



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.12.9

SEPTEMBER 6, 2019

EFFECTIVE DATE

(09-06-2019)

PURPOSE

- (1) This transmits a revision to IRM 5.12.9, Federal Tax Lien, Withdrawal of Notice of Federal Tax Lien.

MATERIAL CHANGES

- (1) IRM 5.12.9.1: Added internal controls section.
- (2) IRM 5.12.9.2: Added paragraph (4) about the form of the request. Added language to paragraph (6) regarding withdrawal requirements.
- (3) IRM 5.12.9.2.1: Added new subsection to address NFTLs relation to credit reports.
- (4) IRM 5.12.9.3.2: Revised Note in paragraph (2) to better define where additional conditions may be stipulated for an installment agreement.
- (5) IRM 5.12.9.3.2.1: Removed terminology from paragraph (1) about the Fresh Start initiative and added Note to clarify that the criteria for withdrawal differs from other IA criteria.
- (6) IRM 5.12.9.3.3: Removed references to credit reports in examples in paragraph (2) to reflect recent changes in credit reporting industry.
- (7) IRM 5.12.9.3.4: Added a question to paragraph (4) regarding the taxpayer's intent and clarified that all the listed questions are samples of issues to consider. Removed references to credit reports in paragraph (5) examples to reflect recent changes in credit reporting industry.
- (8) IRM 5.12.9.4: Updated paragraph (1) Note regarding faxed requests. Combined paragraphs (3) and (3)(a).
- (9) IRM 5.12.9.5: Rearranged for flow. Added language to apply processing standards of other lien certificate requests to withdrawal requests. Added paragraph (10) to address duplicate requests.
- (10) IRM 5.12.9.6: Clarified paragraph (2) on the purpose of reviews. Updated definitions in paragraph (8) for TC 583 definer codes.
- (11) IRM 5.12.9.6.1: Updated definitions for TC 583 definer codes in paragraph (7).
- (12) IRM 5.12.9.6.3: Updated guidance regarding abatement of the NFTL filing fee.
- (13) IRM 5.12.9.6.4: Inserted Notes to paragraphs (3) and (4) to clarify the format of a third party copy and remind that third party copies should only be sent when requested.
- (14) IRM 5.12.9.6.5: Modified procedures regarding abatement of the NFTL filing fee.
- (15) IRM 5.12.9.8: Added Reminder to paragraph (3) regarding communication standards.
- (16) IRM 5.12.9.8.1: Clarified paragraphs (4) and (5) about the documentation needed from Appeals to process a withdrawal.
- (17) IRM 5.12.9.9: Updated title. Inserted paragraph (13) to provide instruction for handling simultaneous requests for release and withdrawal.

- (18) IRM 5.12.9.9.1: Inserted Note to paragraph (4) about inputting a release with a withdrawal on ALS.
- (19) Editorial changes throughout to update links and references and to correct grammatical and formatting issues.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 5.12.9 dated December 7, 2015.

AUDIENCE

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5.12.9

Withdrawal of Notice of Federal Tax Lien

Table of Contents

- 5.12.9.1 Program Scope and Objectives
 - 5.12.9.1.1 Background
 - 5.12.9.1.2 Authority
 - 5.12.9.1.3 Roles and Responsibilities
 - 5.12.9.1.4 Program Management and Review
 - 5.12.9.1.5 Program Controls
 - 5.12.9.1.6 Terms/Definitions/Acronyms
 - 5.12.9.1.7 Related Resources
- 5.12.9.2 Withdrawal of the Filed Notice of Federal Tax Lien (Overview)
 - 5.12.9.2.1 NFTLs and Credit Reports
- 5.12.9.3 Conditions for NFTL Withdrawal
 - 5.12.9.3.1 Withdrawal for Premature or Inadvertent Filings
 - 5.12.9.3.1.1 Errors on Limited Liability Company NFTLs
 - 5.12.9.3.1.2 NFTLs Filed in Designated Disaster Areas
 - 5.12.9.3.2 Withdrawals in Installment Agreement Situations
 - 5.12.9.3.2.1 Special Provisions for Direct Debit Installment Agreements
 - 5.12.9.3.3 Withdrawal Will Facilitate Collection
 - 5.12.9.3.4 Best Interest Withdrawal Provisions
 - 5.12.9.3.4.1 Withdrawal of Special Condition NFTLs
- 5.12.9.4 Taxpayer Requests for Withdrawal
 - 5.12.9.4.1 Number of Requests to Submit
- 5.12.9.5 Processing Withdrawal Requests
- 5.12.9.6 Approving the Withdrawal Request
 - 5.12.9.6.1 Manual Preparation of Withdrawal Certificates
 - 5.12.9.6.2 Use of Electronic Signatures on Withdrawal Documents
 - 5.12.9.6.3 Distribution of the Withdrawal Certificate
 - 5.12.9.6.4 Notifying Third Parties of Withdrawal
 - 5.12.9.6.5 Abating the NFTL Filing Fee
 - 5.12.9.6.6 Rescission of CDP Rights for Withdrawals
- 5.12.9.7 Partial Withdrawal
- 5.12.9.8 Denying the Withdrawal Request
 - 5.12.9.8.1 Withdrawal Based on Appeals Decision
- 5.12.9.9 Request for NFTL Withdrawal After Lien Release
 - 5.12.9.9.1 Processing Withdrawals After Release
 - 5.12.9.9.2 Withdrawal Requests for NFTLs No Longer on ALS

5.12.9.10 Designated Payment Codes (DPC) Related to Liens and Lien Certificates

5.12.9.11 Documentation Requirements for Lien-Related Certificates

5.12.9.11.1 Documents Kept In Case Files

5.12.9.1
(09-06-2019)
Program Scope and Objectives

- (1) The Notice of Federal Tax Lien (NFTL), as identified in IRC § 6323, is a public notification of the government's claim against the taxpayer's property for a tax debt. The NFTL remains in the public record until the lien is released in accordance with IRC 6325(a) or is withdrawn under the provisions of IRC 6323(j).
- (2) **Purpose:** This Internal Revenue Manual (IRM) section provides instructions on the identification, analysis, recommendation, denial, and granting of NFTL withdrawals.
- (3) **Audience:** This IRM is referenced by IRS personnel who handle NFTL withdrawal requests or inquiries, including, but not limited to, the following positions:
 - Revenue Officers
 - Advisors
 - Specialists
 - Tax Examiners
 - Clerks
 - Customer Services Representatives
 - Managers
- (4) **Policy Owner:** Director, Collection Policy. Small Business/Self-Employed Division (SBSE)
- (5) **Program Owner:** Collection Policy is the program office responsible for overseeing the lien program, including the guidance for withdrawing NFTLs.
- (6) **Primary Stakeholders:** SBSE Collection and Wage & Investment (W&I). Other functions that are affected by, or have input to, the procedures include Chief Counsel, Appeals, and the Taxpayer Advocate Service (TAS).
- (7) **Program Goals:** Provide policy and procedural guidance to IRS personnel to review requests and make determinations for NFTL withdrawals.

5.12.9.1.1
(09-06-2019)
Background

- (1) The federal tax lien, which is sometimes called the "statutory lien," is the basis for the government's claim against the taxpayer's property, including current and future rights to property.
- (2) While the federal tax lien is the bedrock of all collection actions and protects the government's interest in litigation, a Notice of Federal Tax Lien (NFTL) is needed for the federal tax lien to compete with certain classes of creditors. The NFTL is filed in the public record to put third parties on notice of the government's outstanding lien against the taxpayer's property and rights to property.
- (3) According to IRC 6325(a), the NFTL cannot be released until the tax liability has been satisfied or has become legally unenforceable, or a bond has been provided to secure the liability.
- (4) Under IRC 6323(j), the IRS may withdraw the NFTL from the public record at any time if certain conditions are met.

5.12.9.1.2
(09-06-2019)
Authority

- (1) The authority for NFTLs are found in the following code and regulation sections.

Code Section	Regulation	Description
26 USC § 6321	§301.6321-1	Lien for taxes
26 USC § 6322	no regulation	Period of lien
26 USC § 6323	§301.6323(a)-1 through §301.6323(j)-1	Validity and priority against certain persons
26 USC § 6325	§301.6325-1	Release of lien or discharge of property
26 USC § 6326	§301.6326-1	Administrative appeal of liens

(2) The following Policy Statements and Delegation Orders regulate NFTL filing.

- IRM 1.2.1.6.2, *Policy Statement 5-2, Collecting Principles*
- IRM 1.2.1.6.13, *Policy Statement 5-47, Notices of lien generally filed only after taxpayer is contacted in person, by telephone or by notice*
- IRM 1.2.2.6.4, *Delegation Order 5-4 (Rev. 3), Federal Tax Lien Certificates*

5.12.9.1.3
(09-06-2019)
Roles and Responsibilities

- (1) The Director, Collection Policy is responsible for overseeing policy and procedures regarding NFTLs.
- (2) Employees authorized to make determinations regarding specific lien actions are responsible for ensuring procedures are properly followed.
- (3) Managers are responsible for ensuring employees are duly delegated to perform lien actions and that they are in accordance with policy and procedures.
- (4) The Centralized Lien Operation (CLO) has primary responsibility for inputting information to, and processing lien documents generated by, the Automated Lien System (ALS).
- (5) Other roles and responsibilities related to the lien program can be found in IRM 5.12.1.5, *IRS Organizations Working Lien Issues* and its subsections.
- (6) IRM 5.12.1.6, *Locations of IRM 5.12 Content*, identifies IRM locations associated with NFTL determinations, filing, withdrawal, maintenance, and release. It is within the specific IRM sections that lien program responsibilities, instructions, and procedures are identified.

5.12.9.1.4
(09-06-2019)
Program Management and Review

- (1) The Automated Lien System (ALS) electronically stores data regarding NFTLs.
- (2) NFTL activity is reviewed and documented in numerous ways, including those shown on the following chart.

