

SUPPORTING STATEMENT
SECTION 301.7245-3, DISCHARGE OF LIENS (TD 9410)
1545-0854

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

T.D. 9410 contains final regulations relating to the discharge of liens under section 7425 and return of wrongfully levied upon property under section 6343 of the Internal Revenue Code (Code) of 1986.

Section 301.7245-3 describes that a notice of a nonjudicial sale shall be given, in writing by registered or certified mail or by personal service, not less than 25 days prior to the date of sale (determined under the provisions of §301.7425-2(b)), to the Internal Revenue Service (IRS) official.

A notice of sale informs the IRS of a foreclosure sale when the IRS is a secured creditor. In order for property described in section 7425(b) to be sold at a nonjudicial sale free and clear of liens or title of the United States, a notice of the sale must be provided in accordance with section 7425(c) or consent for the property to be sold free of the liens or title of the United States must be obtained in accordance with section 7425(c). An effective Notice of Sale discharges or removes any junior lien or claim the United States has in the property through the sale. It will not remove a lien or claim which is senior to the foreclosing party's interest.

Form 14997, Notice of Nonjudicial Sale of Property, is available as assistance in providing Notice of Sale. It may be used by the foreclosing party to inform the Internal Revenue Service (IRS) of a nonjudicial foreclosure sale. It allows the IRS to identify what, if any, interest the United States has in the property being sold. In the case of real property, it allows the IRS to begin considering whether to exercise its redemption rights after the sale.

When the foreclosure sale will not be effective to discharge the property being sold from the liens or claims of the United States, the IRS may consent to the sale of the property free of the liens. Consent to Sale of Property Free of the Federal Tax Lien is the IRS' agreement allowing the foreclosure sale to discharge the property of the liens or claims of the United States.

The regulation states that any person desiring the IRS's consent to sell property free of a tax lien or a title derived from the enforcement of a tax lien of the United States in the property shall submit to the IRS a written application, in triplicate, declaring that it is made under penalties of perjury, and requesting that such consent be given.

Form 14998, Application for Consent to Sale of Property Free of the Federal Tax Lien, is available as assistance in providing an application for consent.

2. USE OF DATA

This information is needed to determine the amount, if any, of the lien right of the U.S. in the property being sold.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We have no plans to offer electronic filing. IRS publication, regulations, notices and letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFE 1320.5(d)(2)

Not applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

We received no comments during the comment period in response to the *Federal Register* notice dated May 12, 2014 (79 FR 27049).

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and return information are confidential as required by 26 U.S.C. 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “ Automated Lien System-ENTITY, ALS-ENTITY (ALS)” system and a Privacy Act System of Records notice (SORN) has been issued for this system under Treasury/IRS 26.009 – Lien Files (Open and Closed), Treasury/IRS 36.003 – General Personnel and Payroll Records, Treasury/IRS 34.037 – IRS Audit Trail and Security Records System, Treasury/IRS 24.030 – CADE Individual Master File (IMF),

Treasury/IRS 24.046 – CADE Business Master File (BMF), and Treasury/IRS 26.019 – Taxpayer Delinquent Account (TDA). The Internal Revenue Service PIAs can be found at <http://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or Other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Regulation § 301.7425-3(b)(2) requires any person desiring consent to sell property free of a tax lien to a written application in triplicate. The application shall contain the information required in the case of a notice of sale, as set forth in paragraph (d)(1) of the section, and, in addition, shall contain a statement of the reasons why the consent is desired. We estimate that 500 applications will be received and it will take approximately 7 hours 40 minutes to complete and file each application (Recordkeeping: 4 hr., 45 min. / Reporting 2 hr., 55 min.). The total overall burden is 3,833 hours.

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our *Federal Register* notice dated May 12, 2014 (79 FR 27049), requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any response from taxpayers on this subject. As a result, estimates of the cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

We have added two new forms (Forms 14497 and 14498) to this collection and have changed the methodology used to estimate burden to more accurately reflect the time needed to complete and file each application. This change in calculating burden results in an overall burden estimate increase of 3,600 hours (200 hours to 3,833).

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.