



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

5.12.7

APRIL 22, 2019

## EFFECTIVE DATE

(04-22-2019)

## PURPOSE

- (1) This transmits the revised IRM 5.12.7, *Federal Tax Liens, Notice of Lien Preparation and Filing*.

## MATERIAL CHANGES

- (1) IRM 5.12.7.2. Restructured to emphasize the assessments that can be shown on an NFTL and how assessments of the same date are reflected.
- (2) IRM 5.12.7.5.5. Revised to clarify guidance when filing an NFTL after SFR assessment is replaced by joint assessment.
- (3) IRM 5.12.7.6.5. Added note regarding copying and pasting information into the ICS history.
- (4) IRM 5.12.7.8.2.1. Added paragraph to emphasize that MCAR NFTLs are not prepared on ALS.
- (5) IRM 5.12.7.10.5. Updated procedures to reflect changes in the travel program regarding reimbursable expenses.
- (6) IRM 5.12.7.10.5.1. Updated procedures to reflect changes in the travel program regarding reimbursable expenses.
- (7) IRM 5.12.7.11.3. Updated procedures to reflect changes in the travel program regarding reimbursable expenses.
- (8) IRM 5.12.7.13. Added instructions regarding filing fees for documents issued to the taxpayer.
- (9) Exhibit 5.12.7-1. Added paragraph explaining the exhibit.
- (10) Exhibit 5.12.7-2. Exhibit reconfigured and clarifications added.
- (11) Editorial changes throughout to update links and references and correct grammatical and formatting issues.

## EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 5.12.7, dated September 21, 2017.

## AUDIENCE

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5.12.7

Notice of Lien Preparation and Filing

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## 5.12.7.1 (09-21-2017) Program Scope and Objectives

- (1) The Notice of Federal Tax Lien (NFTL) as identified in IRC § 6323 is a public notification filed with designated state and local jurisdictions. Filing the NFTL provides notice to the public of the underlying federal tax lien's claim against the taxpayer's property to secure the debt. It also establishes the government's priority and creditor position with respect to other creditors as discussed in IRC § 6323, typically to purchasers, holders of a security interest, mechanic's lienors, or judgment lien creditors.
- (2) **Purpose:** This IRM provides procedural instructions for IRS personnel needing to prepare and file an NFTL with state and local jurisdictional recording offices.
- (3) **Audience:** This IRM is used by IRS personnel authorized to file an NFTL.
- (4) **Policy Owner:** Director, Collection Policy. Small Business/Sell-Employed Division (SBSE)
- (5) **Program Owner:** Collection Policy is the program office responsible for overseeing the lien program and, in particular, the process and guidance for filing an NFTL.
- (6) **Primary Stakeholders:** SBSE Collection and Wage & Investment (W&I) Collection. Other functions that are affected by, or have input to, the procedures include Chief Counsel, Appeals, and the Taxpayer Advocate Service (TAS).
- (7) **Program Goals:** Provide policy and procedural guidance to IRS personnel to properly and accurately file an NFTL, including an NFTL for special conditions.

## 5.12.7.1.1 (09-21-2017) Background

- (1) Internal Revenue Code (IRC) § 6321 states: *"if any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property..."* This federal tax lien, which is sometimes called the "statutory lien," is the basis for the government's claim against the taxpayer's property, including current and future rights to property, to enable collection of the tax or tax-related debt of the individual or business.
- (2) While the federal tax lien is the bedrock of all collection actions and protects the government's interest in litigation, a Notice of Federal Tax Lien (NFTL) is needed for the federal tax lien to compete with certain classes of creditors.
- (3) When filed, the NFTL puts third parties on notice of the government's outstanding lien against the taxpayer's property and rights to property. It ensures a purchaser addresses an existing federal tax lien when property attached by the lien is sold. Unless the Service files its NFTL first, the holder of a security interest, mechanic's lienor, and judgment lien creditor will have priority over the federal tax lien. If the Service files an NFTL, the tax lien will generally have priority to a taxpayer's after-acquired property.

5.12.7.1.2  
(09-21-2017)

#### Authority

- (1) The authority for NFTLs are found in the following code and regulation sections.

Code Section	Regulation	Description
26 USC § 6321	§301.6321-1	Lien for taxes
26 USC § 6322	no regulation	Period of lien
26 USC § 6323	§301.6323(a)-1	Validity and priority against certain persons
26 USC § 6324	§301.6324-1	Special liens for estate and gift taxes
26 USC § 6324A	§301.6324A-1	Special lien for estate tax deferred under section 6166
26 USC § 6324B	no regulation	Special lien for additional estate tax attributable to of farm, etc., valuation
26 USC § 6326	§301.6326-1	Administrative appeal of liens

- (2) The following Policy Statements and Delegation Orders regulate NFTL filing.

- IRM 1.2.14.1.2, *Policy Statement 5-2*
- IRM 1.2.14.1.13, *Policy Statement 5-47*
- IRM 1.2.44.5, *Delegation Order 5-4 - Federal Tax Lien Certificates*

5.12.7.1.3  
(09-21-2017)

#### Roles and Responsibilities

- (1) The Director, Collection Policy is responsible for overseeing policy and procedures regarding NFTL filing.
- (2) Employees that request NFTL filings are responsible for providing accurate information. Employees manually preparing an NFTL are responsible for ensuring the accuracy of the document.
- (3) Employees authorized to make determinations regarding specific lien actions are responsible for ensuring procedures are properly followed.
- (4) Managers are responsible for ensuring an employees is duly delegated to file an NFTL and that lien actions are in accordance with policy and procedures.
- (5) The Centralized Lien Operation (CLO) has primary responsibility for inputting information to, and processing lien documents generated by, the Automated Lien System (ALS).
- (6) Other roles and responsibilities related to the lien program can be found in IRM 5.12.1.5, *IRS Organizations Working Lien Issues* and its subsections.
- (7) IRM 5.12.1.6, *Locations of IRM 5.12 Content*, identifies IRM locations associated with NFTL determinations, filing, withdrawal, maintenance, and release. It is within the specific IRMs that lien program responsibilities, instructions, and procedures are identified.

5.12.7.1.4  
(09-21-2017)

#### Program Management and Review

- (1) The Automated Lien System (ALS) electronically stores data regarding NFTLs.



- (2) NFTL activity is reviewed and documented in numerous ways, including those shown on the following chart.

Type	Source	Occurrence	Description
Audit	TIGTA	Annual	"Statutory Review of Compliance With Notice of Federal Tax Lien Due Process Procedures."
Audit	TIGTA	Annual	"Trends in Compliance Activity"
Report	IRS.gov	Annual	Lien program numbers are published yearly in the <i>IRS Data Book, Enforcement: Collections, Penalties &amp; Criminal Investigation</i> , Table 16
Report	TAS	Annual	The <i>National Taxpayer Advocate report to Congress</i> includes aspects of the lien program
Monitor	CFO	On-going	Lien document filing fees are monitored by the Chief Financial Officer (CFO) and SBSE budget offices.
Review	NQRS	On-going	NFTL quality is monitored for Field Collection through reviews conducted using the Embedded Quality, <i>National Quality Review System (NQRS)</i> standards identified with <i>Attribute 410, NFTL Determination/Filing, IRM References and Examples</i> .
Review	NQRS	On-going	NFTL quality is monitored for Campus through reviews conducted using the <i>Embedded Quality NQRS</i>

## 5.12.7.1.5 (09-21-2017) Program Controls

- (1) NFTLs are created and maintained through ALS. The Centralized Lien Operation (CLO) is primarily responsible for updating and maintaining ALS data.
- (2) Access to systems used in filing NFTLs is controlled following standard access guidelines through the Online (OL) 5081.
  - For ALS, see IRM 5.19.12.11.2, *Employee Access and Maintenance*.
  - For the Automated Collection Service (ACS), see IRM 5.19.5.2, *ACS Security*. ACS staff uses a program in ACS to systemically request an NFTL in ALS.
  - For the Integrated Collection System (ICS), see the *ICS page*. Field staff uses a program in ICS to systemically request an NFTL in ALS.
- (3) There are numerous reports that monitor NFTL filings and ALS activity. See the *ALS User Guide*, Chapter 15, *Logs and Reports*, for a complete listing of ALS reports.
- (4) For closed records associated with NFTLs, see Document 12990, *Records Control Schedules*, the *Tax Administration - Collection (RCS 28)*, in *PART IV - Delinquent Accounts, Delinquent Returns, And Office Services Records*, Item 43, *Notice of Federal Tax Lien and Certificate of Release of Federal Tax Lien*.

## 5.12.7.1.6 (09-21-2017) Terms/Definitions/ Acronyms

- (1) The table below list key terms used in this section.

Term	Definition
Lien	The federal tax lien (aka “statutory lien,” “assessment lien”) that arises when tax is assessed, demand is made, and the liability is not paid.
Notice of Federal Tax Lien	The document filed in the public record to put third parties on notice of the existence of the federal tax lien. One notice of lien can list as many as 15 individual statutory liens.
Lien tracing	The act of following the attachment of a statutory lien to property through gift, bequest devise, inheritance, or other type of transfer that occurred before the NFTL was filed.

- (2) The table below lists common acronyms used in the lien program and throughout this IRM.

Acronym	Definition
ALS	Automated Lien System
CLO	Centralized Lien Operation
NAOC	NFTL filed after original CSED
NFTL	Notice of Federal Tax Lien
NTBFL	Not to be filed NFTL
SLID	Serial Lien Identification

- (3) See IRM Exhibit 5.12.1-2, *Glossary of Common Acronyms in IRM 5.12*, for a listing of other common terms and acronyms used in federal tax lien program.

5.12.7.1.7  
(09-21-2017)

#### Related Resources

- (1) The form used to provide notice of the lien is Form 668(Y)(c), *Notice of Federal Tax Lien*. The form, when properly annotated, is also used for NFTL variations, including amended and special condition NFTLs.

**Note:** Form 668(Y)(c) is a computer-generated form through ALS. Manually prepared templates may show Form 668(Y).

- (2) When an NFTL is filed, the appropriate letter shown below is issued. See IRM 5.12.6, *Appeals Processes Involving Liens*, for additional details.
- Letter 3172, *Notice of Federal Tax Lien Filing and Your Rights to a Hearing under IRC 6320*
  - Letter 3171, *Notice of Federal Tax Lien Additional Filing*
  - Letter 3262, *Notice of Federal Tax Lien Filing – Power of Attorney*
  - Letter 3271, *Notice of Federal Tax Lien Additional Filing – Power of Attorney*
  - Letter 3886, *Notice of Special Condition NFTL Filing - Taxpayer*

- Letter 3177, *Notice of Special Condition NFTL Filing – Third Party*
- Letter 3527, *Notice of Federal Tax Lien Filing-Child Support Obligation*

- (3) IRM 5.17.2, *Legal Reference Guide for Revenue Officers, Federal Tax Liens*, provides additional details about lien law such as the types of property subject to the federal tax lien and the priority of the federal tax lien versus other competing encumbrances.
- (4) IRM 5.12.1, *Lien Program Overview*, provides additional information, websites, and job aids related to the lien program.
- (5) Links to tools and references to assist IRS employees with lien processes may also be found on the *My SB/SE* website. Similar information for taxpayers may be found on the *Understanding a Federal Tax Lien* page on IRS.gov.

## 5.12.7.2 (04-22-2019) How the NFTL Document Is Constructed

- (1) An NFTL can be filed for any statutory lien with a balance due. The assessments generally shown on the NFTL are those that have their own statutory period of collection (CSED).

**Note:** For a list of assessments that have their own CSED, see IRM 5.1.19.2.1, *Transaction Codes that Carry Their Own CSED*, and IRM 25.6.1.12, *Collection Statute Expiration Date (CSED)*.

- (2) One NFTL can contain as many as 15 statutory liens (assessments).

**Reminder:** Normally, an assessment shown on the NFTL covers all the assessments made on the same date for the tax period (e.g., tax assessment and related penalties). It is not necessary to repeat the same assessment date on the NFTL for each related assessment.

- (3) The taxpayer's name on the NFTL must properly identify who owes the liability. See IRM 5.12.7.5, *Name Line Considerations When Preparing NFTL*, for a discussion on name line considerations.
- (4) There are two important statements on the Form 668 (Y)(c): the notice purpose and the self-release clause.
  - In bold print at the top of the Form 668 (Y) (c), is the statement declaring that statutory liens exist, the reason for filing the notice, and what the statutory liens attach to:  
 “As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.”
  - After the taxpayer name and address the notice contains the self-release clause. Once the clause is executed, it has the effect of releasing both the underlying statutory lien and the NFTL.  
**“IMPORTANT RELEASE INFORMATION:** For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).”

5.12.7.3  
(09-21-2017)

**Preparing the NFTL  
General Instructions**

- (1) It is important that the information used when filing an NFTL is correct and that the NFTL is prepared and filed timely. This is the responsibility of the person assigned the balance due account.
- (2) Revenue officers at the GS-9 level and above have the authority to file an NFTL. All lien delegations are found in IRM 1.2.44.5, *Delegation Order 5-4 (Rev. 3)*. The employee's name and identification number should be shown in the lower portion of the form and the title inserted in the appropriate block.
- (3) A signature is not required on the NFTL; However, a signature is included to facilitate the filing at local recording offices. Documents generated by the Automated Lien System (ALS) have a facsimile signature of an authorized official.
- (4) Part of NFTL preparation includes determining the last known address and any changes of address for taxpayers in order that Collection Due Process (CDP) and other notices are issued correctly. All parties named on the NFTL must be provided notice of the NFTL filing in person or at their respective last known address.
- (5) Individuals who are jointly liable for the same tax debt (co-obligors) may have separate addresses (e.g., separated or divorced taxpayers residing in different locations but owing a joint income tax). The employee requesting the NFTL should research IDRS and ICS/AMS histories, as applicable, to identify the last known address of any co-obligor included on the NFTL. Updated address information must be input to the ALS Notadd screen to trigger the systemic issuance of the CDP notice to the co-obligor's address.
  - a. If the NFTL is requested through ICS, send the updated co-obligor information and the SLID of the NFTL to the Centralized Lien Operation (CLO) via secure email (\*SBSE CLO Liens Team 301).
  - b. If the NFTL is requested using Form 12636, enter the co-obligor information on the form as directed.

**Reminder:** The taxpayer's authorized Power of Attorney (POA) also must be notified of the NFTL filing. Additionally, individuals who are jointly liable may have different POAs. It is the requestor's responsibility to ensure information about all authorized POAs is included with the systemic NFTL request or is provided to CLO for input to ALS when the NFTL is requested. (See IRM 5.12.6.3.10, *Notifying the Authorized Representative/Power of Attorney*)

- (6) If a change of address is verified when requesting an NFTL, update ENMOD to ensure IDRS and Master File reflect the taxpayer's most current data.
- (7) When encountering a post office box (PO Box) address during the NFTL preparation process, check for alternate addresses to ensure that an NFTL is filed with **all** appropriate recording offices.
  - A CDP notice should be mailed to both a PO Box as the "last known address" and the physical address identified.
  - There have been occasions where a taxpayer will secure a PO Box in a county other than their county of residence and uses that PO Box as the address on their return.
  - Take particular note of the correct filing location where a post office district reflects the mailing address in one county but due to local

changes over time the actual property location is physically in another county. An NFTL must be filed with the recording office where the property is located.

- (8) Revenue officers use ICS to prepare an NFTL for a case in their inventory, except for an NFTL with special conditions (see IRM 5.12.7.6, *Special Condition NFTL* ).
- (9) Revenue Officers have the ability to create modules on ICS for cases assigned to them, but if problems are encountered the Group Managers should ensure that modules requiring an NFTL are created on ICS for tax periods that:
  - are not assigned to the revenue officer, or
  - do not exist on ICS.
- (10) Revenue officers should use the ICS NFTL template to create an NFTL that requires expedited processing, (e.g., jeopardy situation, exigent circumstances).

**Reminder:** Redact the first five numbers of any Taxpayer Identification Number (TIN) on a manually prepared NFTL.

- (11) Do **NOT** include TINs in the NFTL name or address field. TINs must be partially redacted and ALS cannot identify and redact a TIN located in the name or address field.
- (12) If the NFTL is being filed on a joint name line, both names must appear on the first name line. Use "and" or "&" between the names. This ensures both parties receive a CDP notice. Additional information can be found in IRM 5.19.12.2.1.1, *NFTL Input Requirements*. This information can also be found in the entity section of the *ALS User Guide* Chapter 4.
- (13) The NFTL must show the taxpayer's last known address. The term "Local" can be used **ONLY** if it is part of the street name. "Local" alone is not sufficient for mailing purposes. Further, a city, state and zip code, must be input to the appropriate data fields.
- (14) Multiple assessments against the same taxpayer may be included on one Form 668(Y)(c). Because single and joint liabilities do not belong on the same NFTL, exceptions that come up when there is a joint entity taxpayer are noted below.

**Exception:** Do not put Master File Tax (MFT) 55 assessments on an NFTL that shows the taxpayer as a joint entity. In this circumstance the MFT 55 assessments, which are assessed against one individual, must go on a separate NFTL under the liable taxpayer's name. MFT 55 assessments cannot be listed on the same NFTL with a non-liable party

**Exception:** An NFTL with MFT 31 modules should not be filed using a joint name line. Use "MFT31" as the tax type (MFT) when inputting an NFTL on MFT31 modules.

- (15) Otherwise:

If...	Then...
there are one or more balance due modules	prepare a separate entry in every column for each module. The dollar amount for each unpaid assessment will be shown.
there are multiple assessments within one balance due module	show the assessment dates and the balance of all unpaid assessments including those penalties which carry a separate collection statute.
an accrued amount on an existing assessment remains outstanding and the assessed amount is paid	show the total accrued amount, as of the date the NFTL is requested, as the unpaid balance of assessment (UBA).
the taxpayer's name on the balance due module is incorrect	the NFTL should state the taxpayer's name correctly. Take the actions necessary to correct master file. See also IRM 5.12.7.9.3, <i>Amending the NFTL Using the ALS Amend Option</i> . <b>Note:</b> There may be instances when the name on the NFTL does not agree with what is on the balance due (e.g., if the statute has been extended on one taxpayer on a joint assessment, only the name of the still liable taxpayer should appear on the NFTL).
the balance due module entity shows the name of a third party, (e.g. accountant, attorney, etc.), and an NFTL is being filed	(1) Attempt to identify the address of the taxpayer for use when filing the NFTL. (2) If the address of the third party is used, do <b>not</b> show the name of the third party in the entity section of the NFTL. The NFTL name line should never show the name of a third party, the names of corporate officers, or the names of LLC members when the LLC is the liable taxpayer. (3) When dealing with a "c/ o" be sure that the name and address on the NFTL is that of the taxpayer not the <b>c/o</b> address.

- (16) A **joint NFTL** may be filed if a module changes from separate to joint filing status. This might occur if there has been a Substitute for Return (SFR) assessment for an individual and they subsequently file a joint return with a spouse. The reason a joint NFTL may now be filed is because both spouses, by signing a joint return, have accepted responsibility for the liability on the module. Any previously existing NFTL for one of the spouses, filed prior to the status changing to joint, cannot be amended to add the joining spouse. A new NFTL listing both spouses would need to be filed. If filing against the joint name is prohibited (e.g. bankruptcy of one spouse only), file the new NFTL listing only the joining spouse. See also IRM 5.12.7.5.5, *Substitute for Return (SFR) Notices of Federal Tax Lien*.
- (17) A **partnership NFTL** where employment taxes are involved, should be prepared showing the words "a partnership" after the partnership name and list the names of known general partners (e.g., XYZ, a partnership, A, a partner, B, a partner, C, a partner).



- When a general partner is listed on the NFTL, a copy of the CDP notice must be provided to both the partnership and the general partner. See IRM 5.12.6, *Appeals Processes Involving Liens*.
- If there are more partner names which must be on the NFTL than can fit in the space for an ALS created NFTL name line, then an ICS manual NFTL needs to be used. The manual NFTL provides the ability to add a second page which can then list the partner names that did not fit on the face of the NFTL document.
- File an NFTL in the jurisdiction where each general partner resides as well as where the partnership is located. When the place of filing is different, file a separate NFTL (i.e., file two NFTLs if the partnership and one of the general partners lives in a different jurisdiction). Provide multiple address information to CLO, if appropriate, or create the NFTL. See also IRM 5.12.7.5.2, *Partnership*.

