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## **IRS EXPEDITES LIEN PROCESS TO HELP HOMEOWNERS SELL OR REFINANCE**

By Victor Sy, CPA

As credit lines begin to ease, distressed homeowners try to refinance or short-sale their homes. But what if there is a tax lien for unpaid federal income taxes? The sale or refi is blocked by the lien as it has to be paid first and released before escrow can close. Here is some relief - IRS recently [announced an expedited process that will make it easier to prevent a federal tax lien from blocking the refinance or sale of a home.](#)

**Background:** Filing a [Notice of Federal Tax Lien](#) is a formal process by which IRS makes a legal claim to property as security for a tax liability. It serves as a public notice that IRS has a claim on the property. If you plan to refinance or sell a home where a federal tax lien has been filed, you can request IRS:

1. To make a tax lien [secondary](#) to a lien by a lender that is refinancing or restructuring a loan, or
2. To [discharge its claim](#) if your home is being sold for less than the amount of the mortgage lien.

**1. Subordination.** Lending institutions generally want their lien to have [priority](#) on the home being used as collateral. In a process called subordination, a federal tax lien can be made [secondary](#) to your home loan. This only works if the IRS determines that taking a secondary position ultimately will help with collection of your tax debt. Without lien subordination, you may not be able to refinance or restructure your loan. To [apply for a certificate of lien subordination](#), go to <http://www.irs.gov/pub> and follow directions per Publication 784, How to Prepare an Application for a Certificate of Subordination of a Federal Tax Lien. There is **no form** so type a letter of your request and submit required documentation. Mail to one of 40 Collection Advisory Groups nationwide. See Publication 4235 for mailing address of Collection Advisory Group at <http://www.irs.gov/pub/irs-pdf/p4235>.

**2. Discharged Lien.** You may apply for a [certificate of discharge](#) of a tax lien if you are giving up ownership of the property, such as selling the property, at an amount less than the mortgage lien if the mortgage lien is senior to the tax lien. IRS may also issue a certificate of discharge in other circumstances if you have sufficient equity in other assets, can substitute other assets, or are able to pay IRS its equity in the property. Without a tax lien discharge, you may not be able to complete the home ownership change. Ownership title will remain clouded. To apply for a tax lien discharge, go to <http://www.irs.gov/pub/irs-pdf/p783.pdf> and follow Publication 783 instructions on How to Apply for a Certificate of Discharge of a Federal Tax Lien. There is **no form so you must type a letter of request** and submit certain documentation. See Publication 4235 for mailing addresses of Collection Advisory Groups at <http://www.irs.gov/pub/irs-pdf/p4235>.

IRS issues about 600,000 federal tax lien notices every year. IRS does not want to be a barrier to people who are trying to save or sell their homes. It has promised to speed up its decision-making process to help you refinance your mortgage or sell your home.

**Expedited Procedures.** The process to request a [discharge or a subordination](#) of a tax lien takes more than 30 days after the submission. IRS promises to speed those requests in wake of the economic downturn. IRS urges people to contact the IRS Collection Advisory Group early in the home sale or refinancing process so that it can begin work on their requests. Do not delay informing lenders of the tax liens so you can work on the discharge sooner.