

Instructions for Preparing a

Notice of Nonjudicial Sale of Property and Application for Consent to Sale

Where to Submit Your Notice or Application

IRS, Attn: Technical Services Advisory Group Manager

*(Address your application or notice to the IRS office in which the lien was filed. Use **Publication 4235**, Technical Services Advisory Group Addresses, to determine where to mail your request.)*

General Information

Section 7425(c) of the Internal Revenue Code states that before property described in **Section 7425(b)** is sold, a Notice of Nonjudicial Sale must be submitted to, or consent to sell the property free and clear of the United States liens or title must be obtained from the Secretary (*delegated authority to*) Technical Services Advisory Group Manager for the area in which the Notice of Federal Tax Lien was filed.

When and How To Submit a Notice of Sale

A Notice of Sale shall be submitted in writing by registered or certified mail or by personal service not less than 25 days prior to such sale, or date of termination of the contract for deed. The 25 day period commences upon receipt of an adequate notice of nonjudicial sale.

NOTE: Although notice of sale must be given prior to the sale, the 25 day period does not apply to sales described in item 4 below, in which case any proceeds, exclusive of costs, shall be held as a fund subject to United States liens and claims on the property sold, for not less than 30 days after the date of sale. Notices received which are deemed to be inadequate will be returned via **Letter 1840**, *Notice of Inadequacy*, for necessary action.

Notice of Sale

A Notice of sale will be considered as adequate if it contains the following information:

1. The name and address and telephone number of the person submitting the notice;
2. A copy of each **Form 668(Y)(c)**, *Notice of Federal Tax Lien*, affecting the property to be

sold **or**, from the recorded Federal tax lien, you may provide the following information:

- a. The name of the IRS Area (*District*) office or the place where the notice was prepared and signed;
 - b. The name and address of the taxpayer; and
 - c. The date and place where the notice of lien was filed.
3. A detailed description, including the location of the property affected by the tax lien. For **real property**, give the complete physical address; the legal description contained in the title or deed of the property and, if available, a copy of the abstract of title;
 4. If applicable, the reasons the property is liable to perish or become greatly reduced in value if kept a minimum of 25 days, or reasons it cannot be kept for that period of time without incurring great expense;
 5. The date, time, place and terms of the sale of the property or the date the taxpayer's interest in the property is terminated; and
 6. The approximate amount of principal obligation, including interest, due the person selling the property and a complete description of any expenses. This may include legal expenses, selling costs, maintenance fees and expenses, which will be charged against the sale proceeds. NOTE: not all expenses will be reimbursable.

Only the original of a Notice of Sale is required. If a duplicate and a written request for acknowledgement are submitted with the original application, the Technical Services Advisory Group Manager will indicate the date and time received on the duplicate and return it to the originator.

Consent to Sale

Regardless of the foreclosing instructions as to the adequacy and timeliness of the sale, a nonjudicial sale of property shall divest the property of the United States liens or title, if the Collection Technical Services Advisory Group Manager for the IRS office where the sale is to take place consents to the sale of the

(over)

property free of the liens. Consent may be given when adequate protection is assured the liens or title to the property. Protection is considered adequate if:

1. The taxpayer has no equity in the property, or
2. The taxpayer's interest in the property is assigned to the Technical Services Advisory Group Manager, or
3. The proceeds in excess of prior encumbrances are assigned to the Technical Services Advisory Group Manager, or
4. The sale divests the taxpayer of all rights, title and interest in the property, and the proceeds are to be held as a fund subject to the United States liens and claims in the same manner and priority as the liens and claims were held on the discharged property, or
5. There are other known circumstances which are acceptable to the Technical Services Advisory Group Manager.

Application for Consent

Any individual desiring the Technical Services Advisory Group Manager's consent to sell property free and clear of a Federal Tax Lien, or a title derived from the enforcement of that lien must submit an application in triplicate. The application must be clear, concise and address all requirements. The application must contain the following:

1. The same information that is listed as a requirement for the Notice of Sale;
2. The basis for requesting the consent;
3. A statement indicating that adequate protection is given to the United States lien or title; and
4. You must make the following declaration over your signature and title. "Under the penalties of perjury, I declare that I have examined this application (*including any accompanying schedules, exhibits, affidavits, and statements*) and to the best of my knowledge and belief it is true, correct, and complete."

Internet Sales

A Notice of Sale should be given to the Technical Services Advisory Group Manager in the IRS office where the property is located, when the sale is conducted over the Internet.

NOTE: All other provisions referred to in this publication apply.