- (18) A **corporation NFTL** should have the words “a corporation” after the corporate name (e.g., XYZ, Inc., a corporation).

**Reminder:** When the NFTL request is processed through ALS, the descriptor “a corporation,” **a partnership**, or **a limited liability company** will systemically print on the name line based on the entity type input to ALS. The descriptor must be added when the NFTL is not processed through ALS.

- (19) The name line on an NFTL filed against a non-profit entity should show the entity type corresponding to the structure of the taxpayer organization (i.e., partnership, corporation, LLC) as described above.
- (20) A **Form 2290, Heavy Highway Vehicle Use Tax Return** NFTL should be prepared using the period beginning date (e.g. 07-01-2012) rather than the ending date (e.g. 06-30-2013). This is very important when there is more than one period for a specific TIN. The period beginnings must be used to separate each assessment to ensure that we receive the module satisfaction indicator from the master file when each module is satisfied.

5.12.7.3.1  
(04-22-2019)  
**Creating the Notice of  
Federal Tax Lien, Form  
668(Y)(c)**

- (1) Notices of Federal Tax Lien (except estate tax liens) will be filed through the ALS.
- (2) Generally, an NFTL is systemically created in ALS from ICS or ACS data uploads. When possible, use the appropriate ICS or ACS process to request the NFTL (see *ICS User Guide*, Chapter 13, *Federal Tax Lien* or IRM 5.19.4.6.1, *How to File a NFTL*).
- (3) **ICS users** should update any incomplete address on ICS prior to requesting the NFTL through ICS.
- (4) Revenue officers must check their ICS notifications daily for rejects of NFTL requests. Rejects must be resolved and the NFTL request re-input or the NFTL will not be filed. **ALS will reject** to the originator:
- any NFTL with an incomplete address, and
  - any NFTL request that does not have a current valid assessment date or is requested less than ten (10) calendar days after assessment. Do not use projected assessment dates when requesting an NFTL.

**Note:** Not filing an NFTL less than 10 days after assessment is a precaution. The establishment of the statutory lien requires that the taxpayer has received notice and demand and has neglected or refused to pay (IRC § 6321). Without the statutory lien, a Notice of Federal Tax Lien cannot be filed.

- (5) When the NFTL request cannot be completed systemically, complete Form 12636, *Request for Filing or Refiling Notice of Federal Tax Lien* and secure email the form to CLO (\*SBSE CLO Liens Team 301).
- (6) If ALS is used to create the NFTL, follow instructions in the *ALS User Guide* which can be accessed from the *Automated Lien System* web site.
- (7) All TINs should be partially redacted (e.g., xx-xxx-1234) on all lien documents.

**Note:** ALS began systemically redacting SSNs in January 2008 and EINs in June 2015.

- (8) **DO NOT** request an NFTL with a TIN or "Local" in the street address line; numbers without a street name (e.g., 12222); or a blank street name.
- (9) If an NFTL is rejected by the recording office, CLO will secure email the originator, attach a copy of the rejected document, and explain the reason for the rejection.
- (10) The following information is used to create and maintain NFTL information in ALS:
  - Entity information including taxpayer identification number, name and address, and the name control.
  - Tax assessment information including MFT, tax period, assessment date, taxpayer identification number, last date for refiling, and the unpaid balance of assessment.
  - Recording Office information including place of filing and the recording office address.
  - Administrative information including employee name, assignment number, phone number, and location.
- (11) If the user does not have access to ICS, ACS, or the ALS permissions to file or refile an NFTL, submit the request by secure email to CLO (\*SBSE CLO Liens Team 301). See IRM Exhibit 5.12.1-1, *ALS Permissions Chart*.
- (12) CLO will complete requests received from revenue officers, Advisory, Insolvency, and other delegated functions. These requests from revenue officers should be restricted to instances where the requestor does not have access to ICS or the NFTL cannot be filed through ICS, (e.g., there is a access computer problem or some other impediment to access). Requests for NFTL filings from Advisory and Insolvency should also be limited because of existing ALS permissions in these functions to create NFTLs and other lien documents in ALS.

**Note:** Amended and special condition NFTLs may require special handling, such as the suppression of the printing of the document or the collection due process notice.



## 5.12.7.3.2 (01-12-2016) Requesting an NFTL Using Form 12636

- (1) There are several types of employees who do not have cases assigned to them on ICS or ACS such as employees in the walk-in, correspondence, Appeals, Examination (Innocent Spouse examiners), and toll free areas. These and other employees may be able to research NFTL information using ALS, but do not have the capability to create documents in ALS or systemically request them.
- (2) For those employees needing to file an NFTL who either do not have access or the special conditions for the NFTL do not fall within normal parameters, the Form 12636 is used to provide the needed information to CLO in order for them to create the needed document in ALS. Form 12636 is a PDF fillable form which can be saved to your computer and is found through the publishing catalog.

**Note:** There is also an ICS Template for ICS users.

- (3) Send Form 12636 by secure email to CLO (\*SBSE CLO Liens Team 301) for preparation of the NFTL.
- (4) Prior to submission the requesting employee should review Form 12636 to determine if all the information required to prepare the NFTL, including name and telephone number of the contact person for generation of the CDP notice, has been provided. This information is not available in CLO.

**Note:** CLO may contact the requester for additional information, if necessary.

- (5) The employee requesting the NFTL must provide the entity information regarding any co-obligors (e.g. spouse, partners, etc.) and POA.
- (6) Requests received by CLO will be input to ALS within five (5) business days of receiving the request. See IRM 5.19.12.2.1, *Notice of Federal Tax Lien Requests*.
- (7) ACS Support has responsibility for CDP follow up for walk-in, correspondence, Appeals, Examination (Innocent Spouse examiners), and toll free areas.
- (8) Employees with ALS access may research using the taxpayer's TIN to determine if the NFTL has been created.

## 5.12.7.4 (01-12-2016) Manual NFTL Preparation

- (1) In certain exigent circumstances, an NFTL may need to be filed more quickly than it can be when using ALS systemic print and mail delivery process. These situations necessitate the NFTL being manually prepared and personally delivered to the recording office.

**Reminder:** Use the ICS Templates to manually prepare the NFTL or special condition NFTL.

- (2) A manually prepared NFTL can only be done through either ALS by skipping the systemic print and mail process or through ICS. In each situation the NFTL is manually printed and hand delivered.
- (3) As a general rule, these manual preparations are done by revenue officers who are personally carrying the NFTL to the recorders for filing. See also IRM 5.12.7.10.5, *Hand-Carried NFTL for Filing*.
- (4) Manually prepared and hand-carried NFTLs will be kept to a minimum.

**Reminder:** Redact the first five numbers of the SSNs and EINs in column “c”.

5.12.7.4.1  
(09-21-2017)  
**Manually Prepared NFTL  
Without ICS**

- (1) Employees who need to prepare an NFTL for immediate filing and who do **not** have access to ICS, need to either generate a SLID (Serial Lien Identification) number on ALS or contact CLO to secure a SLID.

**Reminder:** For a special condition NFTL SLID, see IRM 5.12.7.6.5.3, *Preparing the Draft Special Condition NFTL*, and IRM 5.12.7.6.5.5, *Special Condition NFTL SLID Numbers*.

- (2) The SLID is created by inputting all required information into ALS. If the employee does not have ALS input capabilities, secure email Form 12636 to the appropriate *CLO team* requesting that a SLID be issued immediately.
- (3) Request that the printing of the NFTL and the CDP notice be suppressed before the SLID is generated. If printing is not suppressed, a duplicate NFTL will be systemically generated. The CDP notice(s) for a manually prepared NFTL should be prepared and processed outside of ALS.
- (4) Type the NFTL information, including the SLID number obtained from ALS, into Form 668(Y)(c).

**Note:** **Only** a SLID number generated by ALS is used on an NFTL. Employees must **not** create (make-up) a SLID number. An NFTL issued without an ALS-generated number may not be systemically released by ALS within the 30 calendar day time frame required by IRC § 6325.

- (5) Print the manually prepared NFTL on your local printer.
- (6) Make arrangements with a field employee to have the NFTL hand-carried to the recording office. Filing fees are to be paid by the employee and added to the employee's travel voucher for reimbursement. See IRM 5.12.7.10.5, *Hand-Carried NFTL for Filing*.
- (7) After filing, the stamped document will be returned to the originator, who is responsible for inputting recording data on ALS within **four (4) calendar days of filing the NFTL**. If the employee does not have ALS input capabilities, the complete recording information must be sent via secure email to CLO with the request that it be input to ALS.

**Caution:** If recording information is not input to ALS, timely lien release may not occur.

5.12.7.4.2  
(09-21-2017)  
**Manually Prepared NFTL  
Using ICS**

- (1) A revenue officer needing to hand-carry an NFTL for immediate filing should utilize the manual ICS NFTL process to receive a SLID. An ICS systemically created SLID is recognized by ALS.

**Note:** The CDP notice(s) is systemically generated by ALS for ICS a manually prepared NFTL. If there is a concern that the CDP notice will not be issued within five (5) business days of the NFTL filing, manual issuance of the CDP notice(s) should be considered. See IRM 5.12.6, *Appeals Processes Involving Liens*.

- (2) Type the NFTL information, including serial number obtained from ICS, into the ICS template Form 668(Y)(c).

**Reminder:** Only SLID numbers generated by ICS or ALS are to be used on an NFTL. Revenue officers must not create (make-up) SLID numbers. An NFTL issued without a systemically generated SLID may not be released by ALS. Refer to the *ICS User Guide* for assistance or contact your manager.

**Reminder:** For a special condition NFTL see IRM 5.12.7.6.5.3, *Preparing the Draft Special Condition NFTL*, and IRM 5.12.7.6.5.5, *Special Condition NFTL SLID Numbers*.

- (3) After input is complete, print the ICS template NFTL on your local printer.
- (4) When hand-carried to the recording office, filing fees are to be paid by the employee and added to the employee's travel voucher for reimbursement. See IRM 5.12.7.10.5, *Hand-Carried NFTL for Filing*.
- (5) Revenue officers are responsible for inputting recording data within **four (4) calendar days of filing the NFTL**. If the RO does not have ALS input capabilities, the complete recording information (including the taxpayer's name and TIN or the NFTL SLID) must be secure emailed to CLO (\*SBSE CLO Liens Team 301) for ALS input.

**Note:** If recording data is not input to ALS, timely lien release may not occur.

5.12.7.5  
(10-18-2013)  
**Name Line  
Considerations When  
Preparing NFTL**

- (1) The name line of the NFTL identifies whose property the statutory lien is against. The name has to be accurate enough for creditors to appropriately recognize and understand what property is encumbered. This subsection discusses entity considerations that need to be kept in mind when preparing an NFTL for filing.

5.12.7.5.1  
(01-12-2016)  
**Use of Trade Names**

- (1) The abbreviation 'd/b/a' for 'doing business as' should be used only when an individual is actually doing business as a sole proprietor under a trade name (e.g., Edwin E. Kelly d/b/a Kelly's Garage). The abbreviation should never be used in a partnership situation.
- (2) The same degree of care should be exercised when using the abbreviation 't/a' for 'trading as'. This is used where a corporation, partnership, or LLC operates under a trade name other than the corporate, partnership, or LLC name (e.g., Werk Hard, Inc., t/a The Diggers). See also IRM 5.12.7.5.8, *Franchises*.

**Caution:** When the owner of an LLC is the liable taxpayer for employment taxes, the trade name of the LLC should **not** be included on the NFTL.

- (3) If the d/b/a or t/a name is included in the ICS "Secondary" name line field, create a new Name/Address record to include this information on the ICS "Primary Continued" name line field so it will appear on the NFTL.

5.12.7.5.2  
(10-18-2013)  
**Partnership**

- (1) General partners are individually liable for partnership debts, and separate assessments against them are not essential to sustain their individual liability. The separate liability of the partners is not an issue unless the partnership neglects or fails to pay the assessed liability.
- (2) Partnerships normally have one employer identification number (EIN).

If...	Then...
a single partnership has multiple outlets or businesses	one EIN should be assigned to that partnership.
the same person established several partnerships	each partnership should be assigned a different EIN.
there is any doubt that a change in the name of a partnership will affect any NFTL filings	request an advisory opinion from Area Counsel through appropriate channels. See IRM 5.1.11.7.13, <i>Entity Changes</i> , for entity change procedures. BMF must reflect the name change.  <b>Note:</b> Although a change in name due to a change in membership of a partnership resulting from death, withdrawal, substitution or addition of a partner does not, in itself, effect a termination of a partnership for FICA or FUTA purposes, it does have an effect on the composition of the entity at law insofar as the collection of debts from the separate partners is concerned.
Area Counsel advises that a new form should be submitted based on any changes in a partnership	prepare either a Form SS-4, <i>Application for Employer Identification Number</i> or Form 2363, <i>Master File Entity Change</i> .
adding to or changing a partnership entity	list all partners adding "PTR" following the name of the last partner.

- (3) A supplemental assessment is not required when adding a general partner's name to the partnership assessment. The Service's position is that the assessment and statutory lien against the partnership is also an assessment and statutory lien against each general partner.

5.12.7.5.3  
(01-12-2016)  
**Limited Liability Company (LLC)**

- (1) When filing an NFTL on a single member disregarded LLC entity, whether the name of the single member or the name of the LLC should appear on the NFTL document depends on the tax liability being collected.
  - For collection of employment taxes incurred with respect to wages paid **on or after** January 1, 2009, the LLC is the taxpayer and the name on the NFTL document should be the name of the LLC. See Treas. Reg. 301.7701-2(c)(2)(iv).
  - For collection of certain excise tax liabilities imposed on or after January 1, 2008, the LLC is the taxpayer and the name on the NFTL document should be the name of the LLC. See Treasury Regulation 301.7701-2(c)(2)(v)(A).

- (2) For an NFTL filed with respect to collection of liabilities not addressed in (a) or (b) above, you must determine whether the LLC or the single member owner of the LLC is the liable taxpayer. See IRM 5.1.21, *Collecting from Limited Liability Companies*, for assistance in making that determination. If the single member is the taxpayer then only the name of the single member should be included on the NFTL.

**Caution:** Do not include the name of the disregarded entity on the NFTL. Such action would indicate to a potential creditor that the government has perfected a lien interest in the assets of the LLC. Including the name of the LLC would create a situation parallel to a “doing business as” or “trading as” secondary name line.

- (3) If the NFTL is incorrectly filed in the name of the disregarded LLC and the single member is not listed on the NFTL document, then file a new NFTL in the name of the single member.
  - a. Withdraw the previously filed NFTL showing **only** the name of the disregarded entity.

**Exception:** Depending on the facts of each case, an NFTL identifying the disregarded LLC as the taxpayer may be a valid notice against the single member owner. The Government’s position is that an NFTL need not precisely identify the taxpayer; rather, the NFTL is valid if it substantially complies with the filing requirement so that constructive notice is provided to third parties. The Service loses priority when withdrawing an NFTL so consult with Area Counsel where the name of the LLC is very close to the name of the taxpayer. Allow Counsel to make a determination based on the case facts.
  - b. Do not release the previously filed NFTL filed in the name of the disregarded entity. This action would extinguish the underlying statutory lien associated with the assessment.
  - c. Filing under the correct name will not preserve the priority of the NFTL filed under the name of the disregarded LLC.
- (4) If the NFTL is incorrectly filed in the name of the disregarded LLC but the single member owner is also listed on the NFTL document, then correct the filed NFTL by removing the name of the disregarded LLC and referring back to the original NFTL.
  - a. To correct a filed NFTL, complete Form 13809, *Request for Amendment to a Recorded Notice of Federal Tax Lien*, available through the Publishing web site, and forward via secure email to CLO (\*SBSE CLO Liens Team 301). The ALS AMEND program will supply the verbiage to connect the amended NFTL to the original NFTL.
  - b. Issue a partial Withdrawal only if requested.
  - c. Do not release the previously filed NFTL. The release will extinguish the underlying statutory lien associated with the assessment.
- (5) The EIN used in the assessment should be used for the NFTL, despite the resulting mismatch between the entity name and the EIN, to ensure systemic notifications for the lien release in the Automated Lien system.

**Note:** Certain mistakes on the NFTL are permissible so long as the name on the NFTL is sufficient to put third parties on notice of a lien outstanding against

the single member. Thus, even if the EIN used in the assessment and in the NFTL is that of a disregarded entity, the NFTL is still valid when it is filed in the name of the single member.

**Reminder:** If the name control and TIN on ALS are not the same, the Transaction Codes (TC) 582 and 583 will not post. See IRM 5.12.7.9.2, *Correcting the Filed NFTL*, for name control mismatch instructions.

- (6) The entity type for the single member will dictate where the NFTL is filed with regard to the recording official specified in a state's version of the Uniform Federal Lien Registration Act.

If the single member is a(n)...	Then the NFTL filing location is the...
corporation	Secretary of State or equivalent official specified in state law.
partnership	location provided for partnership filing in state law.
individual	residence of the individual (for personal property).
other LLC	location specified for the tax status elected by LLC or member status if single member LLC is also disregarded.

**Note:** To perfect the lien against real property owned by the single member or an individual, state law generally requires filing with the jurisdiction where the property is physically located.

- (7) When filing an NFTL where the **LLC is the liable taxpayer**:
- Select the name line that contains only the name of the LLC (and trade name, if applicable).
  - Select the "Limited Liability Company" entity type when requesting an NFTL through ICS.
  - Select the "LLC" entity type when requesting an NFTL through ALS.
  - File it in the location specified for corporations in a state's version of the Uniform Federal Lien Registration Act .
- (8) When filing an NFTL where the **Single Member Owner (SMO) is the liable taxpayer**
- Select the name line that contains only the name of the SMO.
  - Select the sole proprietorship entity type when requesting an NFTL through ICS so there is no auto-population after the name.
  - Select the sole proprietorship entity type when requesting an NFTL through ALS so there is no auto-population after the name.
  - File it in the location specified for corporations in a state's version of the Uniform Federal Lien Registration Act .
- (9) If the liable taxpayer changes, due to changes in ownership, classification or regulations, special actions may be required:

If the identity of the taxpayer changed...	Then ...
From one period to the next resulting in a change of the taxpayer of record	Separate NFTLs must be filed for each taxpayer, selecting the appropriate tax periods for each.
During a tax period	<p>Separate calculation of the portion of liability attributable to each taxpayer is required:</p> <ul style="list-style-type: none"> <li>• There may be two separate NFTLs with different names but the same EIN and tax period with the appropriately allocated amounts of liability.</li> <li>• Complete Form 12636 for each liable taxpayer and send by secure email to the appropriate <i>CLO team</i>.</li> </ul> <p>See IRM 5.1.21, <i>Collecting from Limited Liability Companies</i>.</p>

5.12.7.5.3.1  
(01-12-2016)

**Creating New LLC Name  
Line Using ICS**

- (1) The NFTL must properly identify the name of the taxpayer so that the public is placed on notice. You must determine whether the LLC or the owner is the liable taxpayer.
- (2) Care should be taken to ensure that the NFTL is filed properly by selecting the liable taxpayer's name and address and the correct location for filing under state law, depending on the identity of the taxpayer and the type of property.
- (3) To create a new name and address using only the name and address of the identified taxpayer, take the following steps.

Step	Action
a)	At the ICS Case Summary Screen, select Entity Detail.
b)	Select Name/Address then 'Add'.
c)	'From the 'Case Address' menu, if the LLC itself is the liable taxpayer, select the 'LLC-LLC is Liable Address'. To create a new name for the single member, select the LLC-Owner is Liable Address'.
d)	The Domestic Address Format is preselected. Change if applicable.
e)	Add the address record. For an LLC-Owner is Liable address, input of the Secondary TIN is a required field, either an SSN or an EIN.
f)	When filing an NFTL, if the LLC is the taxpayer, see IRM 5.12.7.5.3(7). If the owner is the taxpayer, select the entity type of the owner IRM 5.12.7.5.3(8).
g)	Click 'Save'.
h)	If all information is correct, click 'yes' when prompted.
i)	Click 'Exit' to return to the Case Summary Screen.

5.12.7.5.4  
(09-21-2017)

**Name Changes**

- (1) Taxpayers may change names after the NFTL has been filed. To avoid disputes over lien priority in subsequently acquired assets, amend the NFTL to reflect the name or alias.



