

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

APR 22 11 58 AM '91

CLERK

IN THE MATTER OF AN APPLICATION
FOR AN ADMINISTRATIVE ORDER
ALLOWING THE RECORDATION OF
NOTICES OF FEDERAL TAX LIENS WITH
THE UNITED STATES DISTRICT COURT

: *General Order*
: ~~MISS. NO.~~ 68
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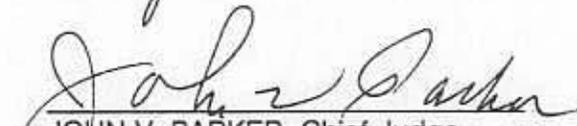
ADMINISTRATIVE ORDER

Recent amendments to Louisiana Revised Statutes Title 52, Section 52(c) and Title 10, Section 9-401(1) have altered the filing requirement for notices of federal tax liens as to movables.

In light of the possibility that these changes invoke the provisions of 26 U.S.C. Section 6323(f)(1)(B), requiring the filing of notices of federal tax liens with the Clerk of the United States District Court, the Clerk of this Court is hereby directed to accept for filing, in accordance with 26 U.S.C. Section 6323(f)(1)(B), notices of federal tax liens.

This order shall be effective for one year or until such time as the Legislature of Louisiana amends its law to make this filing unnecessary, whichever is earlier. The U.S. Attorney shall inform the Court if Louisiana law is amended to eliminate the need for these filings.

Baton Rouge, Louisiana, this 22 day of May, 1991.


JOHN V. PARKER, Chief Judge
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

CC USA 5/23/91
Judge

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

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MOTION FOR TEMPORARY ADMINISTRATIVE ORDER

TO THE HONORABLE JOHN V. PARKER, CHIEF JUDGE:

NOW INTO COURT comes the United States of America who moves this Court for the entry of an order directing the Clerk to accept notices of federal tax liens for filing. The filing with the District Court of notices of federal tax liens affecting personal property pursuant to Title 26, United States Code, Section 3623(f)(1)(B) has been made necessary by recent amendments to Louisiana law.

The United States attaches as Exhibit A a letter from the District Counsel of the Internal Revenue Service which further explains the necessity for the filing of notices of federal tax liens with the Clerk of the United States District Court.

Respectfully submitted,

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CC:NO:GL-259-90
SSCanavello

Internal Revenue Service
SOUTHEAST REGION
501 Magazine Street
Room 917
New Orleans, Louisiana 70130

MAY 09 1991

Honorable P. Raymond Lamonica
United States Attorney
Middle District of Louisiana
339 Florida Street
Sixth Floor
Baton Rouge, Louisiana 70801

Attn: John J. Gaupp, Assistant United States Attorney

Re: Notices of Federal Tax Liens on Personal Property

Dear Mr. Lamonica:

The purpose of this letter is to advise you of the need for the Internal Revenue Service to begin filing notices of federal tax liens for personal property with the United States District Court for the Middle District of Louisiana. Such notices have in the past been filed in the parish mortgage records. The change in filing location has become necessary as a result of changes in State law which became effective on September 1, 1990.

Briefly, the situation giving rise to the necessity of filing federal tax liens on personal property in the United States district court is as follows. I.R.C. § 6323(f)(1)(A)(ii) provides that notices of federal tax liens shall be filed, in the case of personal property, "in one office within the State (or the county, or other political subdivision), as designated by the laws of such State, in which the property subject to the lien is situated," Under I.R.C. § 6323(f)(1)(B), however, notice shall be filed "[i]n the office of the clerk of the United States district court for the judicial district in which the property subject to the lien is situated, whenever the State has not by law designated one office which meets the requirements of subparagraph (A)"

Thus, the State is entitled to designate one office within the State or within each parish for filing notices of federal tax lien as to personal property. If, however, the State does not designate an office, or designates more than one office, such notices must be filed with the appropriate federal district court clerk.

By virtue of legislative changes enacted in 1990, Louisiana has designated more than one office for the filing of notices of federal tax liens as to personal property. Act 1079 of 1990 added Revised Statute § 52:52 C., which provides that "[n]otices

of federal liens upon movable property, whether corporeal or incorporeal, for obligations payable to the United States and certificates and notices affecting the liens shall be filed as provided in R.S. 10:9-401, et seq." R.S. 10:9-401, also revised by Act 1079 of 1990, provides that the proper place to file in order to perfect a security interest in a titled motor vehicle is with the Department of Public Safety, while the proper place to file in order to perfect a security interest "in all other cases" is with the clerk of court of any parish, or in Orleans Parish, with the recorder of mortgages.

As a result of these legislative changes, effective September 1, 1990, the State of Louisiana has not designated "one office within the State (or the county, or other political subdivision)" as the place of filing the notice in the case of personal property, as required by I.R.C. § 6323(f)(1)(A)(ii). Therefore, in order to ensure the priority of its liens as to personal property, the Internal Revenue Service is required to file such liens with the clerk of the United States district court in accordance with I.R.C. § 6323(f)(1)(B).

Arrangements have already been made with the Clerks of the Eastern and Western Districts to begin filing with them starting the week of May 6, 1991. The Internal Revenue Service would like to begin filing in the Middle District immediately as well. Please take the appropriate measures to establish a system for filing notices of federal tax lien with the Clerk for the Middle District.

We appreciate your prompt assistance in handling this request. Any questions may be directed to Susan Canavello of this office, at-FTS 682-2610.

Sincerely,

ABRAHAM N. M. SHASHY, JR.
Chief Counsel

By: Linda J. Breuninger
for LOUIS JOHN ZELLER, JR.
District Counsel

cc: Chief, Special Procedures, Stop 31