Type	Source	Occurrence	Description
Audit	TIGTA	Annual	"Statutory Review of Compliance With Notice of Federal Tax Lien Due Process Procedures"
Audit	TIGTA	Annual	"Trends in Compliance Activity"

Type	Source	Occurrence	Description
Report	IRS.gov	Annual	NFTL program numbers are published yearly in the <i>IRS Data Book, Enforcement: Collections, Penalties & Criminal Investigation</i> , Table 16
Report	TAS	Annual	The <i>National Taxpayer Advocate Report to Congress</i> includes aspects of the lien program.
Monitor	CFO	On-going	NFTL filing fees are monitored by the Chief Financial Officer (CFO) and SBSE budget offices.
Review	NQRS	On-going	NFTL quality is monitored for Field Collection through reviews conducted using the Embedded Quality, <i>National Quality Review System (NQRS)</i> standards identified with <i>Attribute 410, NFTL Determination/Filing, IRM References and Examples</i> .
Review	NQRS	On-going	NFTL quality is monitored for Campus through reviews conducted using the <i>Embedded Quality NQRS</i> .

5.12.9.1.5
(09-06-2019)
Program Controls

- (1) IRM 1.2.2.6.4, *Delegation Order 5-4 (Rev. 3), Federal Tax Lien Certificates*, stipulates the IRS positions authorized for lien activities. Generally, NFTL withdrawals must be approved by management.
- (2) NFTLs are created and maintained through ALS. The Centralized Lien Operation (CLO) is primarily responsible for updating and maintaining ALS data.
- (3) Access to systems used in the NFTL process is controlled following standard access guidelines through the Online 5081 (OL5081).
 - For ALS, see IRM 5.19.12.11.2, *Employee Access and Maintenance*.
 - For the Automated Collection Service (ACS), see IRM 5.19.5.2, *ACS Security*. ACS staff uses a program in ACS to systemically request NFTLs in ALS.
 - For the Integrated Collection System (ICS), see the *ICS web page*. Field staff uses a program in ICS to systemically request NFTLs in ALS.
- (4) There are numerous reports to monitor NFTL filings and ALS activity. (See *ALS User Guide*, Chapter 15, *Logs and Reports*, for a complete listing of ALS reports.)
- (5) For closed records associated with NFTLs, see Document 12990, *Records Control Schedules*, the *Tax Administration - Collection (RCS 28)*, in *PART IV - Delinquent Accounts, Delinquent Returns, And Office Services Records*, Item 43, *Notice of Federal Tax Lien and Certificate of Release of Federal Tax Lien*.

5.12.9.1.6
(09-06-2019)
**Terms/Definitions/
Acronyms**

- (1) The table below lists key terms used in this section.

Term	Definition
Lien	The federal tax lien that arises when tax is assessed, demand is made, and the liability is not paid. This may also be called the “statutory lien” or “assessment lien.”
Notice of Federal Tax Lien (NFTL)	The document filed in the public record to put third parties on notice of the existence of the federal tax lien. One notice of lien can list as many as 15 individual statutory liens.

Caution: The term “lien” is often used generically by external and internal customers when referring to the NFTL. There is a distinct legal difference between a statutory lien and an NFTL, so care should be taken to ensure there is no confusion about what is being referenced when “lien” is used.

- (2) The table below lists common acronyms used in the lien program and throughout this IRM.

Acronym	Definition
ALS	Automated Lien System
CLO	Centralized Lien Operation
NFTL	Notice of Federal Tax Lien
SLID	Serial Lien Identification

- (3) See IRM 5.12.1-2, *Glossary of Common Acronyms in IRM 5.12*, for a listing of other common terms and acronyms used in the federal tax lien program.
- (4) For purposes of this IRM section, the term “taxpayer” is used for the person requesting the NFTL withdrawal and includes the taxpayer that owes the tax liability covered by the NFTL; an official of the business entity that owes the tax liability covered by the NFTL; a third party directly impacted by the NFTL; or an authorized Power of Attorney (POA) of the aforementioned persons.

5.12.9.1.7
(09-06-2019)

Related Resources

- (1) The form used to provide notice of the lien is *Form 668(Y), Notice of Federal Tax Lien*. The form, when properly annotated, is also used for NFTL variations, including amended and special condition NFTLs.
- (2) The form filed to show the NFTL is withdrawn is *Form 10916, Withdrawal of Filed Notice of Federal Tax Lien*, or *Form 10916-A, Withdrawal of Filed Notice of Federal Tax Lien after Release*.

Note: Form 10916(c) is the computer-generated form through ALS.

- (3) IRM 5.17.2, *Legal Reference Guide for Revenue Officers, Federal Tax Liens*, provides additional details about lien law such as the types of property subject to the federal tax lien and the priority of the federal tax lien versus other competing encumbrances.

- (4) IRM 5.12.1, *Lien Program Overview*, provides additional information, websites, and job aids related to the lien program.
- (5) Links to tools and references to assist IRS employees with lien processes may also be found on the *My SB/SE* website. Similar information for taxpayers may be found on the *Understanding a Federal Tax Lien* page on IRS.gov, including a *video* explaining the NFTL withdrawal application process.
- (6) Taxpayer rights with regard to IRS processes are stipulated in IRC 7803(a)(3) and referenced throughout this IRM.
- (7) This IRM is for procedural use and does not provide detailed instruction on the use of any system. User Guides should be consulted, as necessary.
 - *Automated Lien System (ALS) User Guide*
 - *Integrated Collection System (ICS) User Guide*

5.12.9.2

(09-06-2019)

Withdrawal of the Filed Notice of Federal Tax Lien (Overview)

- (1) Internal Revenue Code (IRC) § 6323(j) gives the Service the authority to withdraw a Notice of Federal Tax Lien (NFTL) under certain circumstances, and to provide a copy of the notice of withdrawal to any financial institutions or creditors specifically designated by the taxpayer.
- (2) Form 10916, *Withdrawal of Filed Notice of Federal Tax Lien*, is the document issued to withdraw an active NFTL.
- (3) A Withdrawal of the Notice of Federal Tax Lien differs from a Certificate of Release of Federal Tax Lien and the two cannot be used for one another. A Withdrawal only removes the effect of the NFTL whereas the Certificate of Release both releases the NFTL (paper document) and extinguishes the statutory tax lien.
- (4) Taxpayers generally request the withdrawal using Form 12277, *Application for Withdrawal of Filed Form 668(Y), Notice of Federal Tax Lien*; however, any written request that provides sufficient information may be used.
- (5) Requests for withdrawals should be considered regardless of the date the NFTL was filed.
- (6) Withdrawal of the NFTL is not mandatory except when the NFTL was filed in violation of the automatic stay in bankruptcy. If it is determined that conditions for withdrawal are present, the IRS may, but is not required to, authorize the withdrawal. (Treasury Reg. § 301.6323(j)-1(c)). Factors that put collection at risk, such as the taxpayer disposing of assets, or otherwise do not support the mission of the IRS should be considered prior to approving any withdrawal request.
- (7) Special condition NFTLs (e.g., nominee NFTLs) may be withdrawn if they meet the criteria provided in this section. Seek Area Counsel's advice as needed in cases.
- (8) Positions authorized to approve withdrawals are found in IRM 1.2.2.6.4, *Delegation Order 5-4 (Rev. 3), Federal Tax Lien Certificates*.

5.12.9.2.1
(09-06-2019)
**NFTLs and Credit
Reports**

- (1) Pursuant to IRC 6323(f), the IRS files NFTLs in public recording offices designated by state law. The IRS does not file NFTLs with private entities.

Note: A copy of a filed NFTL may be provided to a private entity, when necessary.

- (2) Historically, credit reporting agencies included NFTLs from the public record on taxpayers' personal credit reports. Effective April 2018, the major credit reporting agencies stopped this practice and removed existing NFTLs from taxpayers' credit reports. This move was an extension of the National Consumer Assistance Plan, which the credit reporting agencies enacted in 2015.
- (3) Whether the credit reporting agencies include or exclude them on personal credit reports, NFTLs remain of public record and retain their effectiveness under IRC 6323. Consequently, a third party still might use an NFTL when evaluating the financial situation of the taxpayer. The policies and procedures of the lien program, as defined in this and other IRM 5.12 sections, remain in effect. Withdrawal requests will continue to be processed and evaluated based on their specific merits.

5.12.9.3
(10-14-2013)
**Conditions for NFTL
Withdrawal**

- (1) IRC § 6323(j) gives the IRS the authority to withdraw a Notice of Federal Tax Lien (NFTL) under one of the following conditions:
- The filing of the notice was premature or otherwise not in accordance with the IRS' administrative procedures (IRC § 6323(j)(1)(A)).
 - The taxpayer entered into an agreement under IRC § 6159 to satisfy the tax liability for which the lien was imposed by means of installment payments, unless such agreement provides otherwise (IRC § 6323(j)(1)(B)).
 - Withdrawal of such notice will facilitate the collection of the tax liability (IRC § 6323(j)(1)(C)).
 - With the consent of the taxpayer or the National Taxpayer Advocate, the withdrawal of such notice would be in the best interest of the taxpayer (as determined by the National Taxpayer Advocate) and the United States (IRC § 6323(j)(1)(D)).
- (2) This section provides details of each of those conditions.

5.12.9.3.1
(12-07-2015)
**Withdrawal for
Premature or
Inadvertent Filings**

- (1) A NFTL may be withdrawn if the filing was premature or otherwise not in accordance with administrative procedures (IRC § 6323(j)(1)(A)).

Example: The person responsible for the filing of the NFTL has knowledge that the taxpayer has an undisputed credit available as the result of a filed return that will satisfy the liabilities on the lien, such as a carryback, overpayment, adjustment, etc. Filing of the NFTL is premature.

Example: The taxpayer has filed bankruptcy and the NFTL is filed while the automatic stay is in effect. Filing of the NFTL is not in accordance with the IRS' administrative procedures and must be withdrawn.

Example: A revenue officer is assigned a bal due for collection. A CP 501 (Balance Due - Reminder) was sent to the taxpayer. NFTLs have been previously filed for other liabilities owed by the taxpayer. The CP 501 constitutes a reasonable effort to contact the taxpayer and filing of the NFTL for the

additional balance due would not be premature. Unless it can be shown that one of the other provisions for withdrawal has been met, the NFTL should not be withdrawn.

Example: A taxpayer has submitted an offer in compromise. During the course of the investigation an NFTL is filed because it becomes known that the taxpayer is dissipating assets and rejection of the OIC appears likely. If the taxpayer previously received notices warning that an NFTL could be filed at any time, the recording of the NFTL was not premature. Unless it can be shown that one of the other provisions for withdrawal has been met, it should not be withdrawn.