- a. Place the new name on the first line.
  - b. Place the previous name on the second name line, preceded by either 'aka' or 'formerly known as'.
- (2) It is important to ensure that the name on the NFTL can be identified by public records searchers. Use the ALS AMEND application to correct an NFTL of this nature thus protecting the priority of the original NFTL. See IRM 5.12.7.9.3, *Amending the NFTL Using the ALS Amend Option*.
  - (3) The ALS AMEND application will supply the verbiage to connect the amended NFTL to the original NFTL. Use Form 13809 to request CLO amend the original NFTL.
  - (4) Follow the Amend procedure when the taxpayer's name has been misspelled. See IRM 5.17.2.3.5, *Effect of Errors in Notice of Federal Tax Lien* for guidelines on whether the error makes the NFTL defective.

5.12.7.5.5  
(04-22-2019)  
**Substitute for Return  
(SFR) Notices of Federal  
Tax Lien**

- (1) When an SFR assessment is made against an individual as Married Filing Separate (MFS), that assessment is valid against that individual from the date of the SFR assessment until it is satisfied or expires. If the individual subsequently files a return, whether retaining or changing the filing status, the assessment is still valid against that individual from the date of the SFR.
- (2) Only the taxpayer and their spouse can elect to file a joint return. So, a taxpayer with an MFS SFR assessment may subsequently file a Married Filing Joint (MFJ) return with their spouse to replace the SFR assessment. When this occurs, the spouses become jointly liable and the joining spouse becomes liable for the tax from the date of the SFR assessment. The CSED for the joining spouse's liability dates from the SFR assessment and, if applicable, from any additional assessment resulting from the MFJ return.

**Example:** An SFR (MFS) assessment where the MFJ replacement return lowers the module balance

On 04/14/2016, a 30-201312 MFS SFR assessment is made against John Doe. On 10/31/2016, a 30-201312 MFJ return is filed by John Doe and his joining spouse Jane Doe. On 12/15/2016, a TC 291 posts reducing the SFR (now joint) assessment.

- John Doe is liable for the adjusted assessment from the original assessment date 4/14/2016.
- Jane Doe is now liable for the assessment, as adjusted, from the original assessment date 4/14/2016.

**Example:** An SFR (MFS) assessment where the MFJ replacement return increases the module balance.

Same facts as above except that a TC 290 posts on 12/15/2016 increasing the module balance.

- John Doe remains liable for the assessment from the original assessment date 4/14/2016
- Jane Doe is now liable for the assessment originally assessed on 4/14/2016.
- John and Jane Doe are both liable for the TC 290 amount assessed 12/15/2016.

- (3) An NFTL can be filed against a taxpayer with an SFR assessment. If an MFJ return is subsequently filed to replace the SFR (MFS) assessment, no correc-



tion or amendment is needed to the NFTL that was previously filed for the SFR assessment. Instead, a new NFTL can be filed to address the MFJ assessment, as shown in the table below.

If...	And the MFJ return(s)...	Then a new NFTL can be filed against...	With the new NFTL showing the date(s) of...
NFTL was filed against primary spouse for SFR assessment(s)	<b>reduces</b> the liability	the spouses jointly (preferred method) <b>or</b> only the joining spouse	the original SFR assessment(s).
NFTL was filed against primary spouse for SFR assessment(s)	<b>increases</b> the liability	the spouses jointly (preferred method) <b>or</b> the primary spouse and/or the joining spouse individually	both the original SFR assessment(s) and the additional assessment(s) from the joint return(s).
NFTL was filed against primary spouse for multiple SFR assessments	<b>increases</b> the liability on some assessment(s) and <b>reduces</b> the liability on other assessment(s)	the spouses jointly (preferred method) <b>or</b> the primary spouse and/or the joining spouse individually	both the original SFR assessment(s) and the additional assessment(s) from the joint return(s).
no NFTL was filed against primary spouse for the SFR assessment(s)	either reduces or increases the liability	the spouses jointly (preferred method) <b>or</b> the primary spouse and/or the joining spouse individually	the original SFR assessment <u>and</u> , if applicable, the additional assessment from the joint return.

- (4) When an SFR has been assessed against one spouse and then a MFJ return is filed using the joining spouse's SSN as the primary SSN, the wording of the NFTL depends on how the return is processed. For example, was the original SFR adjusted or abated as a result of the MFJ return filed?
- (5) Consult Area Counsel as needed with questions about NFTL wording.

#### 5.12.7.5.6 (10-18-2013) **Consolidated Group NFTL**

- (1) A consolidated group is an affiliated group of corporations filing one consolidated tax return for the affiliated corporations. The corporations are connected through stock ownership and share a parent-subsidary relationship with the Common Parent of the affiliated group (in these situations referred to as a Consolidated Group). The Common Parent of the Consolidated Group files a consolidated income tax return to offset profits and losses of the affiliates.
- (2) Treasury Regulation 1.1502-6(a) imposes "several" liability for the consolidated tax liability of the group as a whole on the common parent and on each subsidiary which was a member of the consolidated group during any part of the consolidated return year. As a result, the IRS may collect from the common parent or from any such subsidiary for the unpaid tax liabilities of the consolidated group for the consolidated return year.
- (3) ALS has limited name line space so care must be taken when filing an NFTL for a Consolidated Group. Consult with Area Counsel, if there are questions. When an NFTL needs to be filed and the subsidiaries are too numerous to fit

on the name line for ALS, a manual NFTL must be utilized. The manual NFTL can attach a second page listing the names which did not fit on the face of the NFTL. See IRM 5.12.7.4, *Manual NFTL Preparation*.

5.12.7.5.7  
(10-18-2013)  
**Estate and Gift Tax**

- (1) Estate and Gift Tax Liens are discussed in IRM 5.5.9, *Administrative and Judicial Actions for Estate Taxes*.
- (2) Notice of the estate tax lien is filed using Form 668-J or Form 668-H, *Notice of Federal Estate Tax Lien Under Internal Revenue Laws*, and it must be manually prepared. See guidance in IRM 5.5.8.4.1, *Processing Lien Form 668-H*.
- (3) Estate tax liens have other unique processing issues, including the following:
  - The tax period shown on the lien document for an estate tax account is the date of death. ALS does not accept 000000, which is the tax period reflected on IDRS for estate tax accounts.
  - The fiduciary or their address should not be shown on the lien document; however, notice about the filing must be mailed to the fiduciary.
  - Estate tax lien documents are processed through the CLO Field Office Resource Team (FORT).
  - Estate tax liens should be filed with the appropriate recording office for the last known address of the decedent and/or where the estate property is located.
  - Recording fees for the lien document, if applicable, must be manually posted. The amount of the fees may be different than those fees used for recording Form 668(Y)(c).
- (4) See IRM 5.5, *Decedent Estates and Estate Taxes*, for detailed guidance on working estate tax cases.

5.12.7.5.8  
(10-18-2013)  
**Franchises**

- (1) For federal taxing purposes, a franchise agreement represents a sharing of access to assets or a use of processes and trademarks rather than a business type. There is no federal registry of franchises.
- (2) The franchisor (owner) is different from someone who obtains a license, permit, or permissions (the franchisee) regarding use of assets belonging to the franchisor.

**Example:** A well-known chain store name as the franchisor would not belong in the name line of an NFTL if the liabilities are for a local franchisee.

- (3) Use of a name on a storefront, as part of a franchise agreement, is not the same situation as a corporation owning its own trading name. The NFTL name line should list the taxpayer name for federal purposes.

**Example:** A well-known franchisor's trading name used as part of a franchisee's store front name does not belong on the name line of a franchisee's NFTL.

- (4) Do not add "trading as" to a taxpayer entity based solely on a visual impression during a field visit. Using "trading as" in the NFTL name line must be legally accurate.

- (5) A research reference for a franchise would be its Federal Trade Commission required Franchise Disclosure Document.
- (6) Questions to research regarding the proper name line for a franchisee NFTL:
  - Does the franchisee have a legal right to use “trading as” in their name for federal purposes?
  - Does the franchisee own the land on which the store sits?
  - Does the franchisee own the store building?
  - Does the franchisee own only the rights to operate the store and the products sold?
  - The franchisee makes payments to the franchisor, but are there monies paid from the franchisor to the franchisee? For example, are there contests and bonuses for reaching certain levels of sale?

## 5.12.7.6

(10-18-2013)

**Special Condition NFTL  
(Nominee, Alter Ego,  
Transferee,  
Successor-in-Interest)**

- (1) Under certain circumstances a statutory lien continues to attach to transferred property even though an NFTL was not filed at the time of transfer. For example, the taxpayer (transferor) transfers property to a party (transferee) and does not receive adequate and full consideration in money or money's worth. The transferee is not considered a purchaser and so does not qualify for the protection of IRC § 6323. Those who are not protected by IRC § 6323 compete against the statutory lien (based on the assessment date) rather than the notice filing date. See IRC § 6323(h)(6) for a more complete definition of a purchaser. There are certain circumstances, even without a transfer, where the taxpayer has an interest in property owned by a third party. These circumstances include nominee and alter ego situations. A nominee is someone who holds legal title to the property while the taxpayer has a beneficial interest to which the statutory tax lien attaches. An alter ego situation is where the taxpayer and a third party are so closely aligned that legally they are regarded as having the same identity. Therefore, the taxpayer has a beneficial interest in all of the alter ego's property to which the statutory lien attaches. As with the transfer discussed above, neither the nominee nor the alter ego have protection under IRC § 6323. See IRM 5.17.14.6, *Nominee and Alter Ego Doctrines*.
- (2) Revenue Officers may encounter situations where the taxpayer has transferred property and circumstances indicate actual or constructive fraud. Property may have been acquired in the name of another person or entity and the taxpayer controls the property to such an extent that the title holder is possessed of 'color of title'. See IRM 5.17.2, *Federal Tax Liens* for nominee, alter ego, and transferee theory. Generally, no fraud is indicated if the transfer was made at a time when no tax liability had accrued or was anticipated or the taxpayer did not retain any use or control of the property. See also paragraph two in both IRM 5.12.7.6.1, *Nominee NFTL*, and IRM 5.12.7.6.3, *Transferee NFTL*.
- (3) An NFTL for a **nominee** situation contains a statement on the face of the NFTL. The statement expresses the lien's attachment, through the NFTL, to the specific property identified in the statement. See also IRM 5.12.7.6.1, *Nominee NFTL*.
- (4) An NFTL in an **alter ego** situation will not be limited to certain identified property. Because of the broad nature of the lien asserted with alter egos, the facts of each case should be carefully considered before asserting an alter ego theory. See also IRM 5.12.7.6.2, *Alter Ego NFTL*.

- (5) An NFTL for a **transferee** situation contains a statement on the face of the NFTL. The statement expresses the lien's attachment, through the NFTL, to the specific property identified in the statement. See also IRM 5.12.7.6.3, *Transferee NFTL*.
- (6) An NFTL for a **successor-in-interest** situation will not be limited to certain identified property. Because of the broad nature of the lien asserted with successors, where state law provides that the successor is primarily liable for the predecessor's debts, the facts of each case should be carefully considered before asserting a successor-in-interest. See also IRM 5.12.7.6.4, *Successor-In-Interest NFTL*.
- (7) If an NFTL is filed in the name of the taxpayer before the transferee encumbers or sells the property to a valid purchaser, the government's lien interest is fully perfected. In these circumstances, the lien can be enforced by a seizure of the property from the transferee or subsequent valid purchaser, or by a suit to foreclose the lien. A special condition NFTL would not be required in this situation.
- (8) A special condition NFTL is generally intended as a foundation for the pursuit of enforcement action such as levy, seizure, suit to foreclose a lien, or other related action. Collection and Counsel resources should be taken into consideration if the case collection action plan does not include pursuit of enforcement actions.
- (9) A special condition NFTL may **not** be filed without the written approval of Area Counsel.

**Note:** See IRM 5.12.7.6.5, *Special Condition NFTL Approval Process: Request, Advisory Review, and Post-Approval*, for instructions on the request, approval, and filing of a special condition NFTL.

#### 5.12.7.6.1 (10-18-2013) Nominee NFTL

- (1) A nominee is someone designated to act for another. In the context of the federal tax lien, a nominee is generally a third party who holds legal title to property of a taxpayer while the taxpayer enjoys full use and benefit of that property. The statutory lien attaches to all property and rights to property of the taxpayer even if a third party holds legal title. The third party can be any person listed in IRC § 7701 (a) (1).
- (2) A nominee situation normally involves a fraudulent conveyance or transfer of a taxpayer's property to avoid legal obligations. To establish attachment of the statutory lien in a nominee situation, it must be shown that while a third party may have legal title to the property, it is the taxpayer that enjoys the full use and benefit.

**Note:** If there are fraud indicators associated with a property transfer prior to the assessment (i.e. statutory lien arising) and little evidence that the taxpayer controls or enjoys full use and benefit of the property, contact Area Counsel as soon as practicable to discuss making a suit referral to the Department of Justice.

- (3) Consider the following circumstances when developing your case:
  - a. the taxpayer is paying maintenance expenses,
  - b. the taxpayer is using the property as collateral for loans,

- c. the taxpayer is paying state and local taxes on the property,
  - d. the taxpayer has the use or benefit from the property, or
  - e. other relevant facts. See also IRM 5.17.2.5.7.2, *Nominee*.
- (4) The taxpayer may record fraudulent transfer documents that make it appear as if the transfer of the property was to a valid purchaser prior to the filing of the NFTL. For example, the taxpayer may record a warranty deed showing the alleged purchaser paid fair market value for the property instead of a quit-claim deed for love and affection.
- (5) Examples of nominee situations include:

**Example:** Minnie College owes \$70,000 for tax periods 201312 and 201412 assessed in April 2016. Minnie deeds property valued at \$250,000 to her daughter, Molly for no cost in January 2015. Minnie continues to maintain the property and uses it as collateral for obtaining a car in January 2016. Even though Molly lives on the property, Molly is a nominee of Minnie because consideration was not paid for the property.

**Example:** Sam Smith is the beneficiary of an Illinois Land Trust, the corpus of which consists of land located in the state of Illinois. ABC Trust Co. is designated as the trustee of the trust. Although under Illinois law the trustee is the legal owner of the land, Sam retains full use and benefit of the land, including control over disposition. Therefore ABC Trust CO is Sam's nominee with respect to the land held in the trust. A nominee lien should be filed in the county office where the land is located in the name of "ABC Trust CO, nominee of Sam Smith".

- (6) A nominee NFTL may **not** be filed without the written approval of Area Counsel.

5.12.7.6.2  
(10-18-2013)  
**Alter Ego NFTL**

- (1) The "alter ego" (second self) doctrine has been summarized as follows: The obligations of a corporation will be recognized as those of another person, and vice versa, where it appears that the corporation is not only influenced and governed by that person, but there is such a unity of interest and ownership that the individuality or separateness, of the person and the corporation has ceased. Also the facts are such that adherence to the fiction of the separate existence of the corporation would, under the particular circumstances, sanction a fraud or promote an injustice. The alter ego question does not concern property rights and should not focus on whether the taxpayer had a state-law enforceable property right in property. Rather, a proper alter ego analysis focuses on which entities are liable for the debt and whether two entities that are formally separate should be regarded as one.

**Note:** It is generally more difficult to establish alter ego relationships than a nominee situation.

- (2) There are two elements to the alter ego doctrine:
- a. Unity of ownership and interest, and
  - b. Fraud or inequity would result from the failure to disregard the corporate entity.
- (3) Some factors pertinent to a determination to disregard the corporate entity are whether the individual:

- a. is in a position of control or authority over the entity;
  - b. controls the entity to shield himself from personal liability;
  - c. uses the business entity for his or her own financial benefit;
  - d. uses the business entity to assume personal debts, or debts of another, or
  - e. uses personal funds to pay the business entity's debts.
- (4) Some facts establishing the factors in (3) above are:
  - a. commingling of funds and other assets,
  - b. failure to segregate funds of the separate entities,
  - c. an unauthorized diversion of corporate funds or assets to other than corporate uses,
  - d. treatment by an individual of the assets of the corporation as his own,
  - e. failure to obtain authority to issue stock or to subscribe to or issue the same,
  - f. holding out by an individual that he or she is personally liable for the debts of the corporation,
  - g. failure to maintain minutes or adequate corporate records, and the confusion of records of separate entities,
  - h. the identical equitable ownership in two entities,
  - i. the failure to adequately capitalize a corporation, the total absence of corporate assets, and under capitalization,
- (5) Explore the possibility of using the processes of jeopardy, transferee assessment, nominee NFTL, emergency lien foreclosure action, or emergency transferee or fraudulent conveyance suit before filing an NFTL in the name of an alter ego.
- (6) Do not file an NFTL in the name of an alter ego without legal review, advice, and written direction from Area Counsel as to:
  - a. the need for a supplemental assessment,
  - b. a new notice and demand, and
  - c. the language to be incorporated in the NFTL.
- (7) Refer to the Legal Reference Guide for Revenue Officers, IRM 5.17.2, *Federal Tax Liens*, for additional information.
- (1) The term transferee can be a confusing concept because the term is used in different ways. In the context of this IRM section, transferee refers specifically to when a statutory lien attaches to property and the property has been transferred by the taxpayer through a gift, bequest, devise, or inheritance before an NFTL could be filed. There is no requirement that the taxpayer retain use of or a beneficial interest in the property. With the approval of Area Counsel, a special condition NFTL naming the transferee and the property transferred may be filed. Substantiation for a transferee NFTL filing includes tracing the statutory lien for the assessment through the transfer. Document by confirming that the dates the statutory lien(s) arose occurred prior to the date(s) of transfer. This is also referred to as lien-tracing.

**Example:** William and Mary have outstanding tax liabilities but state they have no property and so cannot pay their liability. They gave their \$600,000 home to their son Bob after the liabilities and statutory lien arose but before an NFTL was filed. After which, they moved into leased property. The deed to the home is in Bob's name, he lives in the home, maintains it, and

5.12.7.6.3  
(09-21-2017)  
**Transferee NFTL**



has used the home as collateral to finance his mortgage. Bob is a transferee because the statutory lien existed before the transfer and he did not pay for the property.

- (2) Contact Area Counsel as soon as practicable to discuss making a suit referral to the Department of Justice if there are fraud indicators associated with a property transfer prior to the assessment (i.e. statutory lien arising) and little evidence that the taxpayer controls or enjoys full use and benefit of the property.
- (3) Other uses for transferee include:
  - a. An administrative transferee assessment under IRC § 6901. An IRC § 6901 assessment carries its own statutory federal tax lien. Normal NFTL filing procedures and appeal rights are followed.
  - b. Other transferee options include pursuing a suit to establish a transferee liability or set aside a fraudulent transfer. A transferee judgment lien is not the same as a statutory federal tax lien and can't be used as the basis to file a special condition transferee NFTL.
- (4) For more information about transferee situations, see the following references:
  - IRM 5.17.14, the *Legal Reference Guide for Revenue Officers - Fraudulent Transfers and Transferee and Other Third Party Liability*
  - IRM 5.1.14.2, *Transferee Liability and Fraudulent Conveyances*, for information on Transferee liabilities assessed under IRC § 6901
  - IRM 25.3, *Litigation and Judgments* series when pursuing suit recommendations regarding fraudulent transfers.

5.12.7.6.4  
(09-21-2017)  
**Successor-In-Interest  
NFTL**

- (1) Dependent on *state law*, it may be possible to administratively collect the primary liability of the taxpayer corporation from the successor corporation. Where it is possible to administratively collect the primary liability from the successor, after obtaining the concurrence of Area Counsel, a special condition successor-in-interest NFTL, naming the successor corporation (corporation X, as successor to taxpayer A), should be filed to preserve the government's priority over other creditors.
- (2) For more information about successor-in-interest situations, see the following references:
  - IRM 5.17.14.1.3, *Successor Liability*
  - IRM 5.17.14.2.3.4, *Successor Liability of a Corporation as a Transferee*
  - IRM 5.17.14.5, *Successor Liability as Primary Liability*
  - IRM 5.1.14.2, *Transferee Liability and Fraudulent Conveyances*, for information on Transferee liabilities assessed under IRC § 6901.
- (3) A successor-in-interest named on a special condition NFTL **may be entitled to CDP rights** for the filing. Follow the IF THEN chart below to determine if the successor-in-interest (SII) is entitled to CDP rights and always request confirmation from Counsel as to whether the successor-in-interest qualifies for CDP rights.

