operational
23 under subsection (k), the filing of a notice of lien
24 shall be governed by this title and shall not be sub-
25 ject to any other Federal law establishing a place or

1 places for the filing of liens or encumbrances under
2 a national filing system.”.

3 (b) REFILEING OF NOTICE.—Paragraph (2) of section
4 6323(g) of the Internal Revenue Code of 1986 is amended
5 to read as follows:

6 “(2) REFILEING.—A notice of lien may be refiled
7 in the Federal tax lien registry operated under sub-
8 section (k).”.

9 (c) RELEASE OF TAX LIENS OR DISCHARGE OF
10 PROPERTY.—

11 (1) IN GENERAL.—Section 6325(a) of the In-
12 ternal Revenue Code of 1986 is amended by insert-
13 ing “, and shall cause the certificate of release to be
14 filed in the Federal tax lien registry operated under
15 section 6323(k),” after “internal revenue tax”.

16 (2) RELEASE OF TAX LIENS EXPEDITED FROM
17 30 TO 20 DAYS.—Section 6325(a) of such Code is
18 amended by striking “not later than 30 days” and
19 inserting “not later than 20 days”.

20 (3) DISCHARGE OF PROPERTY FROM LIEN.—
21 Section 6325(b) of such Code is amended—

22 (A) by inserting “, and shall cause the cer-
23 tificate of discharge to be filed in the Federal
24 tax lien registry operated under section

1 6323(k),” after “under this chapter” in para-
2 graph (1),

3 (B) by inserting “, and shall cause the cer-
4 tificate of discharge to be filed in such Federal
5 tax lien registry,” after “property subject to the
6 lien” in paragraph (2),

7 (C) by inserting “, and shall cause the cer-
8 tificate of discharge to be filed in such Federal
9 tax lien registry,” after “property subject to the
10 lien” in paragraph (3), and

11 (D) by inserting “, and shall cause the cer-
12 tificate of discharge of property to be filed in
13 such Federal tax lien registry,” after “certifi-
14 cate of discharge of such property” in para-
15 graph (4).

16 (4) DISCHARGE OF PROPERTY FROM ESTATE
17 OR GIFT TAX LIEN.—Section 6325(c) of such Code
18 is amended by inserting “, and shall cause the cer-
19 tificate of discharge to be filed in the Federal tax
20 lien registry operated under section 6323(k),” after
21 “imposed by section 6324”.

22 (5) SUBORDINATION OF LIEN.—Section
23 6325(d) of such Code is amended by inserting “,
24 and shall cause the certificate of subordination to be

1 filed in the Federal tax lien registry operated under
2 section 6323(k),” after “subject to such lien”.

3 (6) NONATTACHMENT OF LIEN.—Section
4 6325(e) of such Code is amended by inserting “, and
5 shall cause the certificate of nonattachment to be
6 filed in the Federal tax lien registry operated under
7 section 6323(k),” after “property of such person”.

8 (7) EFFECT OF CERTIFICATE.—Paragraphs (1)
9 and (2)(B) of section 6325(f) of such Code are each
10 amended by striking “in the same office as the no-
11 tice of lien to which it relates is filed (if such notice
12 of lien has been filed)” and inserting “in the Federal
13 tax lien registry operated under section 6323(k)”.

14 (8) RELEASE FOLLOWING ADMINISTRATIVE AP-
15 PEAL.—Section 6326(b) of such Code is amended—

16 (A) by striking “and shall include” and in-
17 sert “, shall include”, and

18 (B) by inserting “, and shall cause the cer-
19 tificate of release to be filed in the Federal tax
20 lien registry operated under section 6323(k),”
21 after “erroneous”.

22 (9) WITHDRAWAL OF NOTICE.—Section
23 6323(j)(1) of such Code is amended by striking “at
24 the same office as the withdrawn notice” and insert-

1 ing “in the Federal tax lien registry operated under
2 section 6323(k)”.