- (2) Withdrawal of the NFTL is mandatory when the NFTL is filed in violation of the automatic stay in bankruptcy.
- (3) If the NFTL is filed when the taxpayer is in a Combat Zone, is in the active military outside the United States away from his or her permanent duty station participating in a contingency operation, or hospitalized for an injury received while serving in the combat zone or contingency operation, the Notice of Federal Tax Lien should be withdrawn. (See IRM 5.1.7.9, *Accounts of Taxpayers Who Serve in a Combat Zone*, for further details on Combat Zone restrictions.)
- (4) A NFTL inadvertently filed for a Shared Responsibility Payment (SRP), shown on IDRS as MFT 35 or mirrored assessment MFT 65, must be withdrawn. SRP assessments are not subject to the filing of an NFTL.

Note: If other assessments in addition to the SRP assessment are included on the NFTL, a partial withdrawal may be appropriate. (See IRM 5.12.9.7, *Partial Withdrawal*.)

- (5) When the person filing an NFTL knows or should have known about available credits as in example 1 above, the NFTL should be withdrawn.
- (6) Even though filing of the NFTL may have been premature or otherwise not in accordance with the IRS' administrative procedures, a withdrawal may not always be appropriate. Generally, the NFTL should not be withdrawn if a new NFTL will be immediately filed after withdrawing the NFTL.
- (7) In situations where an NFTL was inadvertently filed in duplicate, issue Letter 2440, *Certificate of Duplication of Federal Tax Lien*. (See IRM 5.12.7.10.4, *Duplicate NFTL*.) A withdrawal of the duplicate NFTL may be considered if requested by the taxpayer, but caution should be taken so that only the duplicate filing of the NFTL is withdrawn.

Caution: If the duplicate filing was the result of the same NFTL serial number being filed twice, the withdrawal document must be manually prepared so as to leave the NFTL active on ALS.

- (8) Requests stating the NFTL was erroneous, as defined by IRC § 6326, should first be considered for release following procedures in IRM 5.12.3.9, *Erroneously Filed Notice of Federal Tax Lien*.

5.12.9.3.1.1
(12-07-2015)
Errors on Limited Liability Company NFTLs

- (1) Assessments in the name of a Limited Liability Company (LLC) may include the name of the LLC and the name of an owner; however, only the name of the liable taxpayer should appear on an NFTL. (See IRM 5.1.21, *Collecting from Limited Liability Companies*, to determine whether the LLC or the single member owner is liable.)
- (2) When an NFTL has been inadvertently filed using the name of any entity that is not the taxpayer, it must be amended or withdrawn. Use the following table to determine the proper action to take:

If the NFTL shows...	Then request ...
Only the name of the entity that is not the liable taxpayer	A withdrawal of the NFTL
The name of the liable taxpayer and the name of an entity that is not the liable taxpayer	An amended NFTL, deleting the name of the entity that was not liable.

- (3) Because the IRS will lose its priority by withdrawing the NFTL, consult Area Counsel in cases where the name of the LLC is very close to the name of the single member owner.
- (4) See IRM 5.12.7.5.3, *Limited Liability Company (LLC)*, for additional information on filing NFTLs on LLCs.

5.12.9.3.1.2
(10-14-2013)
NFTLs Filed in Designated Disaster Areas

- (1) If an area is designated as a “disaster area” NFTLs requested prior to “disaster area” notification, but that were filed within the “disaster area” relief time-frame may be withdrawn. If a disaster is declared, employees who requested NFTLs prior to the disaster should:
 - review ICS histories to determine if the NFTL requested was withdrawn when the disaster was declared; and
 - determine if an -O Freeze was input to the taxpayer account.
- (2) If the NFTL is withdrawn, a new NFTL may be filed, if appropriate, when the disaster condition is reversed.
- (3) See IRM 25.16.1, *Disaster Assistance and Emergency Relief, Program Guidelines*, for further information on disaster freezes.

5.12.9.3.2
(09-06-2019)
Withdrawals in Installment Agreement Situations

- (1) A NFTL may be withdrawn if the taxpayer has entered into an installment agreement to satisfy the liability for which the lien was imposed, unless such agreement provides otherwise (IRC § 6323(j)(1)(B)).
- (2) Consider the following in determining whether the filing should be maintained.

If...	Then...
The installment agreement provided for the NFTL	A request for withdrawal may not be granted. Note: Withdrawal may be appropriate under one of the other provisions.
The NFTL was not addressed in the installment agreement or as an additional condition of the agreement	Withdrawal may be considered but is not mandatory.
The installment agreement (or an additional condition of the agreement) provided that an NFTL would be filed	A request for withdrawal may not be granted. Note: Withdrawal may be appropriate under one of the other provisions.
The installment agreement (or an additional condition to the agreement) provided that an NFTL may be filed	Withdrawal may be considered but is not mandatory

Note: Additional conditions might be stipulated on Form 433-D, *Installment Agreement*, or in an acknowledgement letter such as Letter 2273-C, *Installment Agreement Accepted; Terms Explained*.

Example: A taxpayer enters into an installment agreement that provides for the filing of an NFTL if the taxpayer defaults. The taxpayer pays the installments each month and has not defaulted. Ten months after entering into the agreement an NFTL is filed. Because the taxpayer is under an installment agreement and has not defaulted, the NFTL should be withdrawn because the taxpayer is in compliance with the terms of the agreement.

5.12.9.3.2.1
(09-06-2019)

Special Provisions for Direct Debit Installment Agreements

- (1) Taxpayers in a direct debit installment agreement (DDIA) to satisfy their liability may qualify for an NFTL withdrawal under IRC § 6323(j)(1)(B).

Note: The criteria for withdrawing an NFTL for a taxpayer in a DDIA is separate and different from the criteria for entering a Guaranteed, Streamlined, or Direct Debit Installment Agreement. (See IRM 5.14.5, *Streamlined, Guaranteed and In-Business Trust Fund Express Installment Agreements*, and IRM 5.14.10.4, *Direct Debit Installment Agreements* for IA criteria.)

- (2) The types of taxes that qualify for withdrawal of the NFTL under this DDIA provision are limited to:
- Individual Master File (IMF) - all types;
 - Business Master File (BMF) - income tax only; or
 - BMF out of business - all types.
- (3) Generally, an NFTL should be withdrawn if the taxpayer has entered into a DDIA and has met the conditions specified in (4) through (10) below.
- (4) The aggregate unpaid balance of assessments on the DDIA is \$25,000 or less at the time of the request.

- a. The unpaid balance of assessments includes tax, assessed penalty and interest, and all other assessments on the tax modules. It does not include accrued (i.e., unassessed) penalty and interest.
 - b. If pre-assessed taxes are included, the pre-assessed liability (including tax, penalty, and interest up to the date of expected assessment) plus unpaid balance of other assessments must be \$25,000 or less.
- (5) The total tax liability will be fully paid in 60 months or the agreement will be fully paid prior to the Collection Statute Expiration Date (CSED), whichever comes first.

Note: For liabilities consisting of multiple assessments with different CSEDs, the agreement must fully pay each assessment before its respective CSED or within 60 months, whichever comes first.

Note: Use Integrated Data Retrieval System (IDRS) Command Code (CC) ICOMP to determine the pay off time frame. (See IRM 5.14, *Installment Agreements*.)

- (6) The taxpayer requests the withdrawal in writing. Form 12277, *Application for Withdrawal of Filed Form 668(Y), Notice of Federal Tax Lien*, is the preferred format for the taxpayer's request; however, any written request that provides sufficient information may be used for processing. (See IRM 5.12.9.4, *Taxpayer Requests for Withdrawal*.)
- (7) The taxpayer is in compliance with other filing and payment requirements.
- (8) The DDIA is active and at least three consecutive electronic payments (generally received on a monthly basis) have been processed under the DDIA. Also, there have been no defaults in payment under this, or any previous, DDIA or any such default was not caused by the taxpayer.
- (9) The taxpayer did not previously have a withdrawal of NFTL for any of the modules included in the DDIA (e.g., TC 583 dc 03 on module). This excludes previous withdrawals for improper filing under IRC § 6323(j)(1)(A) (e.g., TC 583 dc 02 on module).
- (10) Taxpayers making payments under any other type of installment agreement are not eligible for consideration for withdrawal under the conditions specified in this section unless they convert to a DDIA and otherwise meet the conditions. Taxpayers are not precluded, however, from requesting a withdrawal under any other provision of IRC § 6323(j).
- a. A DDIA is normally indicated by a 03 in the Agreement Locator Number (ALN). A regular IA that is converted to a DDIA will have the ALN updated.
 - b. If a taxpayer states they have a DDIA but the ALN does not show 03, request the taxpayer provide documentation of the DDIA (e.g., an acknowledgement letter from the IRS, copies of bank statements showing the withdrawals, etc.).
- (11) If a taxpayer defaults on making payment under the DDIA after the NFTL is withdrawn, a new NFTL may be filed, if appropriate.
- (12) If the taxpayer terminates the DDIA and/or requests it be converted to a regular IA after the NFTL is withdrawn, a new NFTL may be filed.

- (13) The criteria in this section apply only to a taxpayer's eligibility for withdrawal consideration. They do not impact the criteria for a taxpayer's eligibility for a DDIA. (See IRM 5.14.10, *Payroll Deduction Agreements and Direct Debit Installment Agreements*, for DDIA requirements.)

5.12.9.3.3
(09-06-2019)
**Withdrawal Will
Facilitate Collection**

- (1) A withdrawal facilitates collection if withdrawing the NFTL will result, either immediately or in the future, in a greater amount being collected by the IRS than had the NFTL been maintained (IRC § 6323(j)(1)(C)).
- (2) To determine if withdrawal of the NFTL will facilitate collection of the tax liability, consider all relevant case factors, including, but not limited to, the following list.
 - a. Will the amount realizable by the U.S. or the chances of collecting the tax liability be increased?
 - b. If the NFTL was not already filed, do the conditions exist that would have allowed for NFTL forbearance? (See IRM 5.12.2.3, *Notice of Federal Tax Lien Filing Determination (Pre-filing Considerations)*.)
 - c. Will the IRS receive a payment against the liability? If so, will withdrawal of the NFTL to obtain a partial payment hamper the collection of the remaining balance due?
 - d. Will withdrawal enhance the taxpayer's ability to obtain additional credit; and how will additional credit affect the taxpayer's ability to pay the liability?
 - e. Is the NFTL the result of a defaulted installment agreement? Was a condition of the installment agreement that an NFTL would be filed in case of default?
 - f. Is there a possibility that a bankruptcy may be filed if the withdrawal is not obtained? If so, consider how the taxes will be treated in a bankruptcy proceeding. Are they dischargeable? Does the taxpayer own assets so that the filing of the NFTL will enhance the government's position as a secured creditor? Would the taxes be more or less collectible if the taxpayer filed bankruptcy?
 - g. Is the taxpayer pyramiding liabilities? Are all required returns filed? A NFTL should not be withdrawn if the taxpayer is not in compliance with filing and deposit requirements.
 - h. Will a lien subordination or discharge of certain property from the lien achieve the same result as a withdrawal? If so, an NFTL withdrawal is not appropriate.
 - i. Can the taxpayer furnish a bond or other acceptable security in the amount of the government's interest in assets if the NFTL is withdrawn? If the taxpayer can furnish a bond for the full amount of the liability, the NFTL can be released. (See IRM 5.12.3.3.3, *Acceptance of a Bond - IRC § 6325(a)(2)*.)