Successor-In-Interest CDP Qualification	
If ...	Then ...
If the Service has made a determination that the taxpayer has ceased to exist, and the taxpayer has not been given CDP rights for a NFTL for the assessments listed on the successor-in-interest NFTL	The successor-in-interest <b>is</b> entitled to CDP rights. In these circumstances, the successor-in-interest is primarily liable for the tax and steps into the shoes of the taxpayer.
If a CDP notice was issued to the taxpayer	The successor-in-interest is <b>not</b> entitled to CDP rights for the successor-in-interest NFTL filing.

5.12.7.6.5  
(04-22-2019)

**Special Condition NFTL  
Approval Process:  
Request, Advisory  
Review, and  
Post-Approval**

- (1) The request and approval of a special condition NFTL involves a request from a revenue officer, approval by their manager, review by Advisory, and approval by Area Counsel.
- (2) Given the geographic diversity of the workforce, all review and approval work will be conducted, whenever possible, through electronic transmissions (generally via secure email).
- (3) The Revenue Officer's pre-approval request actions are the first step.

**Note:** See also IRM 5.12.7.6.5.1, *Taxpayer NFTL Filing When Special Condition NFTL Filed*.

- (4) The revenue officer's manager is the second step in the approval process. If the special condition NFTL is a protective action only, consideration must be given to economic factors, and the resources of Field Collection and Area Counsel. Consideration of these factors will be reflected in the request package.
- (5) The third step is the review process in Advisory. See IRM 5.12.7.6.5.4, *Advisory Review Actions*.
- (6) The final step is the responsibility of Area Counsel. They must approve all special condition NFTLs and any associated enforcement action, court action, or protective action recommended by the originating revenue officer.
- (7) If Area Counsel approves a special condition NFTL and associated enforcement action, generally they return the request package to Advisory (IRM 5.12.7.6.5.4, *Advisory Review Actions*) with any document perfections needed. There may be occasions because of time and/or inventory considerations where the revenue officer perfects the approved special condition NFTL. In either situation, perfecting the draft NFTL involves following Area Counsel's directions as to the name line, property description, and any other special identifying language.

**Caution:** Counsel opinions and communications should not be copied and pasted into the ICS history. Contacts with Counsel may be generally described, but, in order to preserve the attorney-client privilege, Counsel communications should not be copied verbatim into the history.



- (8) Generally where a suit is anticipated and even though they have reviewed the draft suit package along with the special condition NFTL request, Area Counsel will need to have the suit package re-presented to them once the special condition NFTL has been filed.

5.12.7.6.5.1  
(01-12-2016)

**Taxpayer NFTL Filing  
When Special Condition  
NFTL Filed**

- (1) As part of the special condition NFTL request process, ensure that a regular NFTL, naming the taxpayer and covering the same statutory liens (assessments), is filed for real and personal property, before the special condition NFTL filing. This is to ensure that CDP rights have been afforded through the filing of the regular NFTL (see also IRM 5.12.7.6.6, *Appeal Rights for Special Condition NFTL*). The location for any such regular NFTL filing will be in accordance with Exhibit 5.12.7-2, *State and Territory Filing Locations*, and in keeping with where the taxpayer resides at the time of filing.

5.12.7.6.5.2  
(09-21-2017)

**Revenue Officer Request  
Actions**

- (1) Revenue officer actions for a special condition NFTL request pre-approval include:
- a. Identify, as part of case review and analysis, when the elements exist to pursue a special condition NFTL. See IRM 5.12.7.6.1, *Nominee NFTL*; IRM 5.12.7.6.2, *Alter Ego NFTL*; IRM 5.12.7.6.3, *Transferee NFTL*; and IRM 5.17.2.5.7, *Property Held By Third Parties*.
  - b. Identify **all** special conditions that are applicable for the case when submitting to Advisory and Area Counsel for consideration.

**Reminder:** Each special condition has its own criteria and is represented on a separate special condition NFTL.

- c. See IRM 5.12.7.6.5.1, *Taxpayer NFTL Filing When Special Condition NFTL Filed*.
- d. Seek pre-submission advice on the merits of the case from Advisory or Area Counsel to ensure that the elements needed to substantiate the request have been established.
- e. Prepare the request.

**Reminder:** If this is a successor-in-interest request, include the analysis completed using the *SII CDP Qualification* table in IRM 5.12.7.6.4, *Successor-in-Interest NFTL*, and request Counsel confirmation as to whether or not the successor-in-interest qualifies for CDP rights.

- (2) **A draft special condition NFTL is prepared** and included along with the request memorandum for approval. Counsel has advised that generally the request memorandum should specify the alternative proposed (nominee, alter ego, transferee, or successor-in-interest) and should not propose multiple special condition alternatives. The draft special condition NFTL should reflect the proposed alternative in the draft name line. If Area Counsel approves the filing of the special condition NFTL, the draft NFTL will be rechecked and perfected based on the language provided by Area Counsel before it is filed.

**Reminder:** When preparing the draft NFTL, use the ICS instructions in IRM 5.12.7.6.5.3 below. Use the ICS template particularly for nominee and transferee NFTL requests as the template will automatically create an exhibit as an attachment to the NFTL for entering the required property description. See paragraph (4) below.

- (3) **Do not use ALS or ICS regular NFTL request** to create a special condition nominee or transferee NFTL because both require that a description of the property attached by the lien be included in the body of the NFTL. ALS does not have the capability to add text to the body of an NFTL. It allows, in addition to the entity information, only the standard information, i.e., MFT, tax period, TIN, etc. When a property description is needed, the NFTL must be manually prepared.
- (4) The request memorandum should:
- Develop and substantiate the basis for a special condition NFTL. If multiple conditions are being requested, identify separately the facts substantiating each condition.
  - Be able to withstand a court challenge (with minimal additional development).
  - If this is a transferee situation, identify whether lien tracing exists, a fraudulent transfer has occurred, or the focus of the request should be for advice as to the need for a supplemental assessment and a new notice and demand. See IRM 5.12.7.6.3, *Transferee NFTL* and IRM 5.1.14, *Field Collection Techniques and Other Assignments* for IRC § 6901 requests.
  - Seek advice as to the name line to be used and any special language to be incorporated into the body of the NFTL.

**Reminder:** Name lines need to be clear and accurate.

Name Line Tips	
(i)	A special condition NFTL identifies to creditors that the property, or certain property, held by, or in the name of, a third party is encumbered by the taxpayer's statutory lien(s).
(ii)	A special condition NFTL lists only one condition.
(iii)	If Counsel approves multiple conditions, each condition will have its own NFTL.
(iv)	Appropriate name line examples: Third Party as nominee of Taxpayer Third Party A (dba Third Party A1) as alter ego of Taxpayer Third Party as transferee of Taxpayer Third Party as successor-in-interest to Taxpayer
(v)	Name lines to avoid: Third Party as nominee, alter ego, and / or transferee of Taxpayer Third Party A as nominee of Third Party A1 as alter ego of Taxpayer

- Include enforcement plans since a special condition NFTL is generally intended for enforcement.
  - If the plans are for levy or seizure, include the basis for those actions so that Area Counsel's approval can contain the approval for those actions as well. The actual forms will not be prepared until approval has been received.

(ii) If a suit to foreclose the lien is planned, summarize the planned suit and its basis so that Area Counsel's approval of the suit can be obtained prior to the preparation of the suit's approval package.

(iii) If the special condition NFTL is protective in nature, provide all relevant information to provide Area Counsel the background needed to determine whether a protective special condition NFTL is appropriate.

(5) The request will be forwarded to the group manager for approval of the decision.

(6) The manager approved request will be forwarded to Advisory for review.

**Caution:** If a revenue officer, with approval of their manager and Advisory, bypasses Advisory, the revenue officer must perform the review as instructed in IRM 5.12.7.6.5.4, *Advisory Review Actions*. CLO FORT will then contact the revenue officer or group manager instead of Advisory if any errors are identified.

(7) Wherever possible, transmission of the request should occur electronically via secure email.

#### 5.12.7.6.5.3 (09-21-2017)

#### Preparing the Draft Special Condition NFTL

(1) ICS Template steps to use in preparation of the draft special condition NFTL are shown below.:

- a. ICS NFTL templates for manually preparing Notices of Federal Tax Lien include special condition NFTL choices. The nominee and transferee templates automatically create an Exhibit for providing the property description.
- b. A non-template systemic ICS NFTL may be requested **ONLY IF** it is an alter ego NFTL  
**AND** the complete name line fits within ALS name line size limits  
**AND** a regular NFTL has been filed to ensure that CDP rights were previously afforded to the taxpayer for the assessments listed.
- c. **DO NOT** create **BOTH** an ICS manual template NFTL **AND** an ICS systemic NFTL request for ALS.
- d. Obtain a SLID only **AFTER** NFTL filing approval received IRM 5.12.7.6.5.5, *Special Condition NFTL SLID Numbers*. Work with CLO FORT to obtain a SLID for documents manually filed.
- e. If the ICS template is unavailable, prepare the NFTL using the *PDF fillable version* from the Publishing catalog.

Step	Action
1	From the <b>Case Summary</b> screen in ICS from <b>within case</b> , select from the ICS Template list <b>Form 668Y Notice of Federal Tax Lien (Manual Filing)</b> .
2	Select the taxpayer then click <b>Next</b> .
3	The taxpayer name and address listing appears. Ensure the taxpayer's address of record is selected then click <b>Next</b> .
4	Select the periods to be included on the NFTL then click <b>Next</b> .
5	A pop-up fill-in dialogue box appears. Select the special condition from the drop-down box.

Step	Action
6	Skip the“ Enter the Serial Number” field as no SLID should be placed on the draft document at this time.
7	<p>Complete the entity section of the NFTL by entering:</p> <ol style="list-style-type: none"> <li>Name of the special condition entity,</li> <li>Verify the taxpayer’s name is correct.</li> </ol> <p><b>Note:</b> These two name line items will be perfected later by Area Counsel if the request is approved.</p> <ol style="list-style-type: none"> <li>the name of the taxpayer.</li> </ol> <p><b>Reminder:</b> Neither the taxpayer nor third party TIN belong in the name line.</p> <p><b>Reminder:</b> A special condition NFTL lists only one condition. If Counsel approves multiple conditions, each condition will have its own NFTL. Do not create a name line mixing together more than one condition. See the table in IRM 5.12.7.6.5.2, <i>Revenue Officer Request Actions</i>.</p> <p><b>Caution:</b> The longer a name line is the harder it is to reconcile it with the character limitation restrictions in ALS. Work with CLO FORT and Counsel to create an acceptable truncation in ALS that allows the ALS document to effectuate a future IRC 6325(a) lien release.</p>
8	<p>Ensure the taxpayer’s address is correct.</p> <p><b>Reminder:</b> Do NOT enter the address of the third party nominee/transferee. This field is for the taxpayer’s address of record.</p>
9	Enter the tax period information.
10	<p>For an asset specific NFTL (i.e., nominee and transferee NFTL), use the ICS template as it prints the following text on the face of the NFTL, <b>The lien(s) identified on this special condition Notice of Federal Tax Lien attaches/attach to the following property: see attachment.</b></p> <p>The ICS template also produces an exhibit for entering the property description. Enter the property description in the pop-up window’s property description field. This field is limited to 250 characters. If the description is longer than 250 characters, enter it directly into the Exhibit created by using the ICS template.</p> <ol style="list-style-type: none"> <li>A personal property description example: <b>Example:</b> Seascope Yacht, VIN 65T23465, Location: Blackrock Court, Seaside, FL 94899.</li> <li>A real property description example: <b>Example:</b> Enter the legal description of the real property and if available the address of the real property.</li> </ol> <p><b>Reminder:</b> If an Alter Ego or Successor-In-Interest NFTL is being filed where the name line will not fit into ALS, select and use the appropriate ICS NFTL template then work with Counsel and CLO FORT on length accommodations between the document to be filed and how that name line will be represented in ALS.</p>
11	Enter the filing location.
12	Enter where the document is being prepared.

Step	Action
13	Enter date notice prepared.
14	Recheck that all information entered in the pop-up window is correct.
15	Click "save".
16	<p>From the Print Manager, Click "Switch to Word" and review the document for accuracy.</p> <p><b>Reminder:</b> Use the ICS Template for a nominee or transferee NFTL to automatically create an Exhibit for entering the property description.</p> <p><b>Caution:</b> If the nominee/transferee template is not selected, attempting to enter the property description on the face of the NFTL may cause the bottom sections of the NFTL document to roll over to another page. To fix this, simply place your cursor over the empty rows, click "Table" on the Word Menu Bar (at the top), scroll down to the "Delete" command and over to "Rows" and click. This will delete the unused rows and roll up the unused sections from the other page back to the NFTL. Make sure to execute this fix on both pages of the NFTL.</p>

**Reminder:** If the ICS template is unavailable, prepare the NFTL using the *PDF fillable version* from the Publishing catalog.

5.12.7.6.5.3.1  
(01-12-2016)

**Tips When Preparing the  
Special Condition NFTL**

- (1) Document perfection is important when creating a manual NFTL. Most special condition NFTLs are created manually using the ICS template either because the NFTL contains specialized language and property descriptions (i.e., nominee and transferee situations) or the name line is too long for ALS character spacing. The ICS template creates an exhibit for the nominee and transferee property descriptions. Even though the ICS template is used to create special condition NFTL, the information must be stored in ALS for any future document maintenance. That is why it is important to work with CLO FORT to ensure a reasonable facsimile is entered into ALS. The reason for this matching is that it allows the recording office receiving a release of the lien or NFTL withdrawal to recognize the correct document to release or withdraw.
- (2) Normally the Advisor will have the time to provide the draft special condition NFTL to the CLO FORT and obtain a SLID. However, there may be rare occasions when a SLID is needed for an immediate hand-carry filing. In those circumstances, contact the CLO FORT directly for the SLID and provide the **draft special condition NFTL**.
- (3) The draft special condition NFTL Word file is used to request either a SLID or assistance from CLO FORT whose email address is \*SBSE CLO FORT. The information on the special condition NFTL(s) filed with the recording office and how that NFTL data is reflected in ALS must match as closely as possible. **Additionally, it is imperative that the information on a filed special condition NFTL meet limitations in ALS, which is a legacy system (i.e., ALS name line restrictions, etc.).** For columns a through f the data must match exactly. This is to ensure that every statutory lien on every NFTL can be tracked and released timely.
- (4) Nominee and Transferee special condition NFTLs require a property description. The ICS template for these two NFTL types will automatically create an exhibit page for the property description. For real property, provide the legal

description as well as an identifying description such as the address of the property, if one exists. If the tax lien attaches to a third party numbered account, appropriately redact the first portion of the account number.

**Property Description TIP:**

- Use the ICS template property description exhibit and avoid the recording office rejecting an attached copy of a previously recorded deed document.

**(5) Name Line/Entity Section TIPS:**

- A special condition NFTL lists only one condition. If Counsel approves multiple conditions, each condition will have its own NFTL.
- Neither the taxpayer nor the third party SSN or EIN belong anywhere in the entity section of the NFTL. The only TIN on the NFTL should be the taxpayer's redacted TIN in column "c".
- See also the table in IRM 5.12.7.6.5.2, *Revenue Officer Request Actions*.

**(6) TIPS for Form 668(Y) columns (a) - (f):**

- The taxpayer's **redacted** TIN goes in column "c". Do NOT use the third party's TIN.
- Ensure all statutory lien(s) identified on the NFTL are active and that revocations are filed for any expired/released liens before they are reflected on the NFTL.
- Ensure all balances have been calculated correctly.
- Ensure all assessment dates are accurate.
- Ensure all column "e" refile dates have been calculated correctly

**Reminder:** See IRM 5.12.8, *Notice of Lien Refiling*, and IRC 6323(g).

**(7) General TIPS:**

- Use the *IRM ON-LINE* current revision for ease with searching. In addition, there are buttons at the top of the IRM 5.12.7 page to access: (1) the PDF view, (2) the Publishing Catalog page containing links to all the IRM's revisions, (3) associated Interim Guidance, (4) the SERP IRM view, (5) the IRS.gov IRM view, (6) a link to the IRM library, and (7) a contact link for questions.
- Ensure the regular NFTL is filed (IRM 5.12.7.6.5.1, *Taxpayer NFTL Filing When Special Condition NFTL Filed*).
- Ensure that Advisory has reviewed the package and draft NFTL (IRM 5.12.7.6.5.4, *Advisory Review Actions*).
- Ensure the Counsel opinion is followed.
- **Remember**, input errors increase the maintenance burden for a statutory lien. That lien may be reflected on numerous NFTLs, amended NFTLs, and refiled NFTLs. If the self-release clause is triggered or a premature release occurs in one instance, the underlying statutory lien is released. A revocation of release must be filed for each NFTL, amended NFTL, or refile NFTL reflecting that statutory lien in order to restore the lien. Until the revocation is filed to replace each instance releasing the lien, a new NFTL cannot be filed.



5.12.7.6.5.4  
(09-21-2017)  
**Advisory Review  
Actions**

- (1) Advisory generally becomes involved with a special condition NFTL request prior to submission of the request package. Advisors provide advice to revenue officers on the merits of the case and the substantiation needed for approval. The advisor will seek the assistance of Area Counsel, as needed, at this stage.

**Caution:** If a revenue officer, with approval of their manager and Advisory, bypasses Advisory, the revenue officer must perform the review as instructed below with the exception of creating a NFOI control.

- (2) When receiving a special condition NFTL request package, Advisory opens an ICS NFOI 191 control.
- (3) Advisory is then responsible to review and perfect the request package for approval consideration. They are to ensure all the elements needed for the request have been provided and that the revenue officer has included adequate substantiation to prove their position. Perfection of the package includes a review of items identified in IRM 5.12.7.6.5.3.1, *TIPS When Preparing the Special Condition NFTL* and IRM 5.12.7.6.5.5, *Special Condition NFTL SLID Numbers*.

**Note:** See also IRM 5.12.7.6.5.1, *Taxpayer NFTL Filing When Special Condition NFTL Filed*.

- (4) Once the request is ready, Advisory will forward the request to Area Counsel for approval. Wherever possible, transmission of the request should take place electronically.
- (5) Once the special condition NFTL and any associated enforcement actions have been approved, Advisory perfects the name line, special conditions, and, for any notices of nominee or transferee lien the property description, based on Area Counsel's instructions.

**Reminder:** Each special condition NFTL should have only one condition type in the name line. Do not create a name line mixing together more than one condition. Avoid name lines such as *X is the transferee of Y, Y is the transferee of Z, Z is the alter ego of W*. See also the table in IRM 5.12.7.6.5.2, *Revenue Officer Request Actions*.

**Caution:** The longer a name line is the harder it is to reconcile it with the character limitation restrictions in ALS. Work with CLO FORT and Counsel to adjust the name line in ALS to effectuate a systemic future IRC 6325(a) lien release.

- (6) Advisory then notifies the originating revenue officer of the approval and forwards the special condition NFTL and any attachments (generally via secure email) to CLO FORT (Field Office Resource Team) for processing at \*SBSE CLO FORT. See IRM 5.19.12, *Centralized Lien Operation*, for CLO procedures.

**Reminder:** See also IRM 5.12.7.6.5.1, *Taxpayer NFTL Filing When Special Condition NFTL Filed*.

**Reminder:** The FORT will notify Advisory or the requestor of any problems entering the NFTL information into ALS. Even if the circumstances are exigent

and the NFTL will be hand-carried for filing, before filing work with the FORT, have them recheck the NFTL for typos, and any ALS name line length restrictions. See IRM 5.12.7.6.5.3.1, *TIPS When Preparing the Special Condition NFTL*.

- (7) As ALS does not issue any CDP notice letters or special condition NFTL letters when a special condition NFTL is filed, both the FORT and Advisory must ensure that the originating revenue officer has the information needed to send the appropriate CDP notice letter(s) and/or other letters timely as part of the filing process.
- (8) Advisory will receive from the FORT, via secure email (\*SBSE CLO FORT), a copy of the special condition NFTL, including the SLID assigned by ALS, sent to the recording office for filing. Again, Advisory must ensure that the FORT sends this to Advisory as soon as the special condition NFTL is printed and sent for filing.

