

110TH CONGRESS
1ST SESSION

S. 2394

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

NOVEMBER 16, 2007

Mr. COLEMAN (for himself and Ms. COLLINS) 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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Good Government Contractor Act of 2007”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

5 **SEC. 2. REPEAL OF IMPOSITION OF WITHHOLDING ON CER-**
 6 **TAIN PAYMENTS MADE TO VENDORS BY GOV-**
 7 **ERNMENT ENTITIES.**

8 The amendment made by section 511 of the Tax In-
 9 crease Prevention and Reconciliation Act of 2005 is re-
 10 pealed and the Internal Revenue Code of 1986 shall be
 11 applied as if such amendment had never been enacted.

12 **SEC. 3. FAR CONTRACTOR QUALIFICATIONS.**

13 (a) IN GENERAL.—Not later than 180 days after the
 14 date of the enactment of this Act, the Civilian Agency Ac-
 15 quisition Council and the Defense Acquisition Regulations
 16 Council shall amend the Federal Acquisition Regulation
 17 issued under sections 6 and 25 of the Office of Federal
 18 Procurement Policy Act (41 U.S.C. 405 and 421) to pro-
 19 vide that for a prospective contractor to be determined re-
 20 sponsible, such contractor must not have any tax debt.

21 (b) TAX DEBT.—For purposes of this section, the
 22 term “tax debt” means an outstanding debt under the In-
 23 ternal Revenue Code of 1986 which has not been paid
 24 within 180 days after an assessment of a tax, penalty, or
 25 interest and which is not subject to further appeal or a

1 petition for redetermination under such Code. Such term
 2 does not include a debt that is being paid in a timely man-
 3 ner pursuant to an agreement under section 6159 or sec-
 4 tion 7122 of such Code.

5 **SEC. 4. FINAL RULE PROMULGATION.**

6 Not later than 180 days after the date of the enact-
 7 ment of this Act, the Civilian Agency Acquisition Council
 8 and the Defense Acquisition Regulations Council shall
 9 make final the proposed rule FAR Case 2006–011 (Rep-
 10 resentations and Certifications—Tax Delinquency).

11 **SEC. 5. NATIONAL TAX LIEN FILING SYSTEM.**

12 (a) FILING OF NOTICE OF LIEN.—Subsection (f) of
 13 section 6323 (relating to validity and priority against cer-
 14 tain persons) is amended to read as follows:

15 “(f) FILING OF NOTICE; FORM.—

16 “(1) FILING OF NOTICE.—The notice referred
 17 to in subsection (a) shall be filed in the national
 18 Federal tax lien registry established under sub-
 19 section (k). The filing of a notice of lien, or a certifi-
 20 cate of release, discharge, subordination, or non-
 21 attachment of lien, in the national Federal tax lien
 22 registry shall be effective for purposes of deter-
 23 mining lien priority regardless of the nature or loca-
 24 tion of the property interest to which the lien at-
 25 taches.

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

6 “(3) OTHER NATIONAL FILING SYSTEMS.—The
 7 filing of a notice of lien shall be governed by this
 8 title and shall not be subject to any other Federal
 9 law establishing a place or places for the filing of
 10 liens or encumbrances under a national filing sys-
 11 tem.”.

12 (b) REFILING OF NOTICE.—Paragraph (2) of section
 13 6323(g) (relating to refiling of notice) is amended to read
 14 as follows:

15 “(2) REFILING.—A notice of lien may be refiled
 16 in the national Federal tax lien registry established
 17 under subsection (k).”.

18 (c) RELEASE OF TAX LIENS OR DISCHARGE OF
 19 PROPERTY.—

20 (1) IN GENERAL.—Section 6325(a) (relating to
 21 release of lien) is amended by inserting “, and shall
 22 cause the certificate of release to be filed in the na-
 23 tional Federal tax lien registry established under
 24 section 6323(k),” after “internal revenue tax”.

