

Subsec. (f). Pub. L. 89-719 redesignated as par. (1) provisions formerly constituting subsec. (d), inserted reference to exceptions provided in pars. (2) and (3) and reference to the filing of the certificate in the same office as the notice of lien to which it refers and expanded the types of certificates to include separate certificates of release, discharge, subordination, and non-attachment, and added pars. (2) and (3).

Subsec. (g). Pub. L. 89-719 added subsec. (g).

Subsec. (h). Pub. L. 89-719 redesignated as subsec. (h) provisions formerly constituting subsec. (e) and struck out cross references for single bonds, suits to enforce liens, and suits to clear title to realty.

1958—Subsec. (a)(1). Pub. L. 85-866, §77(1), substituted “or” for “,” after “satisfied” and struck out “, or, in the case of the estate tax imposed by chapter 11 or the gift tax imposed by chapter 12, has been fully satisfied or provided for” after “unenforceable”.

Subsec. (c). Pub. L. 85-866, §77(2), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d). Pub. L. 85-866, §77(2), (3), redesignated former subsec. (c) as (d) and in heading and text struck out “partial” before “discharge”. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 85-866, §77(2), redesignated former subsec. (d) as (e).

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3106(c), July 22, 1998, 112 Stat. 734, provided that: “The amendments made by this section [amending this section and sections 6503 and 7426 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998].”

#### EFFECTIVE DATE OF 1982 AMENDMENT

Section 348(b) of Pub. L. 97-248 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to liens—

“(1) which are filed after December 31, 1982,

“(2) which are satisfied after December 31, 1982, or

“(3) with respect to which the taxpayer after December 31, 1982, requests the Secretary of the Treasury or his delegate to issue a certificate of release on the grounds that the liability was satisfied or legally unenforceable.”

#### EFFECTIVE DATE OF 1978 AMENDMENT

Section 513(b) of Pub. L. 95-600 provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to the estates of decedents dying after December 31, 1976.”

#### EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

#### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85-866, set out as a note under section 165 of this title.

### § 6326. Administrative appeal of liens

#### (a) In general

In such form and at such time as the Secretary shall prescribe by regulations, any person shall be allowed to appeal to the Secretary after the filing of a notice of a lien under this subchapter on the property or the rights to property of such person for a release of such lien alleging an error in the filing of the notice of such lien.

#### (b) Certificate of release

If the Secretary determines that the filing of the notice of any lien was erroneous, the Sec-

retary shall expeditiously (and, to the extent practicable, within 14 days after such determination) issue a certificate of release of such lien and shall include in such certificate a statement that such filing was erroneous.

(Added Pub. L. 100-647, title VI, §6238(a), Nov. 10, 1988, 102 Stat. 3743.)

#### PRIOR PROVISIONS

A prior section 6326 was renumbered 6327 of this title.

#### EFFECTIVE DATE

Section 6238(d) of Pub. L. 100-647 provided that: “The amendments made by this section [enacting this section] shall take effect on the date which is 60 days after the date regulations are issued under subsection (b) [set out below].”

#### REGULATIONS

Section 6238(b) of Pub. L. 100-647 required Secretary of the Treasury or Secretary’s delegate to prescribe regulations necessary to implement administrative appeal provided for in amendment made by subsection (a) [enacting this section] within 180 days after Nov. 10, 1988.

### § 6327. Cross references

(1) For lien in case of tax on distilled spirits, see section 5004.

(2) For exclusion of tax liability from discharge in cases under title 11 of the United States Code, see section 523 of such title 11.

(3) For recognition of tax liens in cases under title 11 of the United States Code, see sections 545 and 724 of such title 11.

(4) For collection of taxes in connection with plans for individuals with regular income in cases under title 11 of the United States Code, see section 1328 of such title 11.

(5) For provisions permitting the United States to be made party defendant in a proceeding in a State court for the foreclosure of a lien upon real estate where the United States may have a claim upon the premises involved, see section 2410 of Title 28 of the United States Code.

(6) For priority of lien of the United States in case of insolvency, see section 3713(a) of title 31, United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 782, §6326; Pub. L. 94-455, title XIX, §1906(a)(20), Oct. 4, 1976, 90 Stat. 1825; Pub. L. 96-589, §6(i)(10), Dec. 24, 1980, 94 Stat. 3411; Pub. L. 97-258, §3(f)(7), Sept. 13, 1982, 96 Stat. 1064; renumbered §6327, Pub. L. 100-647, title VI, §6238(a), Nov. 10, 1988, 102 Stat. 3743.)

#### AMENDMENTS

1982—Par. (6). Pub. L. 97-258 substituted “section 3713(a) of title 31, United States Code” for “R.S. 3466 (31 U.S.C. 191)”.