Example: A NFTL has been filed in the name of a taxpayer who has no assets, is unlikely to ever acquire assets of any real value, and has no other secured creditors. The taxpayer agrees to pay the balance of tax due through payroll deductions at a rate higher than the IRS can obtain through a wage levy in order to get the NFTL withdrawn. The NFTL may be withdrawn because doing so will facilitate collection of the tax liability.

Example: A NFTL has been filed in the name of a taxpayer owning minimal dis-trainable assets who is currently unemployed. The taxpayer is offered

employment provided she is bondable. However, the bonding company refuses to issue a bond because of the NFTL. The taxpayer agrees to pay the balance of tax due through payroll deductions if the NFTL is withdrawn and she is able to begin working. The NFTL may be withdrawn, with the provision that it will be filed again in case of default, because doing so will facilitate collection of the tax liability.

Example: A taxpayer requests withdrawal of an NFTL so that she can purchase a new vehicle. The new vehicle is not necessary for her to perform her job duties or generate income which will assist in satisfying the liability. Withdrawal of the NFTL is not appropriate because doing so will not facilitate collection of the tax liability.

Example: A taxpayer has been making installment payments for the past year and has two years of payments remaining. The taxpayer is a salesman and needs to purchase a new automobile in order to continue to generate the income that is being used to make the installment payments. The taxpayer verifies that he cannot obtain a new car loan or a lease because of the NFTL. The NFTL may be withdrawn, with the provision that it will be filed again in case of default, because doing so will facilitate collection of the tax liability.

- (3) A determination that withdrawal will facilitate collection may originate with a Revenue Officer in the course of making a collection determination. Although a written request by the taxpayer for the withdrawal is not needed in such a circumstance, the taxpayer must concur that the withdrawal is in their best interest.
- (4) When the taxpayer's account is not assigned to another IRS work unit and it is determined that withdrawal of the NFTL will facilitate collection, the Advisory employee should secure the taxpayer's proposal to pay the balance of the tax liability (or evidence of such a proposal to another function) and make a determination on the proposal's collection impact along with the recommendation for acceptance/denial of the request.

5.12.9.3.4
(09-06-2019)

Best Interest Withdrawal Provisions

- (1) To be considered for a withdrawal under the best interest provisions (IRC § 6323(j)(1)(D)), two determinations are required:
 - One by the taxpayer or by the National Taxpayer Advocate (NTA) (or designee) with respect to the taxpayer; and
 - One by the Secretary (or designee).
- (2) A determination that withdrawal is in the best interest of the United States may be made by collection employees.
- (3) A taxpayer may request the withdrawal on the basis that it is in his or her best interest and the best interest of the United States without specifically requesting that the NTA make the determination on his or her behalf. A collection employee may also make a best interest determination independent of a taxpayer request provided the taxpayer or the NTA acting on behalf of the taxpayer consents to the withdrawal.

- (4) This IRM cannot address every scenario you may encounter. Apply your knowledge and experience to evaluate the case facts and use your judgment in making a determination. In making “best interest” determinations consider issues such as the following:
 - a. What will be the effect of withdrawing the notice of lien? Are there claims currently subordinate to the federal tax lien which will become superior?
 - b. What is the likelihood that the taxpayer will dispose of the property if the notice is withdrawn? Is there sufficient equity for this to be a concern?
 - c. Will tax collection be undermined if the notice is withdrawn and the taxpayer files for bankruptcy protection?
 - d. Are there other tools available, such as discharge or subordination, that will alleviate the taxpayer’s problem without eliminating the protection offered by the filed notice of lien?
 - e. Is the taxpayer requesting the withdrawal to hinder collection of the liability or misrepresent their indebtedness to another government or private entity?
- (5) When making the best interest determination the expectation is that the government and the taxpayer will benefit from withdrawal of the notice.

If...	Then...
Withdrawal is in the government’s and taxpayer’s best interest (subject to approval at the managerial level)	The employee should follow the withdrawal procedures outlined.
It is determined that withdrawal is not in the best interest of the government	Notify the taxpayer of the determination and explain their appeal rights.
Collection and Taxpayer Advocate disagree on best interests conditions being met	The National Taxpayer Advocate may issue a Taxpayer Assistance Order (TAO), when they determine that it is in the best interest of the taxpayer.

Example: A taxpayer contacts the Taxpayer Advocate Service (TAS) and requests that the NFTL filed in their name be withdrawn because it is in their best interest as well as in the best interest of the government. TAS determines that it is in the best interest of the taxpayer that the NFTL be withdrawn. TAS contacts Collection, requests that the NFTL be withdrawn, and, upon review, Collection determines that it is in the best interest of the government that the NFTL be withdrawn. Because TAS and the IRS agree that it is in the best interests of both, the NFTL may be withdrawn.

Example: A taxpayer requests that the NFTL be withdrawn so that he can refinance his home mortgage. In addition to refinancing the existing first mortgage, the taxpayer offers to borrow an additional amount to be applied as a partial payment of the liabilities listed on the NFTL. The taxpayer’s lender will not make the loan unless the NFTL is withdrawn. Although withdrawal of the NFTL would be in the best interest of the taxpayer, and withdrawal of the NFTL would result in partial payment, it is not in the best interest of the government to withdraw the NFTL. A subordination certificate will better protect the government’s interest by

allowing for partial payment of the liability while continuing to secure the government's interest for the remaining taxes due.

Example: The taxpayer in the above example requests that the NFTL be withdrawn so that he can refinance his home mortgage. In addition to refinancing the existing mortgage, the taxpayer offers to borrow an additional amount and full pay the liabilities listed on the NFTL. The taxpayer states that his lender will not make the loan unless the NFTL is withdrawn, even though a payoff statement is provided, the lender is aware that the NFTL will be paid off from the loan proceeds, and a revenue officer offers to attend the loan closing and provide an immediate lien release upon receipt of full payment. Further questioning of the taxpayer reveals that the NFTL is preventing the taxpayer's mortgage broker from placing the taxpayer's loan with a lender. While other secured creditors have refused to give up their secured status in exchange for a promise of full payment, the taxpayer is hopeful that the government will agree to do so. Although withdrawal of the NFTL is in the best interest of the taxpayer, it is not a good business practice nor is it in the best interest of the government to relinquish its secured creditor status in exchange for a promise to pay.

Example: A taxpayer enters into a two-year installment agreement conditioned upon the recording of an NFTL. One year later she requests withdrawal of the NFTL. All payments have been made timely and the taxpayer is requesting the withdrawal because it is harming her credit worthiness. Although withdrawal of the NFTL is in the best interest of the taxpayer, it is not a good business practice nor is it in the best interest of the government to relinquish its secured creditor status.

5.12.9.3.4.1
(10-14-2013)
**Withdrawal of Special
Condition NFTLs**

- (1) The taxpayer or the person subject to a special condition NFTL may request withdrawal of the special condition NFTL under any of the conditions of IRC 6323(j)(1). The determination to withdraw the NFTL is based on whether the criteria has been met.
- (2) When the situation giving rise to the special condition NFTL has been resolved by addressing the interest of the IRS (e.g., property specified on nominee NFTL was sold and IRS received an amount equal to its interest), but a balance remains for the assessments shown on the NFTL, withdrawal of the special condition NFTL will generally be granted under IRC 6323(j)(1)(D). In such situations, the withdrawal may be issued without receiving a formal application, if the resolution is known to the approving office. Consult Counsel, as needed, if there are questions regarding the matter.

5.12.9.4
(09-06-2019)
**Taxpayer Requests for
Withdrawal**

- (1) All requests for withdrawal of the Notice of Federal Tax Lien must be in writing. Preferably, taxpayers should use Form 12277, *Application for Withdrawal of Filed Form 668(Y), Notice of Federal Tax Lien*; however, any written request that contains the necessary information may be used.

Note: A faxed request qualifies as a written request.

- (2) Requests for withdrawal must contain the following information:

- Taxpayer's name
- Current address
- Taxpayer's identification number
- A copy of the NFTL affecting the property, if available, or details about the NFTL
- A statement explaining the basis for the withdrawal request
- Authorization for disclosure of information to creditors, credit reporting agencies and financial institutions

- (3) Requests must be signed by the taxpayer or a valid Power of Attorney (POA). In the event of a business taxpayer, the request must be signed by an appropriate officer or a POA. If a request involving an NFTL on a joint liability is not signed by all co-obligors, initially consider it as a full withdrawal request (unless the taxpayer expresses otherwise). If during the review issues are found with the non-applying co-obligor(s) that may prohibit the issuance of the withdrawal, consider the request as if for a partial withdrawal and/or seek to secure the signature of the other co-obligor(s).
- (4) Attempts should be made to resolve any incomplete applications by contacting the taxpayer and advising of the additional information needed. Document the case history of the situation.
- (5) Subsequent requests for copies of approved withdrawal notices to be sent to creditors or financial institutions must contain the same information outlined in above.

5.12.9.4.1 (10-14-2013) **Number of Requests to Submit**

- (1) Generally, withdrawal requests should be considered on an NFTL by NFTL basis; however, there may be situations in which multiple NFTLs may be covered by the same request. For instance, under the premature filing provision, a taxpayer requests withdrawal of a specific NFTL whereas under the best interest provisions, the taxpayer may want consideration for all NFTLs together.
- (2) Consider taxpayer burden when providing guidance for completing Form 12277. Generally, if the conditions and reasons for withdrawal are the same for all the NFTLs, one Form 12277 referencing all the NFTLs is acceptable.
- (3) The same NFTL filed in separate locations for real and personal property may be considered under one request.