**Note:** If a SLID must be obtained by Advisory or the revenue officer, see IRM 5.12.7.6.5.7, *Post Approval Exigent Circumstance Actions*, for methods of obtaining the SLID when manually creating an NFTL.

- (9) Advisory provides the originating revenue officer (generally via secure email) a copy of the special condition NFTL with a reminder to the revenue officer to monitor ALS for the posting of the recording information and to follow-up on the letters to be sent to the special condition entity, taxpayer, and any applicable Powers of Attorney.
- (10) Advisory closes their ICS control.
- (11) The FORT should be provided by the revenue officer or advisor a copy (electronically scanned and secure emailed to \*SBSE CLO FORT) of the filed special condition NFTL and any associated taxpayer NFTL with the recording information to both the originating revenue officer and Advisory. Advisory will associate this with their closed case file. The FORT will also retain an electronic copy of the filed special condition NFTL and any associated taxpayer NFTL for future reference.
- (12) Subsequent levy or seizure enforcement action is at the Area Office's discretion once Area Counsel has approved the special condition theory in writing. Generally suit packages are re-presented to Advisory and Area Counsel once the special condition NFTL is in place.

5.12.7.6.5.5  
(01-12-2016)

**Special Condition NFTL  
SLID Numbers**

- (1) Normally the special condition NFTL SLID number will be generated by ALS when CLO FORT inputs the information from the approved special condition NFTL after receiving it from Advisory. However, there may be situations when either the originating revenue officer or Advisory will need to generate the SLID.

**SLID Errors to Avoid**

- SLID not obtained from CLO (ALS) and/or self-created.
- No SLID on document.



**SLID Errors to Avoid**

- One SLID for multiple NFTLs, i.e., where the taxpayer has more statutory liens (assessments) than can be accommodated on one NFTL and multiple NFTLs are needed to list all the statutory liens (assessments) but only one SLID is used for the original and all additional NFTLs.

**Example:** A nominee NFTL is needed for eighteen (18) statutory liens (assessments). Both ALS and the ICS nominee NFTL template limit the number of statutory lien (assessment) lines to fifteen (15). The remaining three (3) statutory liens (assessments) would be listed on a second nominee NFTL with a second SLID. Both nominee NFTLs would contain the same property description. Each NFTL would have its own SLID.

- (2) One way to request a SLID is to request the SLID directly from CLO FORT by phone, fax, or secure email.
- (3) A second way to generate a SLID is through ICS. Through coordination with ALS, ICS can generate a SLID starting with the number 27. From the ICS Collection Activity Screen:
  - a. Select "Federal Tax Lien".
  - b. Request "Lien".
  - c. Verify the address information.
  - d. From "Lien type".
  - e. Select "File Manually".
  - f. Type the SLID obtained from the ICS process into the ICS Form 668(Y)(c) template. Secure email the NFTL and any attachments to CLO and they will complete the billing and issuance process.
- (4) A third way that **Advisory** can generate a SLID is through ALS, if they have permissions, by entering all applicable entity and tax information, and then:
  - a. Select the entity type as nominee to suppress the printing of the regular CDP notice. This selection automatically populates the first line of the NFTL with "Nominee of".
  - b. Suppress the printing of the NFTL by answering (N)o to the question "Print and Store" before inputting the revenue officer's assignment number.
  - c. Answer the question "On Voucher", for NFTL manually prepared and hand-carried for filing, as "N".

**Exception:** For filing with Boston United States District Court and for the Connecticut Secretary of State answer the "On Voucher" question "Y".

- (5) However the SLID is generated, the revenue officer must ensure that CLO FORT has a copy of the manually filed NFTL.

5.12.7.6.5.6  
(09-21-2017)

**Post Approval Revenue  
Officer Actions**

- (1) After receiving from Advisory a copy of the approved special condition NFTL and confirmation that the special condition NFTL has been sent for filing, the revenue officer **must within five (5) business days** manually prepare and mail the appropriate letters informing the special condition entity and the taxpayer of the special condition NFTL filing and providing the taxpayer, if appropriate, the taxpayer's CDP notice. See IRM 5.12.7.4 *Manual NFTL Preparation*, and IRM 5.12.7.6.6, *Appeal Rights for Special Condition NFTL*, for

those instructions. Also, if Counsel confirms a successor-in-interest qualifies for CDP rights, then the CDP notice must be sent to the successor-in-interest. See the table in IRM 5.12.7.6.4(3), *Successor-In-Interest NFTL*.

**Reminder:** See also IRM 5.12.7.6.5.1, *Taxpayer NFTL Filing When Special Condition NFTL Filed*.

**Reminder:** If hand-carrying, see also IRM 5.12.7.10.5, *Hand-Carried NFTL for Filing*.

- (2) When the special condition NFTL is processed through CLO FORT, the recording office will return the recording information to CLO. The revenue officer must follow-up to ensure the NFTL was properly filed and the court recording data entered into ALS. CLO will post the recording information in ALS once it is received. \*SBSE CLO FORT may be contacted to verify that information and the FORT can send the RO a copy of the data..
- (3) The revenue officer associates this special condition NFTL document, a copy of the approval memorandum from Area Counsel, and any other relevant documents with their case file.
- (4) The revenue officer proceeds with their intended case actions. See IRM 5.12.7.6.7, *Enforcement of Special Condition NFTL*.

5.12.7.6.5.7  
(09-21-2017)

#### Post Approval Exigent Circumstance Actions

- (1) Most special condition NFTLs are processed routinely through the CLO FORT. Occasionally there are exigent circumstances such as an imminent property transfer or other jeopardy situation. In these situations the special condition NFTL is hand-carried to the recording office for filing.

**Reminder:** See also IRM 5.12.7.6.5.1, *Taxpayer NFTL Filing When Special Condition NFTL Filed*.

**Reminder:** If hand-carrying, see also IRM 5.12.7.10.5, *Hand-Carried NFTL for Filing*.

- (2) Either Advisory or the revenue officer will contact the CLO FORT by phone and follow-up with an expedite secure email request \*SBSE CLO FORT for a SLID number "only". The exigent circumstances will be explained and must include as an attachment the Word version of the approved special condition NFTL. Send the Word version of the special condition NFTL to CLO by secure email. This way the FORT will know to select an entity type in ALS for the special condition, suppress printing the NFTL for filing, and take this NFTL off the normal voucher system for filing fees.
- (3) The FORT creates a special condition NFTL in ALS to mirror the special condition NFTL based on ALS limitations and provides the SLID to the requestor. See IRM 5.12.7.6.5.5, *Special Condition NFTL SLID Numbers*, for those instructions. See also the reminder in table row 10 of IRM 5.12.7.6.5.3, *Preparing the Draft Special Condition NFTL*, about working with Counsel and CLO FORT when name line is too long to fit in ALS. This is to create an acceptable ALS truncation for use with an ALS systemic lien release.
- (4) The revenue officer then physically carries the special condition lien to the recording office for filing.

**Reminder:** Ensure that a SLID has been obtained and entered onto the document before filing. See also IRM 5.12.7.6.5.5, *Special Condition NFTL SLID Numbers*.

- (5) See IRM 5.12.7.6.5.8, *Filing Fee Payment for Special Documents*, for instructions on paying filing fees.
- (6) The revenue officer **must within four (4) calendar days** of physically filing the special condition NFTL, forward electronically via secure email a copy of the filed NFTL with recording information to both the FORT (at \*SBSE CLO FORT) and Advisory.

**Reminder:** If the recording data is not input to ALS, timely release may not occur.

- (7) The revenue officer **must within five (5) business days** manually prepare and mail the appropriate letters informing the special condition entity and the taxpayer of the special condition NFTL filing and providing the taxpayer, if appropriate, the taxpayer's CDP notice. See IRM 5.12.7.4, *Manual NFTL Preparation*, and IRM 5.12.7.6.6, *Appeal Rights for Special Condition NFTL*, for those instructions.
- (8) The revenue officer associates this special condition NFTL document, a copy of the approval memorandum from Area Counsel, and any other relevant documents with their case file.
- (9) The revenue officer proceeds with their intended case actions. See IRM 5.12.7.6.7, *Enforcement of Special Condition NFTL*.

## 5.12.7.6.5.8 (09-21-2017) Filing Fee Payment for Special Documents

- (1) **Hand-Carried Documents for filing:** Follow the instructions in IRM 5.12.7.10.5, *Hand-Carried NFTL for Filing*, and IRM 5.12.7.10.5.1, *Other Documents Hand-Carried for Filing*.
- (2) **CLO Processed Documents for filing:** Revenue officers may also forward manually prepared documents via secure email or regular mail to CLO for processing and fee payment. These documents will be issued (mailed) with the next Tuesday or Thursday NFTL document issuance to recording offices, after receipt.

**Example:** RO Smith forwards a manually prepared nominee NFTL, containing a property description in the body of the NFTL, to CLO via secure email Wednesday morning. The document is retrieved by CLO Wednesday afternoon. The normal document print cycle is Thursday. RO Smith's nominee NFTL will be batched and mailed with documents scheduled for the Thursday print cycle.

- (3) See also IRM 5.12.7.6.5.1, *Taxpayer NFTL Filing When Special Condition NFTL Filed*.

## 5.12.7.6.6 (09-21-2017) Appeal Rights for Special Condition NFTL

- (1) **Parties entitled to CDP rights and issuance of Letter 3172, Notice of Federal Tax Lien and your Rights to a Hearing Under IRC 6320:**

- a. The taxpayer is entitled to collection due process rights only the **first** time that the statutory lien for an assessment appears on a filed NFTL. See IRM 5.12.7.6.5.1, *Taxpayer NFTL Filing When Special Condition NFTL Filed*.
- b. Persons assessed as transferees under IRC § 6901 have an assessment and statutory lien separate from the transferor/taxpayer entitling them to due process appeal rights.
- c. A successor-in-interest named on a special condition NFTL confirmed by Counsel as qualifying for CDP rights. See IRM 5.12.7.6.4, *Successor-in-Interest NFTL*, and its decision table.

(2) **Parties *ONLY* entitled to CAP rights:**

- a. Taxpayers upon the filing of an additional NFTL or a special condition NFTL
- b. Parties determined to be nominees.
- c. Parties determined to be alter egos.
- d. Parties determined to be transferees not assessed under IRC § 6901.
- e. Parties determined to be successors in interest **not** meeting the requirements outlined in IRM 5.12.7.6.4, *Successor-in-Interest NFTL*, and its decision table and without the concurrence of Counsel.

**Manually issue** Letter 3177, *Special Condition Notice of Federal Tax Lien (NFTL) Filing-Third Party*, and related publications after the NFTL has been filed.

**Note:** Persons determined to be nominees, alter-egos, or transferees not assessed under IRC § 6901 do not meet the definition of eligibility for CDP rights. That definition is outlined in IRC §6320 and identifies the party to receive notice as the taxpayer against whose property the statutory lien has arisen. Occasionally a successor-in-interest steps into the taxpayer's shoes because the taxpayer has ceased to exist in such a way that they are unable to receive or exercise their CDP rights. A statutory lien attaches to all of a taxpayer's property whether or not it is held by a third party. See also Treasury Regulation § 301.6320-1 *Question and Answer* numbers A7 and B5, IRM 5.12.6, *Appeals Processes Involving Liens*, and IRM 5.17.2, *Federal Tax Liens*.

(3) **The taxpayer and certain qualifying successors-in-interest letters to be issued are:**

Letter	When Issued	How Issued
Letter 3172, <i>Notice of Federal Tax Lien and your Rights to a Hearing Under IRC 6320</i>	<b>first time filing</b> <b>Note:</b> Ensure that the regular NFTL, when it is the first time, is filed before or at the same time as the special condition NFTL	Systemically: NFTL is issued through ALS  Manually: exigent circumstances or NFTL created manually  Manually: successors-in-interest confirmed by Counsel as qualifying for CDP rights.

Letter	When Issued	How Issued
Letter 3171, <i>Notice of Federal Tax Lien Additional Filing</i>	<b>additional filing</b>	Systemically: NFTL is issued through ALS  Manually: exigent circumstances or NFTL created manually
Letter 3886, <i>Notice of Special Condition Notice of Federal Tax Lien (NFTL) Filing –Taxpayer</i>	for every special condition NFTL issued	Always issued manually

(4) **Letter issued to the third party:**

Letter	When Issued	How Issued
Letter 3177, <i>Special Condition Notice of Federal Tax Lien (NFTL) Filing-Third Party</i>	for every special condition NFTL issued	Always issued manually

(5) For exigent circumstances or a manually created NFTL, see also:

- IRM 5.12.7.6.5.7, *Post Approval Exigent Circumstance Actions*
- IRM 5.12.7.4, *Manual NFTL Preparation*
- IRM 5.12.7.10.5, *Hand-Carried NFTL for Filing*
- IRM 5.12.7.6.5.8, *Filing Fee Payment for Special Documents*

**Note:** Additional IRM references include: IRM 5.12.6, *Appeals Processes Involving Liens*, and IRM 5.17.2.4, *Collection Due Process*.

5.12.7.6.7  
(10-18-2013)  
**Enforcement of Special Condition NFTL**

- (1) In determining what additional enforcement action should be taken after filing the special condition NFTL, consideration must be given to the confusion in the chain of title and redemption rights of the taxpayer. These conditions may depress the marketability of any property.
- (2) A judicial lien foreclosure or seizure followed by suit to foreclose the lien will generally bring a greater sale price particularly for real property.
- (3) The administrative seizure and sale process may be used if prompt action is needed to protect the government's interest. Include any concerns and relevant facts in the request for opinion from Area Counsel.

5.12.7.6.8  
(01-12-2016)  
**Retention, Release, and Withdrawal of Special Condition NFTL**

- (1) Special condition NFTL documents and case files are unique in nature and have a need to be kept longer than the normal retention period. This allows for subsequent inquiries, collection actions, and eventual lien releases to be resolved timely.
- (2) Advisory will maintain the special condition NFTL, the Area Counsel authorization memorandum, and associated case histories for one year after the underlying tax liability has been satisfied or one year after the statutory period for collection has expired. See item 43 of Document 12990, *Records and Information Management Records Control Schedules*. Maintenance of the file may include transferring it to the appropriate Records Control Center as long as

precautions are in place to ensure that the special condition NFTL may be timely released. Generally there will be other cases related to the special condition NFTL file such as a seizure file or suit to foreclose the lien. It may be appropriate to associate the special condition NFTL file with these other Advisory files.

- (3) The revenue officer file would be disposed of following normal procedures.
- (4) Releases of special condition NFTL are generally processed in the same manner as regular NFTL. The releases are systemically generated through ALS after ALS is notified by Master File of a satisfied module or ALS notes that the collection period has expired. But the release generated by ALS will have a different appearance from the manually prepared and filed special condition NFTL because ALS has certain limitations associated with name line and property descriptions. A recording office may choose to reject the document as too different from the original filing. If the recording office rejects an ALS generated release:
  - a. CLO and the FORT will utilize their retained copy of the manually created special condition NFTL to prepare and file a manual release.
  - b. The FORT may need to contact Advisory or the revenue officer for their retained copy in order to prepare a manual release.
- (5) A request for withdrawal of a special condition NFTL may be considered where all actions related to all the property associated with the special condition NFTL have been concluded but the underlying statutory lien is still open because the taxpayer's liability has not been satisfied. See IRM 5.12.9 *Withdrawal of Notice of Federal Tax Lien*.

5.12.7.7  
(10-18-2013)  
**Other Distinctive Filing  
Considerations**

- (1) In addition to special condition NFTLs, there are other filing situations which are unusual and care must be taken to ensure that the documents filed are correct.

5.12.7.7.1  
(09-21-2017)  
**Jeopardy and Prompt  
Assessments**

- (1) Sometimes it is necessary to file an NFTL less than ten (10) calendar days after an assessment is made or before an assessment has posted to IDRS. An NFTL calling for this type of action may be the result of a jeopardy, prompt, termination, or similar type assessment. (See IRM 5.1.4, *Jeopardy, Termination, Quick and Prompt Assessments*) These NFTLs require special attention in their creation, filing, and follow-up.

**Note:** While the situations leading to the NFTL filing may differ, these NFTL requests are categorized as a "Jeopardy NFTL" on ALS because they are processed in the same manner.

- (2) It is important that the information on the filed NFTL, ALS, ICS, and IDRS is reflected correctly and consistently. These systems operate on different processing schedules which impacts when and how NFTL filing information posts to IDRS.
- (3) Creation of an NFTL with an assessment date less than 10 days old is a multi-part process.
  - a. When there is no master file account, hold the NFTL until the account is established.



- b. Revenue officers **must** request the SLID from the CLO FORT at \*SBSE CLO FORT because ALS will reject an ICS SLID that is less than 10 days from the assessment date. See IRM 5.1.4, *Jeopardy, Termination, Quick and Prompt Assessments* for more information on jeopardy situations.

**Note:** ALS contains an override of the “assessment less than 10 day” system block. ALS queries the creator, “Is this a jeopardy assessment? (y/n)”. If the answer is “yes”, ALS allows continuation of NFTL creation.

- c. If the NFTL will **not** be hand-carried to the recording office, allow the NFTL to be processed through the CLO normal printing and filing process.
- d. If the NFTL is being hand-carried, request “printing” of the NFTL be suppressed in ALS. This will prevent a duplicate of the manual NFTL being generated for filing. The RO uses the ALS jeopardy SLID when creating the manual NFTL in the ICS NFTL template. The NFTL can then be hand-carried to the recording office as soon as the SLID is received. The revenue officer hand-carrying the NFTL will have to pay the filing fee and obtain the recording data.

**Reminder:** The stored NFTL in ALS and the manual NFTL created in the ICS NFTL template need to match so that a later issued release by ALS will be accepted by the recording office.

- e. If the NFTL must be filed expeditiously and the filing location is other than where the originating revenue officer works, initiate an Other Investigation (OI) with the manager’s approval. Utilize electronic transmission via secure email where possible. Note on the front of the OI that this is a jeopardy situation and that immediate filing of the NFTL is required. The group receiving the OI will hand-carry the NFTL for filing with the recording office, pay the filing fee, and obtain the recording information. The acknowledgement copy of the Form 3210 with a copy of the filed document will immediately be returned to the originating office.
- (4) Non-ICS users needing to file an NFTL where the assessment date is less than 10 days old, must work directly with CLO to create the NFTL.
  - (5) The TC 582 lien indicator and TC 360 filing fee must be manually input to IDRS after the assessment posts. This is the primary responsibility of the NFTL initiator.

**Reminder:** The TC 582 is necessary so that, in the future when the NFTL needs to be released, ALS will be informed of the module closure.

- (6) An inadvertent lien release is a risk with this type of NFTL because it takes time for the various systems to align their information with one another. The NFTL **originator must monitor the status** of the module frequently and work with CLO to physically pull any inadvertent releases before they can be mailed to the recording office. Monitor until the assessment is in collection status.
- (7) Continue to monitor master file until the TC 360 (filing fee) posts and is the correct amount.



5.12.7.7.2  
(09-21-2017)  
**NFTL Filed After Original  
CSED (NAOC)**

- (1) An NFTL may be filed when the CSED of a balance due assessment has been extended. When a new NFTL is filed more than ten (10) years and 30 days after the assessment, special care is needed to ensure a proper filing. These filings, previously known as a "Portland lien," are called an "NFTL After Original CSED" (NAOC).

**Example:** A tax liability was assessed 10/20/2006. No NFTL was filed. The taxpayer filed bankruptcy which suspended the statute and a new CSED calculation of 12/20/2019 posted to IDRS. The case was assigned to Field Collection and an NFTL was filed 12/15/2016. The NFTL was filed more than 10 years after the assessment.

- (2) When requesting a NAOC using Form 12636, it is essential to show the updated CSED for each assessment. If the CSED is in suspense, the CSED field of Form 12636 should show all asterisks (\*\*\*/\*\*/\*\*\*\*) or a future date (e.g., original CSED plus 20 years). The CSED will update on ALS once the suspense status is resolved. Do **not** put N/A in the CSED field of Form 12636.

**Caution:** When the NFTL is input to ALS, the system will prompt for the updated CSED. Not properly updating the CSED could result in an inadvertent release.