3 (10) CONFORMING AMENDMENTS.—Section
4 6325 of such Code is amended by striking sub-
5 section (g) and by redesignating subsection (h) as
6 subsection (g).

7 (d) FEDERAL TAX LIEN REGISTRY.—Section 6323
8 of the Internal Revenue Code of 1986 is amended by add-
9 ing at the end the following new subsection:

10 “(k) FEDERAL TAX LIEN REGISTRY.—

11 “(1) IN GENERAL.—The Federal tax lien reg-
12 istry operated under this subsection shall be estab-
13 lished and maintained by the Secretary and shall be
14 accessible to and searchable by the public through
15 the Internet at no cost to access or search. The reg-
16 istry shall identify the taxpayer to whom the Federal
17 tax lien applies and reflect the date and time the no-
18 tice of lien was filed, and shall be made searchable
19 by, at a minimum, taxpayer name, the State of the
20 taxpayer’s address as shown on the notice of lien,
21 the type of tax, and the tax period. The registry
22 shall also provide for the filing of certificates of re-
23 lease, discharge, subordination, and nonattachment
24 of Federal tax liens, as authorized in sections 6325
25 and 6326, and may provide for publishing such

1 other documents or information with respect to Fed-
2 eral tax liens as the Secretary may by regulation
3 provide under paragraph (2)(C).

4 “(2) ADMINISTRATIVE ACTION.—

5 “(A) IN GENERAL.—The Secretary shall
6 issue regulations or other guidance providing
7 for the maintenance, reliability, accessibility,
8 and use of the Federal tax lien registry estab-
9 lished under paragraph (1). Such regulations or
10 guidance shall address, among other matters,
11 issues related to periods during which the reg-
12 istry may be unavailable for use due to routine
13 maintenance or other activities.

14 “(B) FEES.—The Secretary may charge a
15 taxpayer’s account with a reasonable filing fee
16 for each notice of lien and each related certifi-
17 cate, notice, or other filing recorded in the Fed-
18 eral tax lien registry with respect to such tax-
19 payer, in an amount determined by the Sec-
20 retary to be sufficient to defray the costs of op-
21 erating the registry. The Secretary may also
22 charge a reasonable fee to any person who re-
23 quests and receives under section 6323(d)(1)
24 information or a certified copy of a filing in the

1 Federal tax lien registry to defray the costs of
2 providing such information or copies.

3 “(C) FILING OF OTHER ITEMS ON REG-
4 ISTRY.—The Secretary may, by regulation, pro-
5 vide for the filing of items on the registry other
6 than Federal tax liens, including criminal fine
7 judgments under section 3613 of title 18,
8 United States Code, and civil judgments under
9 section 3201 of such title, if the Secretary de-
10 termines that it would be useful and appro-
11 priate to do so.”.

12 (e) CERTIFIED COPIES OF INFORMATION FROM REG-
13 ISTRY.—Section 6323 of the Internal Revenue Code of
14 1986, as amended by subsection (d), is amended by adding
15 at the end the following new subsection:

16 “(1) CERTIFIED COPIES OF INFORMATION FROM
17 FEDERAL REGISTRY.—The Secretary shall make available
18 in a certificate that can be admitted into evidence in the
19 courts of the United States without extrinsic evidence of
20 its authenticity the following information to any person
21 that submits a request in a form specified by the Sec-
22 retary:

23 “(1) Whether there is on file in the Federal tax
24 lien registry operated under subsection (k) at a date
25 and time specified by the Secretary, but not a date

1 earlier than 3 days before the creation of the certifi-
2 cate, any notice of a lien that—

3 “(A) designates a particular taxpayer,

4 “(B) has not been fully satisfied, become
5 legally unenforceable, or been released or with-
6 drawn, and

7 “(C) if the request so states, has been fully
8 satisfied, become legally unenforceable, or been
9 released or withdrawn, and a record of which is
10 maintained on the registry at the time of filing
11 of the request,

12 “(2) the date and time of filing of and the in-
13 formation provided in each notice of lien, and

14 “(3) if the request so states, the date and time
15 of filing of and the information provided in each cer-
16 tificate of release, discharge, subordination, or non-
17 attachment and each notice of withdrawal recorded
18 in the registry with respect to each notice of lien.”.