5.12.9.5 (09-06-2019) **Processing Withdrawal Requests**

- (1) Requests are reviewed by the Collection field employee assigned the taxpayer's case.
 - a. If there is no current assignment of the taxpayer's case, forward the request to Advisory in the area where the taxpayer lives or has its principal place of business.
 - b. If the taxpayer claims the NFTL was filed in violation of a bankruptcy stay, contact the Centralized Insolvency Operation (CIO) to determine where the withdrawal request should be sent.
- (2) Control the receipt of the request and document any actions relative to the review on the control system applicable to your function (e.g., Integrated Collection System (ICS), Automated Insolvency System (AIS)). For Advisory, open a Non-Field Other Investigation (NFOI) control on ICS under code 143, With-

drawals, within seven (7) calendar days of receipt in Advisory of the withdrawal request (from the taxpayer or by referral).

- (3) Review the request and documentation provided by the taxpayer as well as the case history, if any. Determine if sufficient documentation has been provided to substantiate the withdrawal recommendation.
- (4) If additional information is needed, contact the taxpayer no later than twenty-one (21) calendar days from receipt of the request in Advisory.
 - a. When requesting additional information, allow sufficient time for the taxpayer to provide the additional information. Generally, response deadlines should be no more than thirty (30) calendar days; however, time frames for action should be consistent with the facts of the case.

Note: A deadline may be extended, if deemed appropriate for the situation.

- b. If during the investigation it is clear the taxpayer cited the wrong provision for withdrawal and they would qualify for withdrawal had the correct provision been cited, contact the taxpayer to confirm their intent. If they request consideration under the correct provision, notate the history and resume processing.

Note: This step is to correct an obvious error made by a taxpayer unfamiliar with the withdrawal process. It does not mean the employee is required to search for additional reasons to grant a withdrawal.

- (5) After completing the review, field employees should prepare a memorandum outlining the facts of the case and their recommendation on the withdrawal. Forward the memorandum with the application and appropriate documents through the group manager to Advisory.

Exception: Requests for withdrawal based on premature or inadvertent filing (IRC 6323(j)(1)(A)) can be worked by the revenue officer assigned the taxpayer's case without referring it to Advisory. If the request involves any other provisions, the revenue officer must refer the matter to Advisory.

- (6) Duplicate withdrawal requests submitted by the taxpayer to different offices or for identical NFTLs filed in different locations can be considered as one request and addressed in one response.
- (7) Generally, the recommendation for acceptance or denial should be made within thirty (30) calendar days of a complete request. When receiving a completed recommendation from a field employee, Advisory has ten (10) calendar days to approve or deny the request. Document the cause of any delay in the case history.
- (8) If the taxpayer misses an established deadline, including submitting required documentation and/or payment, take follow-up action within ten (10) calendar days of the deadline, including closing the case if appropriate. Document all actions taken and deadlines established.
- (9) When a taxpayer submits a withdrawal request after a previous request was denied, compare the new request to the previous one.

- a. If the new request is the same request for the same NFTL based on the same arguments, inform the taxpayer that the request has already been addressed. No new CAP rights should be provided.
- b. If the new request has additional information, is for a different NFTL, or is based on a different withdrawal provision, review the request following normal procedures. The taxpayer is entitled to CAP rights if the request is denied.

5.12.9.6
(09-06-2019)
**Approving the
Withdrawal Request**

- (1) The positions authorized to approve/deny withdrawals are found in IRM 1.2.2.6.4, *Delegation Order 5-4 (Rev. 3), Federal Tax Lien Certificates*.
 - a. In most situations, the Advisory Group Manager is the approving official.
 - b. Insolvency Group Managers are responsible for approving requests related to open bankruptcy cases.
 - c. Field Group Managers are only delegated approval authority for cases assigned to field revenue officers **and** that are submitted under IRC 6323(j)(1)(A).

Note: The procedures in this and following subsections are geared primarily to Advisory being the approving office; however, the procedures should be interpreted to apply to any office with delegated authority, unless expressly stated otherwise.

- (2) The approving office reviews the withdrawal request or package to ensure conditions for withdrawal have been met and that the withdrawal should be authorized. The extent of the review depends on the function/person submitting the package.
 - a. If the request is directly from the taxpayer, the approving office completes a full review in accordance with the steps in IRM 5.12.9.5, *Processing Withdrawal Requests*, and makes the withdrawal determination.
 - b. If Advisory/Insolvency is the approving office and the package is received from the Collection Field function with the approval of the Field Group Manager, Advisory/Insolvency only needs to conduct a cursory review to ensure concurrence with the recommendation.
 - c. If the withdrawal request is received from Appeals as the result of a timely Collection Due Process, Equivalent Hearing, or a Collection Appeal Program case, it is processed in accordance with IRM 5.1.9, *Collection Appeal Rights*. The approving office only needs to confirm the accuracy of the *Form 13794-W, Request for Withdrawal or Partial Withdrawal of Notice of Federal Tax Lien*, while keeping in mind limitations on ex parte communications with Appeals as addressed in IRM 5.1.9.5, *Communications with Appeals*.

Note: If the approving office fails to process Appeals' request within five (5) business days of receipt, Appeals may then utilize their authority under IRM 1.2.2.6.4 and forward the *Form 13794-W* directly to the Centralized Lien Operation (CLO).

- d. If the package is received from any other function, the approving office should complete a full review of the package and application to confirm the withdrawal determination.
- (3) If the approving office disagrees with the request for withdrawal, it will advise the originator of the reasons for disapproval.

Note: Disagreements with Appeals' determinations must follow IRM 5.1.9.5. Regardless of the disagreement, withdrawals resulting from a CDP determination **must not be delayed**.

- (4) The approving office prepares Form 13794-W, and, after securing the approving official's concurrence, forwards the form to CLO via secure email.
 - a. As an alternative to forwarding Form 13794-W to CLO, Advisory and Insolvency employees with appropriate permissions may input the withdrawal directly into the ALS. Manager's concurrence is still required. An ICS or AIS history entry by the manager meets this requirement.

Note: With managerial approval, the ALS "Bypass Approval" option is available to Advisory and Insolvency employees. This option places documents directly into the ALS print queue. CLO intervention in the ALS approval process is not required.

Note: For security purposes, the employee who recommends the withdrawal should not be the approving official for the recommendation and also input and approve the withdrawal on ALS.
- (5) The approving office should send Letter 4711, *Withdrawal Decision*, to the taxpayer or POA, if applicable, advising of the withdrawal approval.
- (6) Document the case history with the actions taken by the approving office, including the manager's concurrence.
- (7) Actions taken by CLO relative to the withdrawal can be viewed on ALS. Generally, CLO inputs requests within five (5) business days of receipt. Once the withdrawal is input on ALS, the approving office prints a facsimile copy of the withdrawal for the case file and closes its NFOI control, if applicable.

Note: Recording information for the NFTL must be on ALS before the withdrawal can be generated. If the recording information is not present, obtain the recording information from the recording office or other reliable source and have it input to ALS.

- (8) Whenever an NFTL is released or withdrawn, a TC 583 with a definer code must be input to each module on the certificate. For withdrawals generated through ALS and processed by CLO, the TC 583 is systemically uploaded to Master File with the following definer codes:
 - DC 01 - lien released
 - DC 02 - withdrawal due to administrative error (Bankruptcy Violation, Improperly Filed, LLC/Disregarded Entity)
 - DC 03 - withdrawal due to other provision (Installment Agreement, DDIA, Facilitate Collection, Best Interests, Other)
 - DC 04 - erroneous NFTL
 - DC 05 - self-released (expired NFTL).

5.12.9.6.1
(09-06-2019)

**Manual Preparation of
Withdrawal Certificates**

- (1) Withdrawal certificates should be prepared through ALS; however, if the taxpayer requests an immediate issuance of the certificate for an imminent circumstance, the certificate may be manually prepared.

- (2) Prepare Form 10916, *Withdrawal of Filed Notice of Federal Tax Lien*, using the ICS template or PDF fillable form from the intranet. Data on the Form 10916 should match the data shown on the NFTL.

Note: Any manually prepared withdrawal form must include references to any refiled, amended, or corrected NFTLs associated with the original filing.

- (3) Manually prepared forms must be signed by a delegated approving official.
- (4) Provide the manually prepared certificate to the taxpayer (or POA, if applicable) for recordation along with Letter 4026, *Notice of Lien Withdrawal*. Advise the taxpayer of the filing process and that they are responsible for paying any recording fee.

Note: Letter 4026 is a cover letter. Preferably it should be signed by the delegated approving official when the Form 10916 is signed. If it cannot be signed by the approving official, the Letter 4026 may be signed by another Service employee as long as the Form 10916 is appropriately approved.

- (5) Notify CLO of the issuance of the withdrawal by forwarding a copy of the withdrawal certificate or completing *Form 13794-W*. Make sure to indicate that the certificate was already issued so that ALS can be updated accordingly.
- (6) Retain a copy of any manually prepared withdrawal forms in the case file.
- (7) Request input through normal channels of a TC 583 with the appropriate definer code to each module on the certificate.
 - DC 02 - withdrawal due to administrative error (Bankruptcy Violation, Improperly Filed, LLC/Disregarded Entity)
 - DC 03 - withdrawal due to other provision (Installment Agreement, DDIA, Facilitate Collection, Best Interests, Other)

5.12.9.6.2 (10-14-2013) Use of Electronic Signatures on Withdrawal Documents

- (1) Neither the Internal Revenue Code (IRC) nor Treasury regulations address the method in which lien certificates are to be signed; however, they both address the Secretary's authority to develop procedures associated with the use and acceptability of electronic signatures on forms and other documents.
- (2) Approval of documents must always be in accordance with Delegation Order 5-4. (See IRM 1.2.2.6.4, *Delegation Order 5-4 (Rev. 3), Federal Tax Lien Certificates*.)
- (3) Manually prepared withdrawal certificates and their related letters and forms may be signed by the approving official via electronic means when a physical signature is not feasible.

Note: Withdrawals should normally be generated through the Automated Lien System (ALS). Documents generated by ALS are digitally signed in accordance with the delegation order. The electronic signature described in this section is only for situations where manually prepared certificates are needed.