- (3) Regardless of how long the CSED may have been extended, the generated NFTL will show the next refile by date (column (e)) according to the rules for refiling in IRC § 6323(g). See IRM 5.12.8.3, *Refiling Period*. When the module is satisfied or the CSED has passed, ALS will systemically release the lien.

5.12.7.7.3  
(01-12-2016)  
**Preparing Offshore  
Voluntary Disclosure  
Initiative (OVDI) NFTL**

- (1) The OVDI penalty (also known as Offshore Voluntary Disclosure Program or OVDP) is assessed under Title 26 as an MFT 55 or MFT 13 module using Exam penalty reference numbers 594 - 598. See IRM 20.1.9.1.4, *Voluntary Disclosure Special Process*.
- (2) On the NFTL, the OVDI penalty is reflected in column "a", *Kind of Tax*, with the acronym "OVDI".
- (3) An NFTL for these assessments can be requested normally through ICS or by sending a Form 12636 to CLO.
  - For ICS requests, select the module/assessment applicable for the OVDI penalty and input the appropriate PRN. ALS will translate a PRN of 594 - 598 into "OVDI" on the NFTL that is generated for filing.
  - For Form 12636 requests, enter "OVDI" in the column titled *\*Tax Form/ MFT or IRC Code*.

**Reminder:** MFT 55 and MFT 13 modules assessed to individual taxpayers cannot appear on the same NFTL with joint liabilities. See IRM 5.12.7.3, *Preparing the NFTL General Instructions*.

5.12.7.7.4  
(09-21-2017)  
**Restitution-Based  
Assessment NFTL**

- (1) Following the conviction of a defendant for a criminal tax violation or tax-related offense, the court may order the defendant to pay restitution to the IRS. Restitution is discussed in IRM 5.1.5.15, *Restitution*.
- (2) A restitution module posts as a MFT 31 and can be identified by TC 971 with action code (AC) 102. The following codes also appear on the module:

TC	Code	Description
TC 290 or 298	Reason Code (RC) 141 - 149	Describes the source of the assessment (IMF or BMF and if there is a duplicate civil assessment).
TC 971	Action Code (AC) 180 - 189 (*see also IRM 4.8.6-7 & IRM 4.8.6-8)	Reflects the type of tax and tax periods for which restitution was ordered (i.e., the underlying tax source). The action codes are indicators that there may be a potential duplication of assessment on another taxpayer account and the reference dollar amount represents the amount of assessable restitution duplicated on another module. <b>Note:</b> When a module contains both a TC 971 AC 102 and a TC 971 with AC 180 through 189 consider pulling the Document Locator Number (DLN) source document to determine the appropriate course of action. Secure IDRS research on all cross-referenced modules that were identified in the TC 971 AC 180-189.
	AC 804	Reflects the date Notice and Demand (Computer Print Notice CP 94) was systemically issued. <b>Note:</b> Prior to January 2015, Notice and Demand was manually issued with Letter 4885, and systemically issued with Notice CP 21.

- (3) Generally, restitution is ordered against an individual taxpayer and is assessed on the MFT 31 restitution module under the SSN of the defendant taxpayer. While it is possible for a business entity to be both convicted of a tax crime and ordered to pay restitution, it is a rare occurrence. Assessable restitution could arise in any criminal case where restitution is ordered for failure to pay any tax imposed under the IRC. For example, an individual could be ordered to pay restitution for an employment or income tax violation of his or her business. Regardless of the underlying source of the tax loss, the SSN of the individual taxpayer ordered to pay restitution will be used for the MFT 31 account.

**Example:** Taxpayer A is ordered to pay restitution for the unpaid employment tax of ABC, Inc., a corporation formerly owned by the taxpayer. The restitution-based assessments will be made on the MFT 31 account using Taxpayer A's SSN, not the EIN of ABC, Inc. Generally, any restitution payments made by Taxpayer A will be applied against both the restitution-based assessment made against Taxpayer A on MFT 31 and the employment tax liability assessed under the EIN of ABC, Inc.

- (4) The same NFTL determination pre-filing considerations and filing criteria apply for these assessments as apply with other balance due accounts. See IRM 5.12.2, *Notice of Lien Determinations*.
- (5) To differentiate an NFTL filed for restitution-based MFT 31 assessments from those filed for MFT 31 income tax assessments, special wording is used on the NFTL.
- Instead of showing MFT 31 under *Kind of Tax* (Column (a)), the NFTL shows the tax form related to the restitution, preceded by an "R."

**Example:** Taxpayer A was convicted of criminal evasion of tax under IRC § 7201 and ordered to pay restitution related to underly-

ing **income tax** avoidance for the 2013 and 2014 taxable years. The NFTL must show “**R1040**” in *Kind of Tax* (Column (a)), to correctly identify the statutory liens for each of these assessments.

**Example:** Taxpayer B was convicted of criminal failure to collect or pay over tax under IRC § 7202 and ordered to pay restitution related to underlying **employment taxes** for each of the last three quarters of 2013. The NFTL must show “**R941**” in *Kind of tax*(Column (a)), to correctly identify the statutory liens for each of these assessments.

- The following statement appears on the face of the NFTL:  
“Pursuant to IRC § 6201(a)(4), these assessments reflect the amount of restitution ordered payable to the IRS.”

- (6) When requesting a Restitution NFTL, **Do NOT use ICS**. Instead **complete Form 12636**.

Form 12636 Preparation and Submission	
a)	Show only the taxpayer liable for the assessment.
b)	Provide the taxpayer’s full (unredacted) TIN.
c)	Complete the form following other standard guidance for Form 12636, with the following exceptions: <ul style="list-style-type: none"> <li>• In item 8, <i>Tax Form, MFT, IRC Code*</i>, do <b>NOT</b> enter MFT 31. Instead enter the type of tax involved in the restitution, preceded by an “<b>R</b>” (e.g., R1040, R941). <b>Note:</b> Inclusion of the “<b>R</b>” is crucial for ALS to recognize the NFTL as a Restitution NFTL.</li> <li>• In Items 8-12, enter only restitution-based assessments on the request. <b>Do NOT</b> include other types of assessments (e.g., 1040, 6672, etc.). Due to the special wording of the NFTL, other types of assessments must not be shown.</li> <li>• In Items 8-12, limit the number of statutory liens (i.e., assessments) to <b>14</b> line items. A regular NFTL allows fifteen line items but a Restitution NFTL is limited to 14 to allow space for the special wording.</li> </ul>
d)	Forward the completed Form 12636 via secured email to the CLO. In your email, state that the NFTL is for a restitution-based assessment.

- (7) In rare situations, circumstances may necessitate that the Restitution NFTL is manually prepared and hand-carried for filing.

Manual Preparation and Filing for Restitution NFTL	
a)	Use the ICS Restitution NFTL (Form 668(Y)(c)) template.

Manual Preparation and Filing for Restitution NFTL	
b)	<p>Follow standard guidance for the manual NFTL preparation, giving particular attention to the following items:</p> <ul style="list-style-type: none"> <li>List <b>only</b> the specific taxpayer that owes the assessment. Do not show more than one name per NFTL. If multiple taxpayers were similarly assessed, separate NFTLs are necessary.</li> <li>Under <i>Kind of Tax</i> (Column (a)), enter the type of tax involved in the restitution, preceded by “<b>R</b>” (e.g., R1040, R941). Do <b>NOT</b> enter “MFT 31”.</li> <li>Include <b>only</b> restitution-based assessments. Do not include any other types of assessments (e.g., 1040, 6672, etc.).</li> <li>Redact the first five digits of the TIN (e.g., xxx-xx-1234, xx-xxx1234).</li> <li>Limit the number of assessments to <b>14</b> line items. If there are more than 14 assessments to be listed, create additional NFTLs.</li> <li>Type the following on the face of the NFTL: “Pursuant to IRC § 6201(a)(4), these assessments reflect the amount of restitution ordered payable to the IRS”. See Exhibit 5.12.7-3, <i>Restitution NFTL</i>, for an illustrative example of a Restitution NFTL.</li> </ul>
c)	<p>Before filing, forward a copy of the NFTL to CLO and request a SLID from ALS. <b>Do NOT use ICS to generate a SLID.</b> Provide the following to CLO:</p> <ul style="list-style-type: none"> <li>The NFTL for which the SLID is being requested is a Restitution NFTL,</li> <li>That the NFTL will be hand-carried for filing,</li> <li>The complete taxpayer TIN for use with inputting the NFTL to ALS, and</li> <li>Your t-sign number.</li> </ul>
d)	<p>Once CLO provides the SLID:</p> <ul style="list-style-type: none"> <li>Place the SLID into the appropriate field on the NFTL to be filed,</li> <li>Print the NFTL, and</li> <li>Hand-carry the NFTL for filing.</li> </ul> <p><b>Note:</b> See also IRM 5.12.7.10.5, <i>Hand-Carried NFTL for Filing</i>.</p>
e)	<p>After filing the document with the appropriate recording office, provide the recording information to CLO.</p>

- (8) The taxpayer must be notified of their Collection Due Process (CDP) rights by the issuance of Letter 3172. The taxpayer is entitled to CDP rights even though the statute allowing the IRS to civilly assess restitution restricts a taxpayer’s ability to challenge the underlying tax liability (IRC § 6201(a)(4)(C)).
- For an NFTL generated through ALS and printed and filed by CLO, the taxpayer’s notice is systemically issued.
  - For an NFTL manually prepared and filed, the revenue officer or advisor initiating the NFTL is responsible for manually issuing the Letter 3172 and inputting the TC 971 AC 252 on the respective tax module(s). See IRM 5.12.6.3.7, *Preparation and Delivery of Manual CDP Notices*, and IRM 5.12.6.3.18, *Inputting TC 971 for Notice Status*.

- (9) If an error is made while preparing the Restitution NFTL (e.g., incorrect type of tax shown, special statement omitted), determine if an amended NFTL is needed. (IRM 5.12.7.9, *NFTL Corrections*) Alternatively, consideration may be given to withdrawing the original Restitution NFTL and filing a new one.

5.12.7.7.5  
(01-12-2016)  
**Affordable Care Act's  
(ACA) Shared  
Responsibility**

- (1) The *IRC § 6321* statutory lien arises with neglect or refusal to pay, after demand for payment, on both the:
- Shared Responsibility Payment (SRP) IMF MFT 35 and mirrored MFT 65 assessments, and
  - Shared Responsibility for Employer (MFT 43) BMF assessments.

**Note:** MFT 35, tax class 6 is still used on NMF for partnership returns Forms 1065

**Note:** The duration of the statutory lien is for the period described in *IRC § 6322* (See IRM 5.17.2, *Federal Tax Liens*).

- (2) An *IRC § 6323* Notice of Federal Tax Lien filing is:
- **Prohibited** on IMF SRP/MFT 35 and mirrored MFT 65 assessment(s). (See *IRC § 5000A(g)(2)(B)*).
  - **Allowed** on BMF MFT 43 (Shared Responsibility for Employer) assessment(s). (See *IRC § 4980H(d)(1)*).

5.12.7.7.6  
(09-21-2017)  
**Employee Benefit Plans**

- (1) An NFTL may be filed for assessments made in relation to Form 5330, *Return of Excise Taxes Related to Employee Benefit Plans*, and Form 5500, *Annual Return/Report of Employee Benefit Plan*; however, the process to create this NFTL differs slightly from normal procedures.
- (2) Assessments made for Form 5330 appear on IDRS under MFT 76 and for Form 5500 under MFT 74. Whenever an assessment is made under either of these MFTs, a corresponding plan number is embedded in the assessment.
- Each plan has an associated three digit plan number assigned by the employer/sponsor (e.g., 001, 002).
  - Employers may have more than one type of retirement or benefit plan.
  - Multiple MFT 74/76 assessments can exist for each tax period if the employer has a deficit in more than one plan.
  - Proper identification of the plan number related to the assessment is needed when creating the NFTL.
- (3) The same NFTL determination pre-filing considerations and criteria used for other balance due accounts apply for these assessments. See IRM 5.12.2, *Notice of Lien Determinations*.
- (4) To request an NFTL for a MFT 74/76 assessment, complete Form 12636. **Do NOT use ICS to request the NFTL.** Show the taxpayer's full, unredacted TIN on the Form 12636 and follow other standard guidance for completing the request, with the exceptions noted below.

Form 5500/MFT 74 Assessments	Form 5330/MFT 76 Assessments
<p>- In the Item 8, <i>Tax Form</i> section, do <b>NOT</b> enter "5500." Instead enter the plan number associated with the assessment, preceded by an "P" (e.g., P001).</p> <p>- In Items 8-12, enter only MFT 74 employee benefit assessments. Do not include any other types of assessments (e.g., 941, 1120, etc.).</p>	<p>- In the Item 8, <i>Tax Form</i> section, do <b>NOT</b> enter "5330." Instead enter the plan number associated with the assessment, preceded by an "E" (e.g., E001).</p> <p>- In Items 8-12, enter only MFT 76 employee benefit assessments. Do not include any other types of assessments (e.g., 941, 1120, etc.).</p>

**Note:** Using the plan number is necessary for proper systemic generation through ALS and posting transaction codes to IDRS. When printed through ALS, the NFTL will convert the plan number to show Form 5330 or Form 5500, as appropriate.

- (5) Forward the Form 12636 via secure email to the CLO (\*SBSE CLO Liens Team 301). In your email, state that the NFTL is for a employee benefit plan.
- (6) In rare situations, circumstances may necessitate that the NFTL is manually prepared and hand-carried for filing. Use the ICS Form 668(Y)(c) template to manually prepare the Restitution NFTL. Follow standard guidance for the manual NFTL preparation, giving particular attention to the following items.
  - a. Under Kind of Tax (column "a"), enter the type of tax form involved (i.e., 5330 or 5500). Do **NOT** enter the plan number on the Form 668(Y)(c).
  - b. Include **only** MFT 74 or 76 assessments. Do not include any other types of assessments (e.g., 941, 1120, etc.).
  - c. Redact the first five digits of the TIN (e.g., xxx-xx-1234, xx-xxx1234).
- (7) Before filing the NFTL, secure a SLID from ALS by forwarding a copy of the NFTL to CLO. **DO NOT use ICS to generate a SLID.** In your request to CLO, state that the NFTL is for a employee benefit plan assessment and that it is being hand-carried for filing. Also, provide the following details:
  - The complete TIN of the taxpayer
  - The plan number associated with any MFT 76 assessment, preceded by an "E" (e.g., E001) or any MFT 74 assessment preceded by a "P" (e.g., P001)
  - Your t-sign number
- (8) When the SLID is provided by CLO, place it on the NFTL and print the NFTL. After filing the document with the appropriate recording office, provide the recording information to CLO.
- (9) The taxpayer must be notified of their CDP rights by the issuance of Letter 3172.
  - a. For an NFTL generated through ALS and filed by CLO, the taxpayer's notice is systemically issued.
  - b. For an NFTL manually prepared and filed, the employee initiating the NFTL is responsible for manually issuing the Letter 3172. See IRM 5.12.6.3.7, *Preparation and Delivery of Manual CDP Notices*.



- (10) It is the responsibility of the employee requesting the NFTL to ensure the transaction codes 582, 360, and 971 AC 252 are input to the respective tax module(s) on IDRS whenever an NFTL is filed.
- For an NFTL generated through ALS and filed by CLO, the transaction codes are systemically uploaded to IDRS.
  - For an NFTL that are manually prepared and filed, the employee must request input of the transaction codes following standard IDRS input procedures. See IRM 5.12.7.10.5, *Hand-Carried NFTL for Filing*.

**Reminder:** For proper posting, the input request must include the plan number with the MFT and Tax Period information (e.g., 74-001-201412).

5.12.7.8  
(10-18-2013)  
**International NFTL for Taxpayers or Treaty Partners**

- (1) Revenue Officers may be required to file an NFTL for international taxpayers with either domestic or foreign addresses. They may also receive an OI on behalf of an International Treaty Partner to file an NFTL. This subsection describes how an NFTL in these situations is prepared and filed.

5.12.7.8.1  
(01-12-2016)  
**International Taxpayers with or without Foreign Addresses**

- (1) When a taxpayer has a foreign address **OR** lives outside the United States and its territories while maintaining a domestic address (e.g., uses their representative's address or a P.O. Box address for social security drop box purposes), file an NFTL with the Washington D.C. Register of Deeds.

**Reminder:** If the taxpayer has an interest in real property located in the United States or its territories, also file an NFTL with the appropriate recording office for the location where the real property exists.

**Note: U.S. Territory Lien Issues:** Section 7651 of the IRC authorizes the IRS to use all its administration and collection powers (e.g., summons, lien, levy, etc.) in a U.S. territory as if the territory were one of the 50 states or the District of Columbia. Rules relating to NFTL filing locations in U.S. territories vary by territory. See Exhibit 5.12.7-2, *State and Territory Filing Locations*, for details on filing an NFTL in the U.S. territories.

- (2) If the international taxpayer uses a **foreign address** as their "last known address", select **international** as the filing location in ICS. This will ensure an NFTL is filed in Washington D.C. It will also ensure, when appropriate, that a CDP notice is sent by **registered mail** to the taxpayer.

**Note:** If "Washington DC" is selected as the filing location for a foreign address (i.e., the state and zip code are blank or contain zeros), the CDP notice will still be sent by registered mail; however, this choice increases the likelihood that ALS may receive incomplete data from ICS resulting in an error in the CDP notice's delivery.

- (3) If the international taxpayer maintains a **domestic address** as their "last known address", select "Washington D.C." as the filing location in ICS. This will ensure an NFTL is filed in Washington D.C. Since the address is clearly domestic, the CDP notice will be sent by **certified mail** to the taxpayer's domestic address.



**Note:** If an international address for the taxpayer is known but is not the taxpayer's official "last known address", a duplicate CDP notice may be sent to the international address.

- (4) For an NFTL requested using Form 12636 rather than ICS, specify "Washington D.C." as the filing location. Also indicate any POAs associated with the case.
- (5) The taxpayer's representative should receive a copy of the CDP notice issued. See IRM 5.12.6, *Appeals Processes Involving Liens*, for other information regarding CDP notices for NFTLs.

## 5.12.7.8.2 (01-12-2016) Inbound Mutual Collection Assistance Request (MCAR)

- (1) The U.S. treaties with Canada, Denmark, France, Netherlands, and Sweden provide for collection assistance. A treaty partner may send a Mutual Collection Assistance Request (MCAR) to the United States Competent Authority, the Office of the Deputy Commissioner (International), LB&I.

**Note:** On January 24, 2013, the United States and Japan signed a new Protocol to the tax treaty which contains a provision to permit the United States and Japan to collect taxes on behalf of each other. However, collection assistance will not occur until this new Protocol is ratified by both the United States and Japan. Once the new Protocol to the income tax treaty between the United States and Japan has been ratified, this section will be updated.

- (2) The U.S. Competent Authority forwards the MCAR to the MCAR Coordinator, SB/SE International.
- (3) If the treaty allows on a case by case basis, the Service may consider taking distraint action against assets located in the U.S. to collect foreign taxes for a treaty partner with the treaty partner's permission. This permission is required because the treaty partner may be responsible for the distraint action costs. Collection may require filing a Notice of Federal Tax Lien but the NFTL filing fees are absorbed by the Service.
- (4) For general procedures processing MCAR, see IRM 5.21.7.4, *Mutual Collection Assistance Requests (MCAR)*.

## 5.12.7.8.2.1 (04-22-2019) Preparation of MCAR NFTL

- (1) An MCAR NFTL is **not** prepared or processed through ALS. An MCAR NFTL must be manually prepared.
- (2) If an MCAR NFTL is needed, the MCAR coordinator will initiate an ICS OI "to Area".
  - a. The revenue officer receiving the OI **must** contact the coordinator for instructions.
  - b. The coordinator will create the MCAR NFTL using Exhibit 5.12.7-1 and include the treaty citation which allows the NFTL to be filed.
  - c. The coordinator provides a special SLID number which is **not** created through the ALS or ICS systems.
  - d. The coordinator calculates the refile date.
  - e. The coordinator will provide the taxpayer with their CAP appeal rights.

**Note:** CDP notices will **not** be created for an MCAR NFTL.

- (3) The revenue officer assigned the OI will be provided the original and a copy of the MCAR NFTL by the MCAR coordinator. The revenue officer will then file the MCAR NFTL in the appropriate recording office. Once the recording office files the NFTL and has documented the recording information on the NFTL, the revenue officer will return that documented NFTL to the MCAR coordinator.
- (4) Do not request input of TC 582 or TC 360 for the filing fee because they are not assessed against MCAR taxpayers.

