

111TH CONGRESS
2D SESSION

H. R. 6439

To amend the Internal Revenue Code of 1986 to require certain determinations before the filing of all notices of Federal tax liens and supervisory approval before the filing of certain notices of Federal tax liens, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2010

Mr. HASTINGS of Florida introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to require certain determinations before the filing of all notices of Federal tax liens and supervisory approval before the filing of certain notices of 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 Act may be cited as the “Targeted Tax Lien
5 Act of 2010”.

1 **SEC. 2. MODIFICATIONS TO LIEN NOTICE FILING PROCE-**
2 **DURES.**

3 (a) IN GENERAL.—Section 6323 of the Internal Rev-
4 enue Code of 1986 (relating to validity and priority of tax
5 liens against certain persons) is amended by adding at the
6 end the following new subsection:

7 “(k) REQUIRED PROCEDURES BEFORE FILING NO-
8 TICE OF LIEN.—

9 “(1) SECRETARIAL DETERMINATION.—

10 “(A) IN GENERAL.—The Secretary may
11 not file a notice of lien with respect to any tax-
12 payer unless—

13 “(i) the lien attaches to distrainable
14 property, and

15 “(ii) weighing all facts and cir-
16 cumstances pertaining to the collection of
17 a taxpayer’s delinquent tax assessment, the
18 Secretary determines that—

19 “(I) the benefit to the Federal
20 Government of the filing outweighs
21 the harm to the taxpayer, and

22 “(II) the filing will not jeopardize
23 the taxpayer’s prospective ability—

24 “(aa) to comply with the in-
25 ternal revenue laws, and

1 “(bb) if the taxpayer is an
2 otherwise viable business tax-
3 payer, to continue to secure fund-
4 ing to maintain business oper-
5 ations.

6 “(B) FACTORS TO CONSIDER.—In making
7 the determination under subparagraph (A)(ii),
8 the Secretary shall consider—

9 “(i) the amount due,

10 “(ii) the lien filing fee,

11 “(iii) the value of the taxpayer’s eq-
12 uity in the property or rights to property,

13 “(iv) the taxpayer’s tax compliance
14 history,

15 “(v) extenuating circumstances, if
16 any, that explain the delinquency, and

17 “(vi) the effect of the filing on the
18 taxpayer’s ability to obtain financing, gen-
19 erate future income, and pay current and
20 future tax liabilities.

21 “(2) TAXPAYER APPEAL PRIOR TO FILING.—

22 The Secretary may not file a notice of lien with re-
23 spect to any taxpayer unless—

1 “(A) the Secretary notifies the taxpayer
2 that the Secretary has determined to file such
3 a notice with respect to the taxpayer, and

4 “(B) the taxpayer is afforded an oppor-
5 tunity to appeal such determination to the In-
6 ternal Revenue Service Office of Appeals.

7 The Secretary shall make reasonable efforts to pro-
8 vide the notice under subparagraph (A) by telephone
9 or direct personal contact.

10 “(3) SUPERVISORY APPROVAL REQUIRED FOR
11 LIENS IN CERTAIN CASES.—

12 “(A) IN GENERAL.—In any case to which
13 this paragraph applies, a notice of lien may not
14 be filed unless the immediate supervisor (or
15 such higher level official as the Secretary may
16 designate) of the individual making the initial
17 determination under paragraph (1) has individ-
18 ually reviewed and approved such determina-
19 tion.

20 “(B) CASES TO WHICH PARAGRAPH AP-
21 PLIES.—This paragraph shall apply in any case
22 in which—

23 “(i) the collection of the liability
24 would create an economic hardship within
25 the meaning of section 6343(a)(1)(D),

1 “(ii) the taxpayer has no equity in as-
2 sets, or

3 “(iii) there has been no personal con-
4 tact with the taxpayer to discuss collection
5 alternatives, including an offer in com-
6 promise and partial payment installment
7 agreement.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall take effect on the date of the enactment
10 of this Act.

11 **SEC. 3. MODIFICATION OF REQUIREMENTS RELATING TO**
12 **TAX LIEN INFORMATION CONTAINED IN CON-**
13 **SUMER CREDIT REPORTS.**

14 (a) IN GENERAL.—Paragraph (3) of section 605(a)
15 of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(3))
16 (relating to information contained in consumer reports) is
17 amended to read as follows:

18 “(3) TAX LIENS.—The following tax liens:

19 “(A) Any tax lien released pursuant to sec-
20 tion 6325(a) of the Internal Revenue Code of
21 1986 not more than 2 years after the date that
22 the notice of such lien was filed.

23 “(B) Any tax lien released pursuant to sec-
24 tion 6325(a) of such Code—

1 “(i) more than 2 years after the date
2 that the notice of such lien was filed, and

3 “(ii) more than 2 years before the re-
4 port.

5 “(C) Any tax lien if—

6 “(i) the notice of such lien was not
7 refiled during the required refiling period
8 (as defined in section 6325(g)(3) of such
9 Code), and

10 “(ii) such period ends more than 6
11 years before the report.

12 “(D) Any tax lien the notice of which is
13 withdrawn pursuant to section 6323(j)(1) of
14 such Code.

15 “(E) Any tax lien released pursuant to sec-
16 tion 6326(b) of such Code if the notice of such
17 lien was erroneously filed.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall take effect on the date of the enactment
20 of this Act.

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