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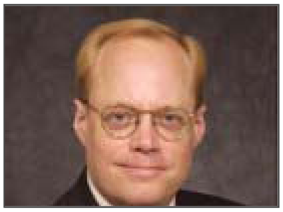

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Many Tax Liens Are Wrong In DC, But How About IRS?

Tax liens can be about income, property, or even estate taxes. They can be state, federal or local. And while they are never welcome, an IRS tax lien might actually be preferable to many others.

Sure, the IRS has never been the most popular agency. Plus, its image has been tarnished this year. Since much of our system involves voluntary compliance, people need to believe the tax system is fairly administered. That's one reason allegations of targeting–whether of political views in tax exemption applications or in picking and choosing who to audit–can be so serious. See Tax Profiling: Are You An IRS Target?

When it comes to appalling conduct, however, the IRS can look across the street with a feeling of superiority. Just look at the tax collection process in the District of Columbia. The multi-part investigative series from the Washington Post is upsetting. See Investigation into D.C. tax lien practice sparks outrage.

The Post revealed that many D.C. homeowners–including some who were ***paying*** their taxes–were nevertheless the subject of tax liens. In some cases the wrongfully liened properties were actually sold. The Post reports that the D.C. Office of Tax and Revenue put nearly 1,900 owners at risk of foreclosure since 2007.

First, D.C. imposed tax liens on the properties. In some cases, it then ***erroneously*** sold them to investors at public auction. Many of those hardest hit have been elderly, poor or minorities. The lucky and plucky ones might fight.

They would incur lawyer fees and high interest rates, but at least they might be able to straighten out the mess and keep their homes. Many aren't so lucky. Some of the Post's examples are shocking:

"A 48-year-old math teacher paid his taxes in 2007, but the tax office took his $1,400 payment and applied it to the wrong house, crediting an entirely different taxpayer."

"A 58-year-old bank employee almost lost her house in 2010 because the tax office mistakenly sent bills and notices to a wooded lot across from a strip shopping center in Virginia — 12 times."

"A 69-year-old hat designer was given the wrong payoff amount and ended up in court to save her property, owned by her family since 1943."

"Ninety-five-year-old Daisy Dolsey, living in a nursing home and struggling with Alzheimer's, wasn't so lucky: She lost her $300,000 house over a $44.79 tax debt even after she paid her taxes." See How a $134 tax bill got an elderly Vietnam vet evicted.

When taxes go unpaid, a tax lien goes on the property. Eventually the tax liens are sold at auction where private buyers compete to hold the lien. After all, the holder of the lien can charge hefty fees and eventually start foreclosure proceedings. But one problem is accuracy. One in every five liens has been sold by mistake, the report reveals.

Fortunately, there's a big contrast on the federal side. IRS lien and levy procedure is pretty circumscribed. What's more, the Treasury Inspector General for Tax Administration (TIGTA) is required to evaluate the IRS annually. One big area is IRS seizures.

TIGTA reviewed a random sample of 50 of 738 seizures conducted from July 1, 2011, through June 30, 2012. In the majority of seizures, the IRS followed all guidelines. However, in 15 seizures, TIGTA identified 17 instances in which the IRS did not comply with a legal mandate of the tax code. The legal errors included:

- The sale of the seized property was not properly advertised. (Section 6335(b));
- The amount of the liability for which the seizure was made was not correct on the notice of seizure provided to the taxpayer. (Section 6335(a));
- Proceeds resulting from the seizure of properties were not properly applied to the taxpayer's account or seizure and sale expenses were not properly charged. (Sections 6341 and 6342(a)); abd
- The balance-due letter sent to the taxpayer after sale proceeds were applied to the taxpayer's account did not show the correct remaining balance. (Section 6340(c)).

By comparison to the D.C. tax lien mess, these are practically rounding errors. But occasionally, even the IRS gets a lien wrong, as occurred when Dionne Warwick Proves IRS Tax Liens Can Be Wrong. Bottom line, it pays to check everything carefully and get some advice.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.