1980—Par. (2). Pub. L. 96-589, §6(i)(10)(A), substituted “cases under title 11 of the United States Code, see section 523 of such title 11” for “bankruptcy, see section 17 of the Bankruptcy Act, as amended (11 U.S.C. 35)”.

Par. (3). Pub. L. 96-589, §6(i)(10)(A), redesignated par. (4) as (3) and substituted “cases under title 11 of the United States Code, see sections 545 and 724 of such title 11” for “proceedings under the Bankruptcy Act, see section 67(b) and (c) of that act, as amended (11 U.S.C. 107)”. Former par. (3), which provided cross reference to section 93 of title 11 for limit on amount allowed in bankruptcy proceedings on debts owing to the United States, was struck out.

Par. (4). Pub. L. 96-589, §6(i)(10)(A), redesignated par. (5) as (4) and substituted “plans for individuals with

regular income in cases under title 11 of the United States Code, see section 1328 of such title 11” for “wage earners’ plans in bankruptcy courts, see section 680 of the Bankruptcy Act, as added by the act of June 22, 1938 (11 U.S.C. 1080)”. Former par. (4) redesignated (3).

Pars. (5) to (7), Pub. L. 96-589, §6(i)(10)(A), (B), redesignated pars. (6) and (7) as (5) and (6), respectively. Former par. (5) redesignated (4).

1976—Pars. (2) to (5), Pub. L. 94-455 struck out parenthetical references to “52 Stat. 851;”, “52 Stat. 867;”, “52 Stat. 867-877;” and “52 Stat. 938;” preceding parenthetical references to sections of title 11.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

### Subchapter D—Seizure of Property for Collection of Taxes

Part

- I. Due process for collections.
- II. Levy.

#### AMENDMENTS

1998—Pub. L. 105-206, title III, §3401(b), July 22, 1998, 112 Stat. 747, added part analysis.

#### PART I—DUE PROCESS FOR COLLECTIONS

Sec.

- 6330. Notice and opportunity for hearing before levy.

#### AMENDMENTS

1998—Pub. L. 105-206, title III, §3401(b), July 22, 1998, 112 Stat. 747, added part heading and analysis consisting of item 6330.

### § 6330. Notice and opportunity for hearing before levy

#### (a) Requirement of notice before levy

##### (1) In general

No levy may be made on any property or right to property of any person unless the Secretary has notified such person in writing of their right to a hearing under this section before such levy is made. Such notice shall be required only once for the taxable period to which the unpaid tax specified in paragraph (3)(A) relates.

##### (2) Time and method for notice

The notice required under paragraph (1) shall be—

- (A) given in person;
- (B) left at the dwelling or usual place of business of such person; or
- (C) sent by certified or registered mail, return receipt requested, to such person’s last known address;

not less than 30 days before the day of the first levy with respect to the amount of the unpaid tax for the taxable period.

##### (3) Information included with notice

The notice required under paragraph (1) shall include in simple and nontechnical terms—

- (A) the amount of unpaid tax;
- (B) the right of the person to request a hearing during the 30-day period under paragraph (2); and

(C) the proposed action by the Secretary and the rights of the person with respect to such action, including a brief statement which sets forth—

- (i) the provisions of this title relating to levy and sale of property;
- (ii) the procedures applicable to the levy and sale of property under this title;
- (iii) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals;
- (iv) the alternatives available to taxpayers which could prevent levy on property (including installment agreements under section 6159); and
- (v) the provisions of this title and procedures relating to redemption of property and release of liens on property.

#### (b) Right to fair hearing

##### (1) In general

If the person requests a hearing in writing under subsection (a)(3)(B) and states the grounds for the requested hearing, such hearing shall be held by the Internal Revenue Service Office of Appeals.

##### (2) One hearing per period

A person shall be entitled to only one hearing under this section with respect to the taxable period to which the unpaid tax specified in subsection (a)(3)(A) relates.

##### (3) Impartial officer

The hearing under this subsection shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section or section 6320. A taxpayer may waive the requirement of this paragraph.

#### (c) Matters considered at hearing

In the case of any hearing conducted under this section—

##### (1) Requirement of investigation

The appeals officer shall at the hearing obtain verification from the Secretary that the requirements of any applicable law or administrative procedure have been met.

##### (2) Issues at hearing

###### (A) In general

The person may raise at the hearing any relevant issue relating to the unpaid tax or the proposed levy, including—

- (i) appropriate spousal defenses;
- (ii) challenges to the appropriateness of collection actions; and
- (iii) offers of collection alternatives, which may include the posting of a bond, the substitution of other assets, an installment agreement, or an offer-in-compromise.

###### (B) Underlying liability

The person may also raise at the hearing challenges to the existence or amount of the underlying tax liability for any tax period if the person did not receive any statutory notice of deficiency for such tax liability or did