5.12.7.8.2.2  
(10-18-2013)  
**Refiling and Release of MCARs**

- (1) The MCAR coordinator will be responsible for determining whether to refile or release the MCAR NFTL. The coordinator will open an ICS OI "to Area" for filing assistance. These release and/or refiles are not processed through CLO or ALS.
- (2) The revenue officer is provided the original and a copy of the release or refile by the MCAR coordinator. The revenue officer then files the document in the appropriate recording office. Once the recording office files the refile or release and has documented the recording information, the revenue office returns that documented refile or release to the MCAR coordinator.
- (3) There will be no TC 582 (for a refile), TC 583 (for a release), or a TC 360 (filing fee) with these requests.

5.12.7.9  
(10-18-2013)  
**NFTL Corrections**

- (1) Great care should be taken to ensure that the NFTL filed accurately reflects the statutory lien(s) it represents.
- (2) The ALS database should always contain data that mirrors the NFTL filed with the recording office. This ensures the lien is properly and timely released. Exceptions are documents not created by ALS or changed after generation.
- (3) The current process of filing paper documents in recording offices (with a few electronic recording office exceptions) results in a static environment whereas the statutory lien and its underlying assessment change. For example, a finite document cannot account for accruing penalty and interest. Also recording offices today more often than not maintain their records on a publicly accessible electronic database. The intermingling of these varying technologies can create confusion. This section describes whether or not the Service needs to consider changes to a particular filed document.
- (4) A taxpayer entity may alter or change its name or entity type.
- (5) Also, and unfortunately, even with the greatest care, mistakes can be made.
- (6) This section describes when, if, and how changes to the NFTL may be needed to put the notice back in sync with the statutory lien(s).

5.12.7.9.1  
(01-12-2016)  
**Correcting the Notice Prior to Filing**

- (1) An error may be corrected prior to the NFTL being mailed for filing. Normally this is within two (2) business days of the ICS or ACS request. Contact CLO by secure email to request the correction.
- (2) After the document has been mailed for filing, changes generally will not be made to the document. Though sometimes, if necessary, an NFTL that has been mailed might be intercepted at the recording office before it is filed. Contact CLO for assistance in this situation.

- (3) If a change is needed after the NFTL has been filed, the NFTL may need to be amended or possibly the change will only need to be a cross reference within ALS. These cross references allow ALS to receive a satisfied status from Master File and correctly associate it with the NFTL filed. This is to ensure that the lien is properly and timely released. .
- (4) If changes are made to the NFTL after generation for filing, an ALS history item must be added explaining the change.

## 5.12.7.9.2 (10-18-2013) Correcting the Filed NFTL

- (1) Some inaccuracies, such as an incorrect name, will make the NFTL invalid while other inaccuracies such as TIN, MFT and tax period will prevent the module satisfaction notification from posting.

**Caution:** Care must be taken when using the term “erroneous” in relation to an NFTL because it is a legally defined term. Use of the term should be limited to the definition found in Treasury Regulation 301.6326-1(b). The remedy for an NFTL found to be legally “erroneous” is found in IRM 5.12.3, *Lien Release and Related Topics*, and IRC § 6326(b). An NFTL which has “errors” could either be inaccurate or legally erroneous depending on the circumstances.

- (2) An incorrect NFTL must be linked to the corrected NFTL and/or corrected information.
- (3) Module satisfaction notification must be associated with correct TIN/name control and MFT/period and tied back to the incorrect NFTL. This allows a Certificate of Release to be generated for BOTH the correct and incorrect notice upon satisfaction or expiration.
- (4) When inaccuracies do not affect the validity of the NFTL, CLO corrects the information using a “not to be filed lien” linking the correct and incorrect information together in ALS. This prevents miscommunication in systemic operations. See IRM 5.12.7.9.2.3, *Not to Be Filed NFTL*.
- (5) Guidance is provided in IRM 5.17.2.3.5, *Effect of Errors in Notice of Federal Tax Lien*, regarding inaccuracies in the taxpayer’s name as it appears on the notice.

If...	Then...
it is determined that the NFTL should be corrected	file an amended or new NFTL as appropriate. .
the inaccuracy on the original NFTL was made to the name control portion of the name line only and an amended NFTL is not needed	change the name control on the original NFTL record.

## 5.12.7.9.2.1 (10-18-2013) NFTL Names Only the Wrong Person(s)

- (1) If the NFTL inaccurately names a non-liable person (i.e., someone other than the person against whom the tax liability was assessed) **and** that person is the **only** person named on the NFTL, contact Advisory. Advisory will consult with Counsel as to the best solution which could be to file a non-attachment (IRM 5.12.10, *Lien Related Certificates*), an erroneous lien release (IRM 5.12.3, *Lien Release and Related Topics*), or even an NFTL withdrawal (IRM 5.12.9, *Withdrawal of Notice of Federal Tax Lien*). These circumstances result in the

appearance that the property of the non-liable person is attached by the NFTL and differing fact patterns might call for different solutions.

**Note:** If the liability for which the NFTL is being filed relates to a LLC, see IRM 5.12.7.5.3, *Limited Liability Company (LLC)*, and IRM 5.1.21, *Collecting From Limited Liability Companies*, for a solution before contacting Advisory.

**Reminder:** An NFTL determination is needed to ascertain, dependent on the circumstances, whether an NFTL identifying the correct taxpayer should be filed.

5.12.7.9.2.2  
(09-21-2017)

#### Other Types of NFTL Inaccuracies

(1) Use ALS to create an amended NFTL rather than manually creating a corrected NFTL. ICS does not have an amend option so revenue officers may request the amendment through CLO by secure emailing Form 13809. The form contains a box for the original SLID.

(2) The chart below explains how to correct other types of errors.

Inaccuracy Type	Corrective Action	Explanation
Taxpayer name	Amend the NFTL if there are material errors in the taxpayer name. See IRM 5.17.2.3.5 for description of material errors.	Errors in properly identifying the taxpayer can affect the NFTL's sufficiency for putting third parties on notice of the outstanding lien .
Non-liable party included with liable party	Amend the NFTL to remove the name of the non-liable party. <b>NOTE:</b> In certain situations, a partial withdrawal of the NFTL against the non-liable party may be used.	The NFTL must only list the names of the parties against whom the tax liability is assessed.
Entity type	Amend the NFTL if the incorrect entity type shows on the printed NFTL and causes a material error in the taxpayer name.	An NFTL filed against a corporation, partnership, or LLC. should qualify the type of business entity on the name line. If the wrong entity type shows (e.g., the name line shows "a corporation" but it is a sole proprietorship), an amended NFTL may be needed if it causes misidentification in the public record.. <b>NOTE:</b> If the incorrect entity type shows in ALS but does not show on the NFTL, an amended NFTL is not needed.
Address	No action is required. <b>NOTE:</b> If the city, state and/or zip code are incorrect, <b>a new NFTL</b> may have to be filed in the correct recording office.	The address on the NFTL is the last known mailing address of the taxpayer and has no effect on what the lien attaches. A new NFTL may be needed if the incorrect address caused the NFTL to be filed in the incorrect recording office.

Inaccuracy Type	Corrective Action	Explanation
Taxpayer Identification Number (TIN)	An amended NFTL is <b>NOT</b> needed. Request CLO input a <b>Not To Be Filed NFTL</b> in ALS	The TIN only shows on the NFTL as partially redacted. An incorrect TIN does not affect the validity of the NFTL; however, it does affect the systemic link between ALS and Master File. A Not To Be Filed NFTL is an ALS only document that establishes the systemic link.
MFT/Type of tax	Amend the NFTL	Based on IRC § 6320, taxpayers are entitled to collection due process (CDP) appeal rights for each tax period for which an NFTL has been filed. Use ALS AMEND program to file an amended NFTL when the MFT is incorrect and a CDP letter will be issued.
Tax Period	Amend the NFTL	Based on IRC § 6320, taxpayers are entitled to CDP appeal rights for each tax period for which an NFTL has been filed. Use ALS AMEND program to file an amended NFTL when the tax period is incorrect and a CDP letter will be issued.
Assessment Date	Amend the NFTL	The life of the NFTL directly relates to this date as it is the statutory lien date. Also the last day for refiling is computed using the assessment date. Do not issue a new CDP notice.
Last Date for Refiling	An amended NFTL is <b>NOT</b> needed. The refile date on the recorded NFTL may not be amended.	The last day for refiling is computed by ALS print function using the assessment date. If the assessment date is incorrect, the last day for refiling will be computed incorrectly. Amend the NFTL to correct the assessment date and the last day for refiling will be systemically corrected. If not corrected, the NFTL may improperly self-release causing the underlying statutory lien to release thus requiring a revocation of release filing to reinstate the statutory lien and new NFTL filing. Changes to this date will not be made for any other reason. See IRC § 6323(g)(3).
Dollar Amount	Amend the NFTL when there is a substantial increase or decrease to the dollar amount as the result of an audit or keystroke (input) error.	An incorrect dollar amount does not affect the NFTL's validity; however, it potentially could have a negative impact on the taxpayer's credit situation.

Inaccuracy Type	Corrective Action	Explanation
Improper inclusion of government official name or government office address	Amend the NFTL to remove the name of the non-liable official.	<p>Because of the sensitive nature, take the following, additional steps:</p> <p>a) Notify GM of the situation.</p> <p>b) GM notifies TM.</p> <p>c) Send a copy of the original and amended NFTL to the Abusive Transactions Program Analyst via secure email.</p> <p>d) Retain a copy of the amended NFTL for the case file.</p> <p><b>Note:</b> Normally an NFTL is not amended for an incorrect address only. The address can be changed though in conjunction with another correction to the NFTL</p>

- (3) The NFTL issued to the recording office is identified as an AMENDED NFTL. The following, or similar, statement will be printed on the face of the amended NFTL:
- “THIS NOTICE OF FEDERAL TAX LIEN IS FILED TO CORRECT [*e.g., tax period, assessment date, MFT, minor misspelling*] ON THE ORIGINAL NFTL RECORDED [*date of filing*] AS RECORDING NUMBER [*recorder's number*]. ALL OTHER INFORMATION ON THE ORIGINAL NOTICE FILED IS CORRECT AND THAT INSTRUMENT REMAINS IN FULL FORCE AND EFFECT.”

5.12.7.9.2.3  
(01-12-2016)  
**Not To Be Filed NFTL**

- (1) A Not to Be Filed NFTL (NTBFL) is created by CLO when a non-critical error (e.g., TIN or MFT) is found on a filed NFTL. The information sharing between IDRS and ALS relies on the correct TIN, MFT, tax period and name control. In order for IDRS to pass information such as updated CSED or satisfaction of a tax module to ALS, an NFTL must be created with matching information from the original NFTL but with the corrected TIN and/or MFT. Any other corrections will be made by amending the NFTL.
- (2) Requests should be submitted using Form 13809.
- (3) The ALS name control can be corrected without creating a NTBFL.
- (4) The history screen is documented listing the original NFTL's SLID number and the NTBFL SLID number.
- (5) An NTBFL is not mailed to recording offices. It is for internal use only.
- (6) When the modules on the NFTL are satisfied on IDRS, the systemic notification is sent to ALS to update the NTBFL. Once all the modules are satisfied, the NTBFL will generate a release to the print queue.
- (7) When the release is printed, CLO will be alerted to the NTBFL status of the release and will take steps to immediately release the corresponding original NFTL.

- (8) If a NTBFL is sent to the recording office in error, and you become aware of the filing, immediately call CLO so that they may contact the recording official via telephone to retrieve the notice.

If a Not to be Filed NFTL...	And there is...	Then...
is filed	no balance due (full paid)	contact CLO for issuance of a certificate of release.
has been mailed to a recording office but has not yet been filed		contact the recording official requesting the NTBFL be returned without being recorded. If the recording office does not return the NTBFL, ask CLO to add a ALS history item including the date, name of contact, and resolution.

- (9) CLO procedures are found in IRM 5.19.12.2.3.3, *Not To Be Filed NFTL*.

5.12.7.9.3  
(09-21-2017)  
**Amending the NFTL  
Using the ALS Amend  
Option**

- (1) An NFTL that has been filed and where the recording data is available in ALS may be amended using the ALS Amend option. The ALS amend option may not be used if the recording data (i.e., date, book, page, or other recorder information) is not available in ALS.

**Note:** Permission to use the ALS Amend option is limited. Generally, an NFTL should be amended by contacting CLO.

- (2) **DO NOT AMEND a filed NFTL to ADD a person or entity.** If an additional name is needed, a new NFTL must be filed to add the name (e.g. a separate to joint situation). An amendment is not a legal option.

- (3) ALS amendments are restricted to:

- Taxpayer name - limited to occasions where the NFTL does not clearly identify the taxpayer to other creditors (e.g., Y. Corn should be Yale Cornell).

**Reminder:** A non-liaible spouse name may be removed.

**Reminder:** A non-liaible name may be removed when both the name of an LLC and the name of the owner of an LLC are included on an NFTL.

**Reminder:** The name and address of **government officials** may be removed from the NFTL, where the inclusion of that information was improper (e.g., Secretary of the Treasury, IRS Commissioner, etc.). Remember to notify the Group Manager where an NFTL is identified containing the improper inclusion of a name of a government official or an address of a government office.

- Type of tax
- Tax period
- Assessment date
- Amount due on NFTL - generally used when an input error or an audit results in a significant increase or decrease in the amount owing. .



**Example:** An NFTL shows \$30,000,000 and the actual assessment is \$30,000.

**Note:** See IRM 5.12.7.9.2.2(2), *Other Types of NFTL Inaccuracies*, for further details.

- (4) Unless special circumstances exist, an NFTL is not amended for an incorrect address only. The address can be changed in conjunction with another correction to the NFTL.
- (5) **With ALS Permissions** to amend the NFTL, follow the instructions in the *ALS User Guide* Chapter 5, *Resolving Lien Errors*.
- (6) **Without ALS Permissions** to amend the NFTL, send Form 13809 via secure email to CLO (\*SBSE CLO Liens Team 301) including:
  - the serial number (SLID) of the NFTL,
  - the court recording data for the NFTL, if not already in ALS; and
  - the correction to be made (e.g., change the name of the taxpayer from Y. Corn to Yale Cornell).
- (7) An NFTL should be amended within five (5) business days of receipt of request by the appropriate CLO team. Contact the appropriate *CLO team* if the amended NFTL is not on ALS within that time.
- (8) ALS will generate a new CDP notice for amendments to the tax period.
- (9) For an NFTL not generated by ALS (nominee, alter ego, transferee NFTL), the requesting employee prepares the amended NFTL document. Secure email scanned documents to the appropriate CLO team for processing.
- (10) If the NFTL is related to an abusive tax avoidance (ATAT) situation, notify the ATAT Collection Policy Analyst.
- (11) CLO procedures are found in IRM 5.19.12, *Centralized Lien Operation*.

5.12.7.10  
(09-21-2017)  
**Filing the NFTL**

- (1) It is important that Notices of Federal Tax Lien be filed in the proper jurisdiction to protect the government's interest amongst other creditors. State law dictates the place of filing. Exhibit 5.12.7-2, *State and Territory Filing Locations*, gives the filing locations for each state, the District of Columbia, and Puerto Rico. Names of recording offices may be different in different states. Many states now designate the Secretary of State as the one office for filing notices of lien against personal property of corporations, partnerships, and other entities.
- (2) For an NFTL mailed to a recording office that does not require the NFTL to be indexed in order to give notice to third parties of its existence, the date the NFTL is delivered by the U.S. Postal Service to the recording office is the date it is filed. The Service presumes that it takes three (3) business days, beginning the business day after mailing, for an NFTL to be received in the mail by a local recording office. As a result, under the Service's assumptions, the NFTL is "deemed filed" on the third business day after the mailing date. However, some states' laws require deeds affecting real property be indexed. In such states, pursuant to IRC § 6323(f)(4), filing is not complete until such

NFTL is indexed by the local recording official and recorded in the index at a place of public filing in such a manner that a reasonable inspection of the index will reveal its existence.

(3) Individuals:

- a. Real Property - file the NFTL in the recording office for the jurisdiction (usually county) where the real property is located;
- b. Personal Property (tangible or intangible) - **in general**, file the NFTL at the recording office for the county where the taxpayer resides at the time the NFTL is filed. Be sure to check Exhibit 5.12.7-2, *State and Territory Filing Locations.*, for a specific state's requirement.

(4) Corporations and Partnerships:

- a. Real Property - file in the recording office for the jurisdiction (usually county) where the real property is physically located.
- b. Personal Property - file as designated by the state where the principal executive office of the business is located. This may be with the Secretary of State or other designated office. Exhibit 5.12.7-2, *State and Territory Filing Locations.* Contact Advisory or Counsel resources for questions or clarification on place of filing.

**Reminder:** The principal executive office is deemed to be the residence of the corporation or partnership. It is the place where the major management decisions are made. Do not confuse the principal executive office with the principal place of business.

- (5) Clerk of the United States District Court - File with the office clerk if the state has not designated one office within the state that comports with federal law (e.g. Puerto Rico Puerto Rico files in the district court for personal property and in the registry of property for real property).
- (6) Recorder of deeds of the District of Columbia - Personal property whether tangible or intangible, is deemed to be located in the District of Columbia if the taxpayer's residence is located there or outside the United States at the time the notice of lien is filed.
- (7) An NFTL encumbers motor vehicles, airplanes and vessels in the same manner as other personal property when an NFTL is filed in the recording office designated by state law for personal property. Do not file Form 668(Y)(c) with Departments of Vehicles, FAA, or the U.S. Coast Guard or similar agencies. (See IRC § 6323(f)(5)).
- (8) Consult Area Counsel if there is any uncertainty regarding NFTL filing locations. Also, see IRM 5.17.2, *Federal Tax Liens*, for additional information.

5.12.7.10.1  
(10-18-2013)  
**Additional Filing  
Information for Texas**

- (1) The Texas Uniform Federal Lien Registration Act, Section 14.004, "Duties of the Filing Officer" specifies in paragraph (a)(2) that county clerks will file federal liens alphabetically in the real property records. If requested by the party submitting the document, it may be entered alphabetically in the personal property index, as appropriate. These additional entries include the same filing and certification information that was entered into the real property records.
- (2) Employees requesting an NFTL for Texas should ensure the NFTL is properly filed in real property records.

5.12.7.10.2  
(09-21-2017)  
**NFTL Filed in Other  
Areas**

- (1) A revenue officer should use ICS to file an NFTL in any location where their taxpayer owns property.
- (2) Before requesting the NFTL determine the proper place of filing and ensure that you are in the correct state where you want the NFTL filed.
- (3) Determine whether the NFTL is to reach real or personal property or both. This is necessary as the recording official and/or office may be different in certain states.
- (4) A TC 582 will be automatically generated for any NFTL processed through ALS.

5.12.7.10.3  
(01-12-2016)  
**Removing the NFTL**

- (1) An NFTL may be physically removed from the documents being mailed to a recording office. However, an NFTL can only be deleted from ALS if it has not yet appeared on the Billing Support Voucher (BSV).
- (2) When an NFTL has been requested in error, the requesting employee may request that the NFTL be removed from documents being mailed to the recording office.
- (3) The employee who requested the NFTL can call or secure email CLO asking that the NFTL be removed from the documents being mailed to the recording office.
- (4) Requests must be received and CLO actions completed by 5 PM EST on the day the NFTL is printed (Tuesday or Thursday). Timely requests eliminate the generation of the CDP notice.
- (5) Request that CLO document ALS with the reason the NFTL is being removed and keep the documentation.
- (6) CLO procedures are found in IRM 5.19.12.7.1.1, *Request to Stop a Lien Document*.

5.12.7.10.4  
(01-12-2016)  
**Duplicate NFTL**

- (1) A duplicate NFTL is one filed on a taxpayer with entity, tax period information, and filing location identical to that of a previously filed NFTL. A duplicate may result from the same NFTL being manually and systemically filed in the same recording office due to requester/CLO miscommunication. All employees should research IDRS or ALS before inputting an NFTL request to ensure a duplicate is not requested. Contact CLO immediately if a duplicate situation is identified.
- (2) ALS will only prevent the generation of a duplicate NFTL if the duplicate NFTLs are requested the same day. If the NFTL is requested on a subsequent day, ALS will warn of the duplication, but does not prevent the duplication from being processed.
- (3) A duplicate NFTL can occur either with the same SLID as the original but have different recording office data or the duplicate could have both a different SLID and different recording office data.
- (4) If research indicates a previously recorded NFTL exists, do not request a new NFTL.