1 (2) RELEASE OF TAX LIENS EXPEDITED FROM
2 30 TO 10 DAYS.—Section 6325(a) (relating to release
3 of lien) is amended by striking “not later than 30
4 days” and inserting “not later than 10 days”.

5 (3) DISCHARGE OF PROPERTY FROM LIEN.—
6 Section 6325(b) (relating to discharge of property)
7 is amended—

8 (A) by inserting “, and shall cause the cer-
9 tificate of discharge to be filed in the national
10 Federal tax lien registry established under sec-
11 tion 6323(k),” after “under this chapter” in
12 paragraph (1),

13 (B) by inserting “, and shall cause the cer-
14 tificate of discharge to be filed in such national
15 Federal tax lien registry,” after “property sub-
16 ject to the lien” in paragraph (2),

17 (C) by inserting “, and shall cause the cer-
18 tificate of discharge to be filed in such national
19 Federal tax lien registry,” after “property sub-
20 ject to the lien” in paragraph (3), and

21 (D) by inserting “, and shall cause the cer-
22 tificate of discharge of property to be filed in
23 such national Federal tax lien registry,” after
24 “certificate of discharge of such property” in
25 paragraph (4).

1 (4) DISCHARGE OF PROPERTY FROM ESTATE
 2 OR GIFT TAX LIEN.—Section 6325(c) (relating to es-
 3 tate or gift tax) is amended by inserting “, and shall
 4 cause the certificate of discharge to be filed in the
 5 national Federal tax lien registry established under
 6 section 6323(k),” after “imposed by section 6324”.

7 (5) SUBORDINATION OF LIEN.—Section
 8 6325(d) (relating to subordination of lien) is amend-
 9 ed by inserting “, and shall cause the certificate of
 10 subordination to be filed in the national Federal tax
 11 lien registry established under section 6323(k),”
 12 after “subject to such lien”.

13 (6) NONATTACHMENT OF LIEN.—Section
 14 6325(e) (relating to nonattachment of lien) is
 15 amended by inserting “, and shall cause the certifi-
 16 cate of nonattachment to be filed in the national
 17 Federal tax lien registry established under section
 18 6323(k),” after “property of such person”.

19 (7) EFFECT OF CERTIFICATE.—Paragraphs (1)
 20 and (2)(B) of section 6325(f) (relating to effect of
 21 certificate) are each amended by striking “in the
 22 same office as the notice of lien to which it relates
 23 is filed (if such notice of lien has been filed)” and
 24 inserting “in the national Federal tax lien registry
 25 established under section 6323(k)”.

1 (8) RELEASE FOLLOWING ADMINISTRATIVE AP-
 2 PEAL.—Section 6326(b) (relating to certificate of re-
 3 lease) is amended—

4 (A) by striking “and shall include” and in-
 5 sert “, shall include”, and

6 (B) by inserting “, and shall cause the cer-
 7 tificate of release to be filed in the national
 8 Federal tax lien registry established under sec-
 9 tion 6323(k),” after “erroneous”.

10 (9) CONFORMING AMENDMENTS.—Section 6325
 11 is amended by striking subsection (g) and by redes-
 12 ignating subsection (h) as subsection (g).

13 (d) NATIONAL FEDERAL TAX LIEN REGISTRY.—

14 (1) IN GENERAL.—Section 6323 is amended by
 15 adding at the end the following new subsection:

16 “(k) NATIONAL REGISTRY.—The national Federal
 17 tax lien registry referred to in subsection (f)(1) shall be
 18 established and maintained by the Secretary and shall be
 19 accessible to and searchable by the public through the
 20 Internet at no cost to access or search. The registry shall
 21 identify the taxpayer to whom the Federal tax lien applies
 22 and reflect the date and time the notice of lien was filed,
 23 and shall be made searchable by, at a minimum, taxpayer
 24 name, the State of the taxpayer’s address as shown on
 25 the notice of lien, the type of tax, and the tax period, and,

1 when the Secretary determines it is feasible, by property.
2 The registry shall also provide for the filing of certificates
3 of release, discharge, subordination, and nonattachment of
4 Federal tax liens, as authorized in sections 6325 and
5 6326, and may provide for publishing such other docu-
6 ments or information with respect to Federal tax liens as
7 the Secretary may by regulation provide.”.