- (4) To sign a document electronically, the document must be converted to a Portable Data Format (PDF) using Adobe Acrobat and the approving official must create a signature file. The format of the electronic signature should adhere to certain standards.
 - a. The signature should not contain the email address, logo, location or other unnecessary information.
 - b. The signature should preferably be an actual/graphic signature file of the approving official or at the minimum should show the name of the approving official. It should not be the Standard Employee Identifier (SEID) as that is for internal use only.
 - c. The approving official should validate the signature so that the pdf question mark does not appear.
- (5) Approval must be granted on a case by case basis. The case history must be documented by the approving official to indicate the electronic or facsimile signing of the lien certificate and associated correspondence.
- (6) A printed copy of the electronically signed certificate must be retained as part of the case file for appropriate record keeping.
- (7) There may be hesitation from some recording offices to accept electronically signed lien certificates; however, they cannot refuse to record the documents as the IRS dictates the form and content of lien certificates. Recording offices may be referred to Publication 1468, *Guidelines for Processing Notice of Federal Tax Lien Documents*, for more information.
- (8) Facsimile signatures must be protected in accordance with established IRS procedures.
 - a. Physical signature stamps are designated "High Security." Store signature stamps in accordance with IRM 10.2.15.3 , *Protected Items/Data*, with reference to Exhibits 10.2.15-1 and 10.2.15-2. (See also IRM 1.4.6, *Managers Security Handbook*.)
 - b. All systems capable of reproducing electronic or PDF generated signatures for lien certificates must be official IRS computer systems and be password protected.
 - c. Ensure a record of approval is available for electronically generated, PDF generated, and stamped signatures.

5.12.9.6.3
(09-06-2019)

**Distribution of the
Withdrawal Certificate**

- (1) After inputting the withdrawal information into ALS, Form 10916, *Withdrawal of Filed Notice of Federal Tax Lien*, or *Form 10916-A, Withdrawal of Filed Notice of Federal Tax Lien After Release*, as applicable, is generated and distributed.
 - a. CLO prints Part 1 of the form and sends it to the applicable recording office with the filing fee.
 - b. Correspondence Production Services (CPS) prints Part 2 of the form and mails it to the taxpayer with the corresponding cover letter (i.e., Letter 3044, *Withdrawal after Notice of Lien Release*, or Letter 4026, *Notice of Lien Withdrawal*).

Note: When withdrawal cover letters are printed through ALS, an address sheet is also printed with the most current address of the taxpayer known to ALS.

- (2) The IRS usually bears the cost of filing the withdrawal certificate. However, in situations where the taxpayer requests immediate issuance and the document is provided directly to the taxpayer for filing, the taxpayer bears the cost of filing.
- (3) When appropriate, the approving office requests abatement of the filing fee for the original NFTL (TC 360) following standard IDRS adjustment procedures. (See IRM 5.12.9.6.5, *Abating the NFTL Filing Fee*.)
- (4) A facsimile copy of the withdrawal is available through ALS. Copies of the withdrawal form are not returned by CLO to the requestor unless specifically requested.
- (5) Withdrawal documents, including partial withdrawals, should be generated through ALS. However, in situations where immediate issuance of the withdrawal is needed, the approving office manually prepares Form 10916 and secures the approving official's signature. (See IRM 5.12.9.6.1, *Manual Preparation of Withdrawal Certificates*.)
- (6) The withdrawal document should be issued to the recording office (or the taxpayer, if manually prepared) within fifteen (15) calendar days after approval.

5.12.9.6.4 (09-06-2019) Notifying Third Parties of Withdrawal

- (1) Pursuant to IRC § 6323(j)(2), taxpayers may request additional copies of the withdrawal form to be sent to specified third parties. These requests might be received with the initial withdrawal request or after the withdrawal is issued. The requests must be in writing from the taxpayer and provide the following information:
 - The taxpayer's name, current address, and taxpayer identification number with a brief statement authorizing the additional notifications
 - A list of the names and addresses of any credit reporting agencies, financial institutions, or creditors to notify of the withdrawal
 - A copy of the notice of withdrawal, if available (for requests subsequent to the issuance of the withdrawal)
 - A statement authorizing disclosure of the information to the third parties

Note: Form 12277 contains the necessary disclosure authorization. Requests for third party notifications made in conjunction with the initial Form 12277 need only to provide the names and addresses of the third parties.

- (2) Requests for third party notifications should be worked by the employee assigned the case or the approving office that issued the withdrawal.
- (3) Facsimile copies of the withdrawal may be obtained through ALS using the normal facsimile print option. If necessary, a copy of the Form 10916 may be requested through CLO. Copies of the withdrawal cover letter are not available through CLO and are not needed.

Note: Providing the third party with a certified/stamped copy of the withdrawal document or an actual copy of the recorded withdrawal certificate is not necessary to fulfill the requirement of IRC § 6323(j)(2).

- (4) Use Letter 5046, *Withdrawal Third Party Cover Letter*, to send the copy of the withdrawal to the specified third party. If Letter 5046 is not available, a general

cover letter prepared by the employee may be used. The letter should only contain basic information confirming the issuance of the withdrawal. The letter should not elaborate on the reason for the withdrawal nor provide any other information regarding the taxpayer's account, unless specifically requested and authorized by the taxpayer.

Reminder: A copy of the withdrawal document should only be sent to third parties specified by the taxpayer. Do not send notices to third parties, including credit reporting agencies, unless specifically requested by the taxpayer in writing.

- (5) Document actions taken on the request. Control the request on ICS or AIS, as appropriate.
 - a. If the request for third party notification comes with the taxpayer's withdrawal request, no separate control needs to be opened.
 - b. If the request for third party notification comes after the withdrawal has been issued, open an ICS NFOI 148, Lien Priority Other.

5.12.9.6.5
(09-06-2019)
Abating the NFTL Filing Fee

- (1) When an NFTL is withdrawn because it was inadvertently or prematurely filed (IRC § 6323(j)(1)(A)), abate the filing fee posted to the taxpayer's account for the NFTL (TC 360).
- (2) It is the responsibility of the office approving the withdrawal to request abatement of the NFTL filing fee. Follow standard procedures for IDRS adjustments when requesting the abatement.
- (3) When an NFTL is withdrawn for any reason other than inadvertent or premature filing, do not abate the NFTL filing fee.

Exception: Abatement of the NFTL filing fee may be considered for unique circumstances surrounding the NFTL filing or withdrawal.

5.12.9.6.6
(10-14-2013)
Rescission of CDP Rights for Withdrawals

- (1) Under IRC § 6320(b)(2), a taxpayer is entitled to only one hearing with respect to each tax period identified on an NFTL. Even if the NFTL is withdrawn, the original CDP lien notice conveying the taxpayer appeal rights is valid. If a new NFTL is subsequently filed, the IRS may not offer the taxpayer any additional opportunity to request a CDP hearing for the same tax period unless the original CDP lien notice has been rescinded.
- (2) The IRC neither expressly prohibits nor provides for rescission of a notice of a right to a hearing under section 6320. In general, the IRS has the authority to rescind a section 6320 notice but such authority is limited.
- (3) The IRS may rescind a CDP notice only if all the following are true:
 - The NFTL is being withdrawn under IRC § 6323(j)(1)(A), the filing of the NFTL was premature or not in accordance with administrative procedures (IRM 5.12.9.3.1, *Withdrawal for Premature or Inadvertent Filings*);
 - Within the time period for requesting a CDP hearing the Service agrees to withdraw the NFTL;
 - The rescission is accomplished by notifying the taxpayer in writing before the expiration of the time period for requesting a hearing; and
 - The taxpayer has not requested a CDP hearing.

- (4) The deadline for the time period to request a hearing is generally within forty-five (45) days of the TC 582 date shown on IDRS. If the withdrawal is being worked within that time frame, the exact deadline date must be found to make a determination on the rescission. The deadline date is stated on the Letter 3172, *Notice of Federal Tax Lien Filing and Your Rights to a Hearing Under IRC 6320*, or shown on ALS. If access to ALS or the letter is not available, contact the CLO and request a facsimile copy of the Letter 3172.

Note: The Letter 3172 deadline date for requesting a hearing is extended if the taxpayer is in a combat zone, part of a contingency operation away from the taxpayer's permanent duty station, or recuperating during a qualified hospitalization, plus 180 days. Because the time period for requesting a hearing is extended, the time period for rescinding the section 6320 notice is also extended. Check IDRS for any TC 500 that may impact the deadline date. (See IRM 5.1.7.9, *Accounts of Taxpayers Who Serve in a Combat Zone*.)

- (5) If the NFTL is being withdrawn because it was filed in violation of the bankruptcy automatic stay, the CDP notice may be rescinded if the limitations described above are met.
- (6) If the conditions for rescission are met, contact the employee/function that requested the NFTL or check the case history to confirm that the taxpayer has not requested a CDP hearing. If the taxpayer has requested a hearing, the CDP rights cannot be rescinded. The request must be forwarded and resolved by Appeals.

Reminder: The withdrawal should be processed regardless of whether the CDP rights are rescinded or not.

- (7) If rescinding the CDP notice is appropriate, advise the taxpayer by issuing Letter 4711, *Withdrawal Decision*. Ensure that the box regarding the rescission is checked.
- (8) After sending the Letter 4711 hold the case open for sufficient time to see if a "last minute" CDP request was submitted by the taxpayer. In the event a CDP hearing request is received after the Letter 4711 is issued, check the dates to see which was mailed first. If the taxpayer's request pre-dates the Letter 4711, the CDP rights cannot be rescinded.
- (9) After verifying that no CDP request was submitted, or that the hearing request was mailed after the date of the Letter 4711, reverse the TC 971 AC 252 on each module on the withdrawn NFTL.
- (10) Document the history regarding the rescission.
- (11) The IRS is not required to rescind a CDP notice if the NFTL is ineffective (e.g., "lost lien").

5.12.9.7 (10-14-2013) Partial Withdrawal

- (1) Neither the Internal Revenue Code nor the Treasury Department's Regulations have provisions for issuing a partial withdrawal; However, circumstances may exist that require a partial withdrawal.
- (2) A partial withdrawal is a special worded document that withdraws the NFTL only as it relates to a specific person or period listed on the NFTL.

- (3) Consider a partial withdrawal in the following instances if one or more (but fewer than all) of the individuals or entities on the NFTL meet withdrawal criteria.

Example: NFTL is filed on A and B for a joint liability. After they divorce, B requests a withdrawal and meets the criteria.

