

# DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

## INSTRUCTIONS TO PREPARE AN APPLICATION FOR CERTIFICATE OF DISCHARGE OF PROPERTY FROM FEDERAL TAX LIEN

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*(Submit your typewritten application and all accompanying documents in triplicate. Please read additional information on back.)*

Address application to:

Give date of application:

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Please give the name and address of the person applying, under section 6325 ( ) ( ) ( ) of the Internal Revenue Code, for a certificate of discharge. Give the name and address of the taxpayer, and describe the property as follows:

1. Give a detailed description, including the location of the property for which you are requesting the certificate of discharge. If real property is involved, give the description as contained in the title or deed to the property, and the complete address (street, city, state). If the certificate is requested under section 6325(b)(1), also give a description of all the taxpayer's property remaining subject to the lien.

2. Show how and when the taxpayer has been, or will be, divested of all rights, title and interest in and to the property for which a certificate of discharge is requested.

3. Attach a copy of each notice of Federal tax lien, or furnish the following information as it appears on each filed notice of Federal tax lien:

- The name of the ATF initiating office;
- The name and address of the taxpayer against whom the notice was filed;
- The date and place the notice was filed.

4. List the encumbrances (or attach a copy of the instrument that created each encumbrance) on the property which you believe have priority over the Federal tax lien. For each encumbrance show:

- The name and address of the holder;
- A description of the encumbrance;
- The date of the agreement;
- The date and place of the recording, if any;
- The original principal amount and the interest rate;
- The amount due as of the date of the application, if known (show costs and accrued interest separately);
- Your family relationship, if any, to the taxpayer and to the holders of any other encumbrances on the property.

5. Itemize all proposed or actual costs, commissions and expenses of any transfer or sale of the property.

6. Furnish information to establish the value of the property for which you are applying for a certificate of discharge. In every case furnish an estimate of the fair market value of the property which will remain subject to the lien. In addition,

- If private sale - Submit written appraisals by two disinterested people qualified to appraise the property, and a brief statement of each appraiser's qualifications.
- If public sale (auction) already held - Give the date and place the sale was held, and the amount for which the property was sold.
- If public sale (auction) to be held - Give the proposed date and place of the sale, and include a statement that the United States will be paid in its proper priority from the proceeds of the sale.

7. Give any other information that might, in your opinion, have bearing upon the application.

8. Furnish any other specific information the Chief, Tax Processing Center requests.

9. If you are submitting the application under the provisions of section 6325(b)(3), dealing with the substitution of proceeds of sale, attach a copy of the proposed agreement containing the following:

- Name and address of proposed escrow agent;
- Caption, type of account, name and address of depository for the account;
- Conditions under which the escrow fund is to be held;
- Conditions under which payment will be made from escrow, including the limitation for negotiated settlement of claims against the fund;
- Estimated costs of escrow;
- Name and address of any other party you and the Chief, Tax Processing Center determine to be a party to the escrow agreement;
- Your signature, and those of the escrow agent, Chief, Tax Processing Center and any other party to the escrow agreement;
- Any other specific information the Chief, Tax Processing Center requests.

10. Give a daytime telephone number where you maybe reached.

11. Give the name, address and telephone number of your attorney or other representative, if any.

ATF Make the following declaration over your signature and title: "Under 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, they are true, correct, and complete."

#### Additional Information

13. Please follow the instructions in this publication when applying for a Certificate of Discharge of Property From Federal Tax Lien.

14. The Chief, Tax Processing Center has the authority to issue a certificate of discharge of a lien that is filed on any part of a taxpayer's property subject to the lien. The following sections and provisions of the Internal Revenue Code apply:

Section 6325(b)(1), if it is determined that the property remaining subject to the lien had a fair market value of at least double the sum of the amount of the unsatisfied tax liability and the amount of all other liens and encumbrances having priority over the Government's lien.

Section 6325(b)(2)(A), if there is paid in partial satisfaction of the liability secured by the lien an amount determined to be not less than the value of the interest of the United States in the property to be discharged.

Section 6325(b)(2)(B), if it is determined that the interest of the United States in the property to be discharged has no value.

Section 6325(b)(3), if the property subject to the lien is sold and, under an agreement with the Bureau of Alcohol, Tobacco and Firearms, the proceeds from the sale are to be held as a fund subject to the liens and claims of the United States in the same manner, and with the same priority, as the liens and claims on the discharged property.

The Chief, Tax Processing Center will notify you of any amount due after your application is investigated and approved. When your payment (if required) is received, the Chief, Tax Processing Center will issue you a release of the right to redeem property.

16. The Chief, Tax Processing Center will have your application investigated to determine whether to issue the certificate, and will advise you of the outcome.

17. A certificate of discharge under section 6325(b)(2)(A) will be issued after approval and upon receipt of the amount determined to be the interest of the United States in the subject property under the Federal tax lien. Make remittances in cash, or by a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or of any State, or possession of the United States, or by United States postal, bank, express, or telegraph money order. (If you pay by uncertified personal check, issuance of the certificate of discharge will be delayed until the bank honors the check.)

18. If application is made under section 6325(b)(2)(A) or because a mortgage foreclosure is contemplated, there will be a determination of the amount required for discharge or a determination that the Federal tax lien interest in the property is valueless.

19. Within 30 days from the date of the application, the applicant will receive a written conditional commitment for a certificate of discharge. When the foreclosure proceeding has been concluded, a certificate of discharge will be issued in accordance with the terms of the commitment letter.

20. If application is made under the provisions of section 6325(b)(3), the Chief, Tax Processing Center has the authority to approve an escrow agent selected by the applicant. Any reasonable expenses incurred in connection with the sale of the property, the holding of the fund, or the distribution of the fund shall be paid by the applicant or from the proceeds of the sale before satisfaction of any claims and liens. Submit a copy of the proposed escrow agreement as part of the application.