8 (2) ADMINISTRATIVE ACTION.—The Secretary
9 of the Treasury shall issue regulations or other guid-
10 ance providing for the maintenance and use of the
11 national Federal tax lien registry established under
12 section 6323(k) of the Internal Revenue Code of
13 1986. The Secretary of the Treasury shall take ap-
14 propriate steps to secure and prevent tampering with
15 the data recorded therein. Prior to implementation
16 of such registry, the Secretary of the Treasury shall
17 review the information currently provided in public
18 lien filings and determine whether any such informa-
19 tion should be excluded or protected from public
20 viewing in such registry.

21 (e) TRANSITION RULES.—The Secretary of the
22 Treasury may by regulation prescribe for the continued
23 filing of notices of Federal tax lien in the offices of the
24 States, counties and other governmental subdivisions after
25 December 31, 2008, for an appropriate period to permit

1 an orderly transition to the national Federal tax lien reg-
2 istry established under section 6323(k) of the Internal
3 Revenue Code of 1986.

4 (f) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to notices of lien filed after Decem-
6 ber 31, 2008. The national Federal tax lien registry (es-
7 tablished under section 6323(k) of the Internal Revenue
8 Code of 1986) shall be made operational as of January
9 1, 2009, whether or not the Secretary of the Treasury has
10 promulgated final regulations establishing such registry.

11 **SEC. 6. FEDERAL TAX CONVICTION DATABASE.**

12 (a) IN GENERAL.—The Attorney General of the
13 United States shall establish and maintain a database con-
14 taining the names of individuals and entities with convic-
15 tions for Federal tax offenses under the Internal Revenue
16 Code of 1986. Such database shall be accessible and
17 searchable by the head of any Federal agency for purposes
18 of verifying information provided by prospective contrac-
19 tors.

20 (b) ADMINISTRATIVE ACTION.—The Attorney Gen-
21 eral shall issue regulations or other guidance providing for
22 the maintenance and use of the database established
23 under subsection (a). The Attorney General shall take ap-
24 propriate steps to secure and prevent tampering with the
25 data recorded therein.

1 **SEC. 7. REQUIRED ACCESS TO REGISTRY AND DATABASE.**

2 Not later than 180 days after the date of the enact-
3 ment of this Act, the Civilian Agency Acquisition Council
4 and the Defense Acquisition Regulations Council shall
5 amend the Federal Acquisition Regulation issued under
6 sections 6 and 25 of the Office of Federal Procurement
7 Policy Act (41 U.S.C. 405 and 421) to require a con-
8 tracting officer making a determination of responsibility
9 with respect to any prospective contractor to access the
10 national Federal tax lien registry established under section
11 6323(k) of the Internal Revenue Code of 1986 and the
12 Federal tax conviction database established under section
13 6 of this Act.

14 **SEC. 8. CAUSES FOR DEBARMENT AND SUSPENSION.**

15 Not later than 180 days after the date of the enact-
16 ment of this Act, the Civilian Agency Acquisition Council
17 and the Defense Acquisition Regulations Council shall
18 amend the Federal Acquisition Regulation issued under
19 sections 6 and 25 of the Office of Federal Procurement
20 Policy Act (41 U.S.C. 405 and 421)—

21 (1) to provide as a cause for either contractor
22 debarment or suspension the knowingly making of
23 false statements regarding Federal tax information,
24 including on the Online Representations and Certifi-
25 cations Application or to the Central Contractor
26 Registry, incurring a tax debt (as defined in section

1 3(b)), or the conviction or imposition of a civil judg-
2 ment for the commission of Federal tax evasion or
3 any other Federal tax offense, and

4 (2) to require the debarring official or sus-
5 pending official to provide a statement of expla-
6 nation for the nondebarment or non-suspension of
7 any contractor in any determination involving any
8 cause for debarment or suspension described in
9 paragraph (1).

○