

§ 70.141

spirits, wine, and beer; and part 46 of this chapter, relating to tobacco products, and cigarette papers and tubes.

(26 U.S.C. 6416 and 6423)

[T.D. ATF-331, 57 FR 40328, Sept. 3, 1992, as amended by T.D. ATF-457, 66 FR 32219, June 14, 2001; T.D. ATF-462, 66 FR 42737, Aug. 15, 2001]

LIEN FOR TAXES

SOURCE: Sections 70.141 through 70.151 added by T.D. ATF-301, 55 FR 47616, Nov. 14, 1990, unless otherwise noted.

§ 70.141 Lien for taxes.

If any person liable to pay any tax under provisions of 26 U.S.C. enforced and administered by the Bureau neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, tangible or intangible, belonging to such person. The lien attaches to all property and rights to property belonging to such person at any time during the period of the lien, including any property or rights to property acquired by such person after the lien arises. Solely for purposes of this section and §§ 70.161 and 70.162 of this part, any interest in restricted land held in trust by the United States for an individual noncompetent Indian (and not for a tribe) shall not be deemed to be property, or a right to property, belonging to such Indian.

(26 U.S.C. 6321)

§ 70.142 Scope of definitions.

Except as otherwise provided by § 70.143 of this part, the definitions provided by §§ 70.143 apply for purposes of § 70.142 through 70.149 and §§ 70.231 through 70.234 of this part.

§ 70.143 Definitions.

(a) *Security interest*—(1) *In general.* The term *security interest* means any interest in property acquired by contract for the purpose of securing payment or performance of an obligation or indem-

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nifying against loss or liability. A security interest exists at any time:

(i) If, at such time, the property is in existence and the interest has become protected under local law against a subsequent judgment lien (as provided in paragraph (a)(2) of this section) arising out of an unsecured obligation; and

(ii) To the extent that, at such time, the holder has parted with money or money's worth (as defined in paragraph (a)(3) of this section). For purposes of paragraph (a)(1) of this section, a contract right (as defined in § 70.232(c)(2)(i) of this part) is in existence when the contract is made. An account receivable (as defined in § 70.232(c)(2)(ii) of this part) is in existence when, and to the extent, a right to payment is earned by performance. A security interest must be in existence, within the meaning of paragraph (a) of this section, at the time as of which its priority against a tax lien is determined. For example, to be afforded priority under the provisions of § 70.145(a) of this part, a security interest must be in existence within the meaning of paragraph (a) of this section before a notice of lien is filed.

(2) *Protection against a subsequent judgment lien.* For purposes of paragraph (a) of this section, a security interest is deemed to be protected against a subsequent judgment lien on:

(i) The date on which all actions required under local law to establish the priority of a security interest against a judgment lien have been taken, or

(ii) If later, the date on which all required actions are deemed effective, under local law, to establish the priority of the security interest against a judgment lien.

For purposes of paragraph (a)(2) of this section, the dates described in paragraphs (a)(2) (i) and (ii) of this section shall be determined without regard to any rule or principle of local law which permits the relation back or the making of any requisite action retroactive to a date earlier than the date on which the action is actually performed. For purposes of paragraph (a) of this section, a judgment lien is a lien held by a judgment lien creditor as defined in paragraph (g) of this section.

(3) *Money or money's worth.* For purposes of paragraph (a) of this section,