19 (f) EFFECTIVE DATE; IMPLEMENTATION OF REG-
20 ISTRY.—

21 (1) EFFECTIVE DATE.—The amendments made
22 by this section shall take effect on the date deter-
23 mined by the Secretary of the Treasury under para-
24 graph (2)(E) and, except as provided in paragraph

1 (2)(F), shall apply to notices of liens filed after such
2 date.

3 (2) IMPLEMENTATION OF FEDERAL TAX LIEN
4 REGISTRY.—

5 (A) PILOT PROJECT.—Prior to the imple-
6 mentation of the Federal tax lien registry under
7 section 6323(k)(1) of the Internal Revenue
8 Code of 1986 (as added by this section), the
9 Secretary of the Treasury, or the Secretary's
10 delegate, shall conduct and shall complete by
11 not later than 2 years after the date of the en-
12 actment of this Act 1 or more pilot projects to
13 test the accessibility, reliability, and effective-
14 ness of the electronic systems designed to oper-
15 ate the registry.

16 (B) GAO REVIEW.—Within 3 months after
17 the completion of such a pilot project, the Gov-
18 ernment Accountability Office shall provide a
19 written evaluation of the project results and
20 provide such evaluation to the Secretary of the
21 Treasury, the Commissioner of Internal Rev-
22 enue, and appropriate committees in Congress.
23 The Secretary and Commissioner shall cooper-
24 ate with, and provide information requested by,
25 the Government Accountability Office to enable

1 the evaluation to be completed by the date spec-
2 ified.

3 (C) NATIONWIDE TEST.—Upon the com-
4 pletion of 1 or more such pilot projects and
5 after making a determination that the elec-
6 tronic systems designed to operate the Federal
7 tax lien registry are sufficiently accessible, reli-
8 able, and effective, the Secretary of the Treas-
9 ury, or the Secretary’s delegate, shall conduct a
10 nationwide test of the Federal tax lien registry
11 to evaluate its capabilities and functionality.

12 (D) DATA PROTECTION.—Prior to the im-
13 plementation of such registry, the Secretary of
14 the Treasury, or the Secretary’s delegate, shall
15 take appropriate steps to—

16 (i) secure and prevent tampering with
17 the data recorded in the registry,

18 (ii) review the information currently
19 provided in public lien filings and deter-
20 mine whether any such information should
21 be excluded or protected from public view-
22 ing in such registry, and

23 (iii) develop a system, after consulta-
24 tion with the States, industry, and other
25 interested parties, and after consideration

1 of search criteria developed for other public
2 filing systems including Article 9 of the
3 Uniform Commercial Code, that will enable
4 users of the registry, when examining tax
5 lien information for a taxpayer with a com-
6 mon name, to identify through reasonable
7 efforts the specific person to whom such
8 tax lien relates.

9 (E) DECLARATION OF REGISTRY EFFEC-
10 TIVE DATE.—Upon the successful completion of
11 a nationwide test of the Federal tax lien reg-
12 istry system, the Secretary of the Treasury
13 shall determine and announce publicly a date
14 upon which the registry shall take effect and
15 become operational.

16 (F) ORDERLY TRANSITION.—In order to
17 permit an orderly transition to the Federal tax
18 lien registry, the Secretary of the Treasury may
19 by regulation prescribe for the continued filing
20 of notices of Federal tax liens in the offices of
21 the States, counties, and other governmental
22 subdivisions after the determination of an effec-
23 tive date under subparagraph (E) under the
24 provisions of section 6323(f) as in effect before

- 1 such effective date, for an appropriate period
- 2 not to exceed 2 years after such effective date.

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