

undisturbed. If there are any liens that are equal in status to the tax lien, they share *pari passu* with the tax lien under the distribution provisions of this subsection.

Editorial Notes

REFERENCES IN TEXT

Section 6323 of the Internal Revenue Code of 1986, referred to in subsec. (d), is classified to section 6323 of Title 26, Internal Revenue Code.

AMENDMENTS

2010—Subsec. (b)(2). Pub. L. 111-327 substituted “507(a)(1)(C) or 507(a)(2)” for “507(a)(1)”, “this chapter” for “chapter 7 of this title”, and “507(a)(1)(A), 507(a)(1)(B),” for “507(a)(2),” and inserted “under each such section” after “such expenses”.

2005—Subsec. (b). Pub. L. 109-8, §701(a)(1), inserted “(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)” after “under this title” in introductory provisions.

Subsec. (b)(2). Pub. L. 109-8, §701(a)(2), inserted “(except that such expenses, other than claims for wages, salaries, or commissions that arise after the date of the filing of the petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)” after “section 507(a)(1)”.

Subsecs. (e), (f). Pub. L. 109-8, §701(a)(3), added subsecs. (e) and (f).

1994—Subsec. (b)(2). Pub. L. 103-394, §304(h)(4), substituted “507(a)(6), or 507(a)(7)” for “or 507(a)(6)”.

Subsec. (d). Pub. L. 103-394, §501(d)(23), substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954 (26 U.S.C. 6323)”.

1986—Subsec. (b)(2). Pub. L. 99-554 inserted reference to section 507(a)(6) of this title.

1984—Subsec. (b). Pub. L. 98-353, §477(a)(1), substituted “a tax” for “taxes” in provisions preceding par. (1).

Subsec. (b)(2). Pub. L. 98-353, §477(a)(2), substituted “any holder of a claim of a kind specified” for “claims specified”, “section 507(a)(1)” for “sections 507(a)(1)”, and “or 507(a)(5) of this title” for “and 507(a)(5) of this title”.

Subsec. (b)(3). Pub. L. 98-353, §477(a)(3), substituted “allowed tax claim” for “allowed claim”.

Subsec. (c). Pub. L. 98-353, §477(b), substituted “holder of a claim is entitled” for “creditor is entitled” and “holders” for “creditors” in two places.

Subsec. (d). Pub. L. 98-353, §477(c), substituted “the priority of which” for “whose priority” and “the same as if such lien were a tax lien” for “the same as a tax lien”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-8 effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under this title before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109-8, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under this title before Oct. 22, 1994, see section 702 of Pub. L. 103-394, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-554 effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99-554, set out as a note under section 581 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98-353, set out as a note under section 101 of this title.

§ 725. Disposition of certain property

After the commencement of a case under this chapter, but before final distribution of property of the estate under section 726 of this title, the trustee, after notice and a hearing, shall dispose of any property in which an entity other than the estate has an interest, such as a lien, and that has not been disposed of under another section of this title.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2607; Pub. L. 98-353, title III, §478, July 10, 1984, 98 Stat. 381.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 725 of the House amendment adopts the substance contained in both the House bill and Senate amendment but transfers an administrative function to the trustee in accordance with the general thrust of this legislation to separate the administrative and the judicial functions where appropriate.

SENATE REPORT NO. 95-989

This section requires the court to determine the appropriate disposition of property in which the estate and an entity other than the estate have an interest. It would apply, for example, to property subject to a lien or property co-owned by the estate and another entity. The court must make the determination with respect to property that is not disposed of under another section of the bankruptcy code, such as by abandonment under section 554, by sale or distribution under 363, or by allowing foreclosure by a secured creditor by lifting the stay under section 362. The purpose of the section is to give the court appropriate authority to ensure that collateral or its proceeds is returned to the proper secured creditor, that consigned or bailed goods are returned to the consignor or bailor and so on. Current law is curiously silent on this point, though case law has grown to fill the void. The section is in lieu of a section that would direct a certain distribution to secured creditors. It gives the court greater flexibility to meet the circumstances, and it is broader, permitting disposition of property subject to a co-ownership interest.

Editorial Notes

AMENDMENTS

1984—Pub. L. 98-353 substituted “distribution of property of the estate” for “distribution”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98-353, set out as a note under section 101 of this title.

§ 726. Distribution of property of the estate

(a) Except as provided in section 510 of this title, property of the estate shall be distributed—

(1) first, in payment of claims of the kind specified in, and in the order specified in, section 507 of this title, proof of which is timely filed under section 501 of this title or tardily filed on or before the earlier of—