



## **Robert W. Wood** THE TAX LAWYER

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### Tax Liens Means IRS Thinks You Owe

Lately there's been an uptick in IRS lien news, and some of it's in the celebrity category. [Martin Scorsese](#) was hit with an IRS lien (\$2.85 million) as was [Al Pacino](#) (\$188,000), both cases evidently tied to convicted celebrity accountant [Kenneth Starr](#). For more see, [Top Celebrity Tax Troublemakers](#), [Scorsese, Pacino Whacked by IRS Tax Liens](#).

Less splashy but still interesting was news that [exonerated](#) Duke Lacrosse player Reade Seligmann got a one-two punch from an IRS tax lien claiming he owes nearly \$6.5 million in tax. See [Ex-Duke Lacrosse Star Insists Tax Bill a 'Mistake'](#). An IRS [tax lien filed Feb. 17 in New York City](#) claims \$6,492,377 in tax from 2007, the year Seligmann and two others settled with Duke. See [Duke Lacrosse Tax Lien Highlights How Lawsuits Are Taxed](#).

The IRS recently announced somewhat liberalized lien rules. See [IRS "Fresh Start" for Tax Liens and Installment Deals?](#)

But what are tax liens all about, and is it possible for them to be a mistake or surprise? Yes, but not usually. The IRS can file a [Notice of Federal Tax Lien](#) only after:

- IRS assesses the liability;
- IRS sends you a Notice and Demand for Payment telling you how much you owe; and

- You fail to fully pay the debt within 10 days after that notice.

Once these requirements are met, the IRS has a lien, whether or not the IRS files anything. The IRS then files **notice** of the lien to notify creditors to beware — the IRS has a claim against **all** your property. Yup, **all** of it. That even includes property you acquire **after** the lien is filed. This notice is used by courts to establish priority, as in bankruptcy proceedings or sales of real estate.

**Releasing a Lien.** Getting IRS to release a lien usually involves: (1) satisfying the tax, interest and penalties by paying it or by having it adjusted; or (2) posting a bond guaranteeing payment. Even after such events, the IRS may take 30 days to release it. State or local government charges to file and release the lien are added to the amount you owe. See [IRS Publication 1450, Request for Release of Federal Tax Lien](#).

**Mistake?** Do liens get filed by mistake, because you didn't really owe the amount and didn't receive the IRS notices? Yes, this happens, but not all that often. At a minimum, the IRS **thinks** you owe it and haven't paid. This suggests there is a pile of paperwork somewhere that you should address to straighten out the confusion.

**Suit?** If the IRS knowingly or negligently fails to release a Notice of Federal Tax Lien when it should be released, you may sue the federal government for damages. However, you can't sue IRS employees.

**10 Long Years.** IRS liens last 10 years, and usually release automatically if IRS has not refiled.

**My Advice?** Don't let it get to the lien filing stage if you can possibly prevent it. IRS liens hurt credit ratings, scare customers and vendors, prevent real estate closings and more. If you have cash flow crunches and can't pay, you can try to convince the IRS not to file a Notice of Lien. Sometimes that can work but it's a tough sell. If you owe significant amounts and can't pay, expect the lien filing.

**Respond to Every IRS Notice!** Take tax notices and letters seriously, and follow the procedural steps outlined. With prompt and proper tax representation of tax notices and bills, the IRS might agree no taxes (or

smaller taxes) are due, thus avoiding all the trouble. See [Received An IRS Notice? 10 Simple Tips](#).

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