Example: NFTL is filed on C and D for a joint liability. Prior to the filing of the NFTL, C filed bankruptcy. The NFTL was filed after the bankruptcy petition date in violation of the automatic stay. A partial withdrawal is needed to withdraw the NFTL against C only.

- (4) When a taxpayer was never assessed the liability and should not have been included on the NFTL, follow the procedures at IRM 5.12.7.9, *NFTL Corrections*, to file an amended NFTL removing the non-liable taxpayer's name from the original NFTL. Although unnecessary, a partial withdrawal may be considered if requested.

- (5) Partial withdrawals for certain periods listed on the NFTL are permissible, but generally should be issued only in unusual circumstances. The function of the withdrawal is to remove the effects of the NFTL from the taxpayer's assets. A partial withdrawal for certain periods on the NFTL has little, if any, impact on the effect of the NFTL against the taxpayer's assets.

Example: NFTL is filed on modules 30-201312 and 30-201412. It was subsequently determined that the taxpayer was not properly noticed on 30-201412 prior to the NFTL filing. No other basis for the withdrawal is demonstrated. Even though an argument could be raised to partially withdraw the NFTL with respect to 30-201412, the NFTL would still remain in place for the 30-201312 module. Thus the partial withdrawal will provide no benefit to the taxpayer or the government. The withdrawal request should be denied.

- (6) Advisory or Insolvency approval is required for all partial withdrawals. Process partial withdrawal requests in the same manner as full withdrawal requests.
- (7) Partial withdrawals should be processed through ALS. The documents generated by ALS reflect the special wording as approved by Counsel.
- (8) Use *Form 13794-W* to request partial withdrawals. Ensure the name of the person subject to the withdrawal is clearly noted.
- (9) In rare situations where the partial withdrawal has to be manually prepared, ensure Form 10916 is properly completed.
- a. Only the name of the non-liable taxpayer should be entered on the form. The NFTL is valid against the still liable taxpayer.
 - b. Enter the appropriate special wording of the partial withdrawal in the body of the Form 10916.

**PARTIAL WITHDRAWAL. With respect to tax liabilities for [Taxpayer A and B], [Taxpayer A] has met the provisions for withdrawal of the Notice of Federal Tax Lien for the liabilities identified above. The referenced notice of lien is Withdrawn only insofar as it relates to [Taxpayer A]. The Notice of Federal Tax Lien remains in effect against [Taxpayer B] from the original recordation date.*

**PARTIAL WITHDRAWAL. With respect to the tax liabilities for [Taxpayer A and B], the provisions have been met for withdrawal of the Notice of Federal Tax Lien for the liabilities identified above. The referenced notice of lien is Withdrawn only insofar as it relates to the tax periods specified. The notice of lien remains in effect for all other tax periods as shown on the original Notice of Federal Tax Lien from the original recordation date.*

c. Secure e-mail or mail the document to CLO for processing.

- (10) Do not post a TC 583 to master file for a partial withdrawal. Do not abate the TC 360 from the taxpayer's account.

5.12.9.8 (09-06-2019) Denying the Withdrawal Request

- (1) Only those with delegated authority to approve a withdrawal have the authority to deny a withdrawal request. (See IRM 1.2.2.6.4, *Delegation Order 5-4 (Rev. 3), Federal Tax Lien Certificates.*) The employee assigned the case recommends acceptance or denial of the withdrawal application and can advise the taxpayer of their recommendation; however, unless delegated otherwise, the delegated official must approve the recommendation prior to formally notifying the taxpayer.
- (2) The approving office reviews the withdrawal package or request to ensure conditions for withdrawal have not been met. The extent of the review depends on the function submitting the package.
 - a. If the request is directly from the taxpayer, the approving office completes a full review in accordance with the steps in IRM 5.12.9.5, *Processing Withdrawal Requests*, and makes the withdrawal determination.
 - b. If Advisory is the approving office and the package is received from the Collection Field function and was approved by a Group Manager, Advisory only needs to conduct a cursory review to ensure concurrence with the recommendation.
 - c. If the package is received from any other function, the approving office completes a full review of the package and application to confirm the withdrawal determination.
- (3) The approving office prepares and sends Letter 4711, *Withdrawal Decision*, to the taxpayer or POA, if applicable, advising of the denial. This letter contains information regarding the taxpayer's appeal rights as well as their right to discuss the denial with the immediate manager. Also, provide the taxpayer with:
 - Pub 1660, *Collection Appeal Rights*, and
 - Form 9423, *Collection Appeal Request*.

Reminder: When communicating the determination, provide the taxpayer guidance that is accurate and in a clear, concise, professional, easy to understand manner. Any explanation should address all relevant issue(s) in language understandable to someone unfamiliar with service terms, acronyms and jargon.

- (4) Document the case history with the reason for denial.
- (5) Document actions taken by the approving office, including the manager's concurrence, on ICS or AIS, as applicable.

- (6) Advisory closes its NFOI control on ICS within ten (10) calendar days after sending the denial letter, unless an appeal is requested.
- (7) Process any appeal requests received from the taxpayer in accordance with standard appeal processing. (See IRM 5.1.9, *Collection Appeal Rights*.)

5.12.9.8.1
(09-06-2019)

Withdrawal Based on Appeals Decision

- (1) Taxpayers have the right to appeal a withdrawal denied by the approving office or ask for a withdrawal during other CAP situations pertaining to the NFTL. The issue of withdrawal may also arise if the taxpayer appeals the filing of the NFTL under CDP.
- (2) Appeals has the authority to make determinations regarding NFTL withdrawals using the same criteria as Collection. Procedures for Appeals' determinations on notices of lien can be found in IRM 8.22.7.9.1, *NFTL Withdrawals*.
- (3) Once a case is in Appeals, the responsibility for the decision to withdraw rests with Appeals. Contact with Appeals while the case is open is strictly limited by Rev. Proc. 2012-18 in order to avoid prohibited ex-parte communication. (See IRM 5.1.9.5, *Communications with Appeals*, for further details on acceptable communications with Appeals.)
- (4) Upon a decision, Appeals issues either a decision (for CAP and equivalent hearing requests) or a determination letter (for CDP requests) to the taxpayer. If an NFTL withdrawal must be issued, Appeals notifies Collection.

Note: Typically, Appeals sends a copy of its decision or determination letter and Form 13794-W, along with other information that supports the withdrawal decision, to Advisory (or the applicable approving office). A copy of the decision or determination letter or Form 13794-W does not have to be received from Appeals for the approving office to process the withdrawal.

- (5) The approving office reviews and processes Appeals' determination in accordance with IRM 5.1.9, *Collection Appeal Rights*.
 - a. For **CDP** cases, a withdrawal determination from Appeals must be immediately processed. Any dissent takes place only after the withdrawal action has been initiated and Appeals has closed their case. (See IRM 8.22.9.14, *Collection Disagrees with Appeals Determination*.)
 - b. For **CAP** cases, a withdrawal decision is binding and should be immediately forwarded for input. Disagreements with the Appeals decision should be rare and limited to situations in which Appeals did not consider all the facts of the case. (See IRM 5.1.9.5, *Communications with Appeals*.)
- (6) The approving office requests the input of the withdrawal within five (5) business days. If the approving office fails to timely process the request, Appeals may use their delegated authority under IRM 1.2.2.6.4 to bypass the approving office and send the request directly to CLO.

5.12.9.9
(09-06-2019)

Request for NFTL Withdrawal After Lien Release

- (1) There is no legal prohibition on withdrawing an NFTL after the underlying lien has been released. A request for the withdrawal of an NFTL after the lien has been released may be considered under IRC § 6323(j)(1)(A), NFTL filed improperly, or 6323(j)(1)(D), best interests of the taxpayer and government.

- (2) A request under IRC § 6323(j)(1)(A) for withdrawal of an NFTL that has been released should generally be granted if all the following conditions apply:
- The taxpayer requests the withdrawal in writing; and
 - The taxpayer demonstrates that the original NFTL filing was improper or otherwise not in accordance with IRS procedures. (See IRM 5.12.9.3.1, *Withdrawal for Premature or Inadvertent Filings*.)
- (3) A withdrawal under IRC § 6323(j)(1)(A) may be issued whether a certificate of release was issued or the lien self-released.
- (4) A request under IRC § 6323(j)(1)(D) for withdrawal of an NFTL where the underlying lien has been released will generally be granted if all the following conditions apply:
- The taxpayer requests the withdrawal in writing;
 - The taxpayer fully satisfied the liabilities on the NFTL;
 - A certificate of release was issued; and
 - The taxpayer is in compliance with filing requirements.
- (5) For purposes of withdrawal under this provision, “fully satisfied” includes:
- Tax liability was fully resolved by payment or credit offset.
 - Most circumstances where the tax assessment was abated because the taxpayer is no longer liable for the tax (e.g., amended return filed, re-consideration of additional assessment, innocent spouse determination, identity theft, or judicial ruling).
 - Abatement of penalty and/or interest due to reasonable cause resulted in zero balance.
 - The taxpayer fully paid the amount of an accepted offer in compromise.
- Note:** The completion of the refund recoupment period, any related collateral agreement, and the five-year compliance period after acceptance of the offer are not conditions to determine “fully satisfied.”
- (6) For this purpose, “fully satisfied” does not include:
- Expiration of the statutory period for collection.
 - Discharge of taxes in bankruptcy.
 - NFTLs that were improvidently or erroneously released and are subject to revocation.
- (7) For purposes of this section of the IRM, “in compliance with filing requirements” includes:
- All required Individual Master File (IMF) and Business Master File (BMF) returns, including information returns, for the prior three years have been filed; and
 - Current Estimated Tax Payments and Federal Tax Deposits (FTDs) have been paid.
- (8) If the taxpayer has an unfiled return during any of the past three years, or appears to be delinquent with FTDs or Estimated Tax Payments, further investigation may be necessary as determined on a case-by-case basis. The taxpayer is considered to be in compliance if the return was, or can be, closed for one of the following reasons:

- Not liable for the tax period
 - Income below the filing requirement
 - Little or no tax due or due a refund
 - No longer liable for filing
- (9) The taxpayer may be requested to supply additional information, as necessary, to complete this determination.
- (10) Generally, withdrawals will not be granted under IRC section 6323(j)(1)(D) for self-released liens unless extenuating circumstances are present. The determination to grant such request is made on a case-by-case basis and with Advisory managerial approval. Examples of extenuating circumstances are shown below.

Example: A taxpayer is attempting to secure a license required for their vocation (e.g., realtor, insurance sales), but the record of the self-released NFTL is impeding their ability to obtain the license. A review of the account shows the tax liabilities listed on the NFTL were reported as uncollectible due to economic hardship of the taxpayer for most of the ten-year collection period, and the taxpayer had no assets of value. The statutory period for collection on the liabilities has expired. The taxpayer is in compliance with current and the prior three years' tax obligations. Withdrawal of the self-released lien may be granted.

Example: The taxpayer has tentatively been offered an employment position if the self-released lien is withdrawn. The lien self-released due to statute expiration, and the taxpayer is in compliance with all current filing requirements. There is no indication the taxpayer had the ability to make payments, had any assets, or paid unsecured creditors instead of the IRS. Withdrawal of the self-released lien may be granted.

Example: The taxpayer owes tax liabilities that were not included on the self-released lien and are not on any open NFTL. The taxpayer is now in a position to restructure a loan to pay the open liabilities but the self-released lien is hindering that process. The taxpayer is in compliance with current filing requirements. A withdrawal of the self-released lien may be granted.

- (11) To consider self-released liens for NFTL withdrawal, the taxpayer must be in compliance with filing requirements, as stated in (7) above, and the statutory period(s) for collection for the liability(ies) on the NFTL must have expired. Liens that self-released in error and are subject to revocation do not qualify for NFTL withdrawal under these procedures. NFTLs that are comprised of a mix of fully satisfied and expired liabilities should be evaluated on a case-by-case basis.
- (12) NFTLs that contain liabilities that have not been satisfied or expired are not subject to withdrawal under these procedures in this section; however, taxpayers may receive consideration of the withdrawal by following established procedures for requesting a withdrawal of a filed NFTL.
- (13) Occasionally when satisfying the liability, a taxpayer may simultaneously request a certificate of release and an NFTL withdrawal after release. When this occurs, consider withdrawing the active NFTL in lieu of issuing the certificate of release as a more efficient method to accomplish a similar result.

Caution: If the NFTL withdrawal cannot be promptly issued, the certificate of release must be issued to comply with the 30-day release requirement of IRC 6325(a). If appropriate, an NFTL withdrawal after release can be subsequently issued.

- (14) In situations where more than one person is named on the NFTL (e.g., joint liability) and only one person applies for the withdrawal after release, the application should be treated as a request for a full withdrawal. However, if the applying taxpayer meets the requirements stipulated above but the other, non-applying taxpayer listed on the NFTL does not, a partial withdrawal after release may be issued.

5.12.9.9.1
(09-06-2019)
**Processing Withdrawals
After Release**

- (1) To process requests for withdrawal after release, follow the procedures in IRM 5.12.9.5, *Processing Withdrawal Requests*, through IRM 5.12.9.11, *Documentation Requirements for Lien-Related Certificates*, with the exceptions noted in this subsection.
- (2) Since the liabilities associated with the released lien have been satisfied, assignment of the request is based on whether the taxpayer owes other liabilities. If the taxpayer has other balance due modules, the request should be reviewed by the Collection field employee assigned to those modules. If the taxpayer owes no other modules or the case is not assigned, the request usually should be forwarded to Advisory for review.
- (3) The authority to approve withdrawals after release is found in IRM 1.2.2.6.4, *Delegation Order 5-4 (Rev. 3), Federal Tax Lien Certificates*.

If the withdrawal request is for a(n)...	Then authority to process, approve, or deny lies with...
Released NFTL related to an active case assigned to the field	Field Collection Group Manager
Released NFTL not related to any assigned case	Advisory, Insolvency, or CLO
Expired (i.e., self-released) NFTL regardless of any related assignment	Advisory

- (4) Use *Form 13794-W* to request a post-release withdrawal through ALS.

Note: A withdrawal after release should not be input to ALS until one print cycle after the certificate of release was generated.

- (5) Use Letter 3044, *Withdrawal After Notice of Lien Release*, to send a copy of the withdrawal after release to the taxpayer. For withdrawals generated through ALS, this letter is printed at CPS.

Note: When *Form 10916-A* is manually prepared, the Letter 3044 should also be signed by the delegated approving official. If it cannot be signed by the approving official, the Letter 3044 may be signed by another Service employee as long as the *Form 10916-A* is appropriately approved.

5.12.9.9.2
(10-14-2013)

**Withdrawal Requests for
NFTLs No Longer on
ALS**

- (6) Since this withdrawal occurs after the original tax liability was satisfied, no adjustments are made to the taxpayer's account to abate the Transaction Code (TC) 360 lien fees previously assessed. Also, no additional filing fee is charged to the taxpayer's account for the cost of the withdrawal filing.

- (1) ALS retains records of NFTLs for five years after release. After that time the records are purged from the system. Occasionally, a request may be received for withdrawal of an NFTL that is no longer on ALS.

Note: Although very rare, it is possible that an NFTL may not be on ALS because it was manually filed (i.e., not through CLO) and the information was never loaded onto ALS.

- (2) Ask the taxpayer to provide a copy of the NFTL that was filed. Explain that it is not on our computer system and we need to have a copy of the originally filed NFTL in order to work the withdrawal request.

- (3) Upon receiving a copy of the document, verify it is an NFTL and not some other type of lien.

- a. If it is not an NFTL, inform the taxpayer that we cannot assist them.
 - b. If it is an NFTL, again check ALS both by TIN and by SLID to see if the NFTL is present and can be processed following standard procedures.

Note: If the taxpayer asks for a withdrawal of a recorded judgment, no action can be taken. Withdrawals only apply to NFTLs. Advise DOJ and/or Counsel of the request.

- (4) Make a determination if withdrawal after lien release is appropriate by following IRM 5.12.9.9, *Request for NFTL Withdrawal After Lien Release*.

- (5) Manually prepare *Form 10916-A* and Letter 3044 using the ICS template or the PDF fillable version from the intranet.

Note: Do not recreate the NFTL on ALS for the purpose of generating a withdrawal after release.

- (6) Send the manual withdrawal to CLO and ask them to file the withdrawal in the appropriate recording office. In doing this, include a message to CLO advising them that the NFTL is no longer on ALS and therefore the withdrawal does not need to be added to the system. CLO handles payment of the cost of recordation.

- a. Since the NFTL has fallen off ALS due to age, it may also have been archived at the recording office level and therefore problems may arise when trying to record the withdrawal document. If this unique situation exists, which may only present itself after trying to record the document, mail the original withdrawal to the taxpayer, explain the situation, and let the taxpayer pursue filing with the recording office, if they still desire to do so.

- (7) Send a copy of the withdrawal and cover letter to the taxpayer.

- (8) Control the case and document actions related to the request on ICS or AIS, as appropriate.

5.12.9.10

(01-01-2015)

Designated Payment Codes (DPC) Related to Liens and Lien Certificates

- (1) IRM 5.1.2.8.1, *Designated Payment Codes*, provides detailed instructions on the use of DPCs and who may use them.
- (2) Generally, employees should use one of the following DPCs, depending on the basis for the payment:
 - 07 - full or partial payoff of the NFTL
 - 53 - lien discharge
 - 55 - lien subordination
 - 56 - NFTL withdrawal
 - 57 - judicial or non-judicial foreclosure
 - 58 - redemption and release of right of redemption
 - 59 - estate tax lien and payment for proof of claim in a probate proceeding

Note: DPC 07 is used when the payment received is expressly for full or partial payoff of the NFTL, as evidenced by accompanying NFTL payoff letter (e.g., Letter 3640, Letter 3640-A, Letter 3641), copy of the NFTL, or statement of the taxpayer or third party as documented in appropriate history.

5.12.9.11

(10-14-2013)

Documentation Requirements for Lien-Related Certificates

- (1) Use ICS to control and monitor lien certificate cases. For field revenue officers, control the request through the assigned bal due or OI on ICS. For Advisory, a lien certificate case should be loaded into ICS within seven (7) calendar days of receipt.
- (2) Use ICS to record actions taken on all applications for lien-related certificates. Document histories in a clear and complete manner so that actions relative to the case are readily understood. (See Document 12739, *Embedded Quality Advisory Lien Job Aid*, for further details regarding case histories (Attribute 702).)
- (3) Document the ICS histories regarding applications, investigations, and issuance of all lien certificates, including the following:
 - a. Date application or request was received.
 - b. Identity of the employee assigned to work the investigation. Enter the name and title of the advisor or other employee reviewing the application/request/investigation. If, on a particular case, the ICS history entry is completed by an employee other than the employee working the case, then ensure that ALL employees working the case are identified in the history entry. When a case is transferred from one employee to another, ensure the name, title and employee number of the employee conducting the investigation is entered in ICS.
 - c. Description of type of application.
 - d. Code section under which the application/request was submitted.
 - e. List of attachments and other documentation received.
 - f. If appropriate, an analysis of other lienholders' positions.
 - g. When appropriate, an analysis regarding "best interest of the government" considerations including a computation of the government's interest that shows the amount received is the government's interest.
 - h. Any Counsel advice received, including the name and phone number of attorney.
 - i. All communications with the taxpayer regarding the application for the certificate.
 - j. Date certificate or denial letter was issued.

- k. Name and title of employee issuing the certificate.
- l. The name and title, if applicable (e.g. power of attorney, title agent, etc.), to whom the certificate was issued and their relationship to the taxpayer.
- m. Once a certificate is issued and if payment is received in exchange for the certificate, the amount received. If there is any difference in the amount expected and the amount received, explain and reconcile.

- (4) If delays in case action occur, document the reason in the case history.
- (5) Retain full information and documentation regarding approvals/denials of taxpayer requests in well organized case files, so that all documents can be easily located by any Service employee with a need to access the information. See IRM 5.12.9.11.1 below regarding necessary documents to be kept in case files after closure.

5.12.9.11.1
(10-14-2013)

Documents Kept In Case Files

- (1) Keep original or copies of all documents that relate to investigations of lien certificate applications. Specifically, keep the following in the case file during investigation of applications, and after the investigation is complete:
 - Original application and attachments
 - A copy (or facsimile) of the NFTL to which the application or investigation applies
 - All documents referenced in the ICS history
 - A facsimile copy of the certificate or letter issued as a result of the investigation
- (2) Maintain documentation in an orderly manner so it may be consulted if further actions are necessary on the case.
- (3) Retain files as specified in Document 12990, *Records and Information Management Records Control Schedules*.