- (5) If an NFTL is reflected on ALS but there is no recording office data entered, check with CLO to determine whether this NFTL is on the "Lost Lien Report" and is already being addressed by CLO. If it is not on the report, have CLO follow-up with the recording office.
- (6) For a duplicate NFTL **where the SLIDs are the same** (original and duplicate):
  - a. Issue Letter 2440, *Certificate of Duplication of Federal Tax Lien* to the recording office for associating with the duplicate NFTL.
  - b. Send a copy of the Letter 2440 to the taxpayer and their representative (if appropriate) notifying them a duplicate NFTL has been filed. Instruct the taxpayer to retain the letter and document for future reference and tell them to **not file** the document.
- (7) For a duplicate NFTL **where the SLIDs are different** (original and duplicate) take the following actions.
  - a. Request a withdrawal of the NFTL. If the originator is no longer assigned the case, the request will be forwarded to the Advisory office responsible for the taxpayer's geographical location.
  - b. Advisory will process the withdrawal to CLO following standard procedures (see IRM 5.12.9, *Withdrawal of Notice of Federal Tax Lien*). The recording office information for the duplicate (later filed) NFTL will be used for the withdrawal.
  - c. Filing fees for withdrawals of duplicate NFTL will not be posted to the taxpayer's account.
- (8) For refiling where a duplicate NFTL has been filed but not withdrawn, provide Area Counsel with the particular situation and ask whether both the original and duplicate will need to be refiled. A duplicate can cause confusion if the duplicate self-releases or appears to self-release.

**Reminder:** To protect the statutory lien when the decision is made to refile, all NFTLs listing the statutory lien must be refiled. A duplicate NFTL will have different recording data than the original NFTL whether or not the SLIDs on the original and duplicate are the same. The question for Area Counsel will be whether the duplicate would be treated the same as an additional NFTL filed in another jurisdiction.

- (9) Both the ALS history and the case history must be documented.

## 5.12.7.10.5 (04-22-2019) **Hand-Carried NFTL for Filing**

- (1) All NFTLs, whether systemically or manually prepared, should be filed through the CLO. If exigent circumstances exist, it may be necessary to immediately file an NFTL. In these rare situations, the NFTL can be hand-carried to the recording office.

**Note:** Exigent circumstances include imminent actions of the taxpayer to dispose of assets, place assets out of the government's reach, or file bankruptcy.

**Reminder:** Because of the additional resource costs involved, an NFTL should only be hand-carried for filing in exigent circumstances.

- (2) Prior to hand-carrying the NFTL for filing, determine the cost charged by the recording office to file the NFTL. ALS contains information regarding the fees

charged by each office for routine filings. For an NFTL with multiple pages or special wording, it may be necessary to contact the recording office for cost information.

- (3) The employee presenting the document to the recording office for filing is responsible for ensuring the filing fee is paid. Subject to the limitations described below, payment may be accomplished by:
- paying the fee out-of-pocket;
  - paying the fee with a government-issued travel card;
  - paying the fee with an assigned Enforcement Authority Purchase Card; or
  - coordinating payment with the Field Collection Territory Secretary.
- (4) When personal funds or a travel card are used to pay the filing fee, reimbursement may be claimed through submitting a travel voucher or an *SF1034, Public Voucher for Purchases and Services Other Than Personal*.
- a. A travel voucher can only be used to claim reimbursement of filing fees if other, official travel expenses (e.g., mileage) are being claimed in addition to the filing fees (see IRM 1.32.1, *Official IRS Local Travel Guide*).
- Note:** When the filing fee exceeds the daily expense limitation established for the travel voucher program (currently \$300), contact the Employee Resource Center for assistance with claiming the expense.
- b. SF1034 is used when the filing fee is the only reimbursement claim and there are no other travel expenses to claim (see IRM 1.35.3.12.2.8, *Employee Reimbursables*, and the *Beckley Finance Center* website for instructions).

**Reminder:** A receipt is required for reimbursement of any filing fee expense.

- (5) If an assigned Enforcement Authority Purchase Card is used, follow standard procurement procedures to create an Integrated Procurement System (IPS) request and present the card to the recording office to pay the filing fee. For information on securing and using a purchase card, follow the guidance in Document 9185, *Purchase Card Guide*, and consult management for any local restrictions.

**Note:** Purchase Cardholders must adhere to all purchase card policies and procedures, complete required training, and meet minimum usage requirements. See the Employee Resource Center web page on purchase cards for additional information.

- (6) If the fee charged by the recording office to file the NFTL(s) exceeds normal limits and the other methods of payment are not available, follow local procedures to request the assistance of the Field Collection Territory Secretary, who has Enforcement purchase authority using a small purchase card,
- a. Provide all necessary information to the territory secretary to procure the required services, including the name and contact information for the recording office, the date the NFTL will be filed, the estimated cost, and a description of the activity being funded (i.e., NFTL filing).
- b. To guarantee timely assistance and payment, make every effort to provide sufficient lead time to secure the territory secretary's assistance.

If the secretary is not available to assist, any territory secretary within the area may be contacted for assistance, following local procedures.

**Caution:** Only purchase cardholders may procure services. Therefore, the purchase cardholder must contact the recording office directly to request its service.

- c. If the cost will exceed \$2,500, do not contact the territory secretary for purchase card assistance as it is above their designated procurement authority. Instead, follow local procedures to complete a request for Procurement to issue a formal contract. Alternatively, forward the NFTL to CLO for processing and payment.
- (7) The territory secretary or the employee filing the NFTL provides the purchase card information to the recording office. Because recording offices generally receive payment for lien document filings through electronic fund transfer, some offices may be hesitant to accept the purchase card information verbally. Explain the purchase card program to the recording office and work with the office, within reason, to address their concerns.
- (8) Regardless of the method of payment, within **four (4) calendar days** of filing the NFTL, input the recording information to ALS or secure email the recording information (including the taxpayer's name and TIN or the SLID) to CLO for input (\*SBSE CLO Liens Team 301).

**Reminder:** If recording data is not input to ALS, it may impact the timely release of the lien when the liability is satisfied.

- (9) Within five (5) business days, issue the appropriate notice of NFTL filing to the taxpayer (e.g., Letter 3172, Letter 3171).
- (10) Request input of the TC 582, TC 360, and TC 971 AC 252, if applicable, following standard input procedures.

#### 5.12.7.10.5.1 (04-22-2019)

#### Other Documents Hand-Carried for Filing

- (1) Occasionally, other types of legal documents must be hand-carried for filing at the local recording office. These documents often are associated with litigation initiated by the IRS and cannot be filed through the centralized lien process. Examples of such documents include notice of lis pendens and abstract of judgment. Requests for these filings usually originate in the Department of Justice and are assigned to Field Collection through a courtesy investigation (OI) by Advisory.
- (2) Follow the guidance in the OI for filing the document.
- (3) The employee assigned the task of hand-carrying the document for filing is responsible for ensuring the filing fee charged by the recording office is paid.
  - These filing fees may NOT be paid using a government-issued travel card nor can they be reimbursed through the travel voucher process.
  - These filing fees should be paid using an assigned Enforcement Authority Purchase Card; coordinating payment with the Field Collection Territory Secretary; or through the SF1034 process (see instructions in IRM 5.12.7.10.5(3) through (8)).
- (4) After filing, provide the recording information to the requestor as directed by the OI.



5.12.7.11  
(09-21-2017)

#### Distribution of NFTL

- (1) The distribution process for Form 668(Y)(c) involves:
  - printing the NFTL (with the exception of the few recording offices where the Service electronically files),
  - mailing the NFTL for filing to the designated recording office, and
  - mailing a copy of the NFTL to the taxpayer and, if appropriate, their representative with the appropriate notice letter.

5.12.7.11.1  
(10-18-2013)

#### Printing the NFTL

- (1) NFTLs are printed within five (5) business days of input to ALS.
- (2) An NFTL generated by ALS on Sunday, Monday, or Tuesday will print out on Thursday. An NFTL generated by ALS on Wednesday, Thursday, Friday, or Saturday will print out on Tuesday.
- (3) NFTLs generally are printed by ALS on Tuesdays and Thursdays ONLY. However, when deemed necessary by CLO management, NFTLs may be printed other days. CLO will ensure that CDP notices are issued timely in these instances. This printing schedule allows ALS to send a data file electronically to the Correspondence Production Services (CPS) so they can timely issue the CDP notices and other copies. The schedule also allows ALS to process timely TC 582 lien indicators and correct TC 360 amounts.
- (4) CLO is allotted three (3) business days (including the print day) for administrative processing. Documents are normally sent to recording offices by close of business the next business day.
- (5) The taxpayer and representative's NFTL copies are printed with the CDP notice and mailed from the CPS.
- (6) CLO procedures are found in IRM 5.19.12.3.5, *Printing and Mailing Documents for Recordation*.

5.12.7.11.2  
(01-12-2016)

#### Mailing the NFTL

- (1) CLO generally mails NFTLs to the recording offices within two (2) business days of the day the NFTL is printed. So, an NFTL printed on Tuesday will be put in the mail by CLO on Wednesday. An NFTL printed on Thursday will be put in the CLO mail on Friday.

**Example:** ALS receives an ICS NFTL request on Friday. The NFTL is printed the following week on Tuesday. Then the NFTL is generally mailed to the designated recording office by close of business Wednesday.

**Example:** A revenue officer requests an NFTL through ICS on a Friday. ALS receives that request from ICS on Monday. The NFTL is printed on Thursday and generally mailed to the designated recording office by close of business Friday.

- (2) Generally, CLO mails paper documents to the recording offices for filing. There are a few recording offices where the delivery is done electronically, but even with these recording offices, some documents must be sent by paper. Check with CLO if there is a question about how a specific NFTL or other lien document is delivered to a particular recording office.
- (3) For an **NFTL not needing to be indexed**: Because it is difficult to ascertain the date a recording office receives the NFTL in the mail, the Service makes certain assumptions in order to identify the last date by which the taxpayer can



request a CDP hearing. The Service presumes the NFTL is “deemed filed” on the third business day after the mailing date.

**Example:** An NFTL is printed on Tuesday and mailed on Thursday, it is deemed filed on Tuesday of the following week.

**Caution:** A taxpayer can challenge this presumed filing date if they can show that the recording office received the NFTL on a date later than under the Service’s presumed filing date.

- (4) For an **NFTL needing to be indexed:** Some states require deeds affecting real property be indexed. In those states, pursuant to IRC § 6323(f)(4), filing is not complete until the NFTL is indexed by the local recording official and recorded in the index at a place of public filing in such a manner that a reasonable inspection of the index will reveal its existence.

**Caution:** Situations could arise where the taxpayer will be able to dispute the Service’s calculation of the last date by which a CDP hearing can be requested. It may be possible where they have the indexing date and it differs from the Service’s presumptive filing date.

- (5) The taxpayer and POA copy of the NFTL and any associated letters, such as notification of CDP rights or the Letter 3171, are sent from CPS after ALS provides the information systemically. For more information about CDP notices, see IRM 5.1.9.3.1, *Notice of Collection Due Process (CDP) Hearing Rights*, or IRM 5.12.6.3, *Collection Due Process for NFTL Filing*.
- (6) CLO procedures related to printing and mailing lien documents and letters are found in IRM 5.19.12.3.5, *Printing and Mailing Documents for Recordation*.

## 5.12.7.11.3 (04-22-2019) Obtaining Copies of Filed Documents

- (1) Employees who need certified copies of filed documents from the recording office are responsible for ensuring the fees charged by the recording office are paid. Payment may be accomplished by:
  - paying the fee out-of-pocket or with a government-issued travel card and claiming it as an expense of a travel voucher;
  - obtaining an advance through the travel voucher process; or
  - paying the fee with an assigned Enforcement Authority Purchase Card.

**Reminder:** Non-travel expenses such as copy fees can only be reimbursed through a travel voucher if other, official travel expenses (e.g., mileage) are also claimed on the same voucher. If non-travel expenses are the only expenses being claimed, reimbursement is requested by submitting an SF1034.

- (2) CLO does not secure certified copies of lien documents from recording offices. If CLO receives an invoice from a recording office for revenue officer copy expenses, the invoice is forwarded to the applicable revenue officer group manager for resolution. CLO does not process this type of payment request with their Billing Support Voucher.
  - a. The group manager is responsible for ensuring the invoice is paid within ten (10) calendar days of receipt.

- b. Recording offices are provided the name, phone number, and mailing address of the revenue officer group manager to pursue fee collection.

- (3) To address further payment requests from recording officials, CLO may annotate the location of the invoice and retain a copy in their files.

5.12.7.12  
(10-18-2013)

**Recording Office Data,  
Indicators, Fees, and  
Codes**

- (1) The filing of the NFTL begins a maintenance process that covers the life of the lien and underlying tax liability.
- (2) The location of the recording office and the filing data to identify where the NFTL can be located at the recording office are needed in order to reference the NFTL for release, refiling, or other associated lien certificate filing. This filing data from the recording office must be entered into ALS for retention. This is discussed more fully in IRM 5.12.7.12.1, *Adding Recording Office Data to ALS*.
- (3) In order for Master File to communicate systemically with ALS when the liability on the NFTL has been satisfied, an indicator must be posted accurately to Master File. This is discussed more fully in IRM 5.12.7.12.2, *Lien Filing Indicator (LFI)*.
- (4) The fees associated with the recording of the NFTL and release need to be charged to the taxpayer's account so that the Service may be reimbursed when the liability is paid. The Service is not reimbursed where the liability is not paid, the fees are not input, or the fees are abated. This is discussed more fully in IRM 5.12.7.12.3, *Recording Fees*.
- (5) In order to acknowledge payments made as a result of the NFTL filing or subsequent filing of additional lien certificates, Master File transaction payment codes can be designated. These are discussed more fully in IRM 5.12.7.12.4, *Designated Payment Code (DPC)*.

5.12.7.12.1  
(09-21-2017)

**Adding Recording Office  
Data to ALS**

- (1) The priority of the federal tax lien amongst certain creditors is determined by the filing date and time of the notice. In regard to a lien that attaches real property, priority may be determined by state law requiring that the NFTL be not only filed but also indexed in such manner that a reasonable inspection of the index will reveal the existence of the NFTL filing. Most recording offices provide recording or indexing data which includes the date, book number, page number, and time of the filing or indexing. It is important to accurately and timely enter correct filing data from the recording office. Filing and index data (book number, page, etc.) differ amongst recording offices (i.e., some use the recording number, some use the book and page, some use the serial numbers, some use a combination of the above). The court input data screen is set by the ALS functional coordinator.
- (2) For most NFTLs, recording data is input to ALS by CLO as part of the routine filing process. For an NFTL that is not processed through CLO (e.g., a hand-carried NFTL), action is needed to update ALS.
- (3) Recording data (aka court recording data (CRD)) should be input as soon as possible, but **no later than four (4) calendar days** after obtaining or receiving the data.
  - a. **Without ALS permissions** secure email or fax the recording or indexing data to CLO (\*SBSE CLO Liens Team 301).

b. **With ALS permissions**, recording and indexing data is entered following the steps in the *ALS User Guide* Chapter 8.

- (4) If entering the data to ALS, review the NFTL to verify that the filing location identified on the NFTL matches the filing location where the NFTL was filed. This is very important since it establishes our lien priority.
- (5) If the filing locations don't match, contact the appropriate *CLO team* for assistance. The team will assist with any corrective action needed. If there is an error, the lien may not properly release through ALS once the tax liability is satisfied. Add an ALS history with an explanation of the error.

**Reminder:** There are some locations in the country where the zip code mailing address is in one county but the actual physical location of the property is in another county.

- (6) Recording data for the NFTL is necessary for ALS to subsequently generate a certificate of release. If needed, recording data can be obtained by taking one or more of the following actions:
  - Access the web site for recording office (or Secretary of State) where the NFTL is supposed to be filed
  - Research using Accurint
  - Phone or visit the recording office where the NFTL is supposed to be filed
  - Contact CLO for assistance

## 5.12.7.12.2 (10-18-2013)

### Lien Filed Indicator (LFI)

- (1) A [notice of] lien filed indicator (LFI) appears on Master File when the TC 582 posts.
- (2) ALS systemically generates and passes the TC 582 to Master File for all tax modules on an NFTL when that NFTL is processed through ALS. A primary purpose of the LFI is for Master File to notify ALS when a module is satisfied and ALS can generate a release.
- (3) ALS transmits the LFI to Master File weekly.
- (4) TC 582 is not generated to Non-Master File (NMF) accounts.
- (5) ICS users receive a systemic notification if the TC 582 does not post to IDRS within 30 days. Follow up action is required.
- (6) **For ALL manually prepared NFTLs and estate tax liens:** Revenue Officers **must request** input of TC 582 and TC 360 for recording fees, if applicable.

## 5.12.7.12.3 (09-21-2017)

### Recording Fees

- (1) The taxpayer's account is charged up front for both the recording and release fee.
- (2) For an NFTL processed through ALS, the appropriate recording fee is transmitted systemically to Master File. The transmission occurs weekly on Friday and includes fees through close of business Wednesday. Contact CLO if an NFTL has been requested but full payment is also received before this weekly transmission and the NFTL appears on a Billing Support Voucher. This will allow CLO to delete the NFTL and fees.

- (3) For a manually processed NFTL, posting the recording fees is the responsibility of the revenue officer. The revenue officer must ensure that the correct fee amount is timely submitted for posting to Master File. The posting request for the fee should be submitted as soon as the NFTL is delivered to the recording office.

**Note:** The TC 360 should post to the module listed on the NFTL with the oldest assessment. If multiple tax periods have the same assessment date, the TC 360 should post to the oldest tax period.

- (4) For NMF accounts, a listing will generate for TC 360 and a posting request to the Automated NMF (ANMF) must be prepared and forwarded to the servicing campus using Form 3244, *Payment Posting Voucher*.
- (5) Fee amounts can change over time. Contact CLO for assistance with determining the filing and release fee portions.
- (6) Reverse the TC 360 when an NFTL is filed in error (see IRM 5.12.3.9, *Erroneously Filed Notice of Federal Tax Lien*).
- (7) A taxpayer may have an immediate need to file documents. If the document is a release and the taxpayer is hand-carrying the release to the recording office, see IRM 5.12.3.7, *Disposition of Certificate of Release*, for instructions related to the release fee.

5.12.7.12.4  
(01-12-2016)  
**Designated Payment  
Code (DPC)**

- (1) A designated payment is a voluntary payment designated by the taxpayer to be applied in a particular manner, i.e., kind of tax, specific tax period, etc.
- (2) In the absence of a designation by the taxpayer, payments will be applied in a manner consistent with the provisions of Revenue Procedure 2002-26, unless a specific statute, regulation or procedure designates otherwise.
- (3) A DPC is mandatory on all Collection initiated posting vouchers for transaction codes 640, 670, 680, 690, 693 and 700. DPCs serve three purposes.
  - a. They identify payments that are designated for trust fund or non-trust fund employment and excise taxes.
  - b. They identify application of payments for a specific liability.
  - c. They identify the event which resulted in the payment.
- (4) Use the following DPC for lien related payments:
  - DPC 07 when applying payments received expressly for full or partial payoff of the Notice of Federal Tax Lien, as evidenced by an accompanying NFTL payoff letter (e.g., Letter 3640, Letter 3640-A, Letter 3641), copy of the NFTL, or statement of the taxpayer or third party, as documented in appropriate history.
  - DPC 53 when applying payments secured for a discharge of federal tax lien.
  - DPC 55 when applying payments secured for a subordination of federal tax lien.
  - DPC 56 when applying payments secured for a withdrawal of the NFTL.
  - DPC 57 when applying payments secured from either a judicial or non-judicial foreclosure.
  - DPC 58 when applying payments secured from either a redemption or a release of right of redemption.

- DPC 59 when applying payments secured from estate tax liens and as the result of the filing of a proof of claim in a probate proceeding.
- (5) All payments must be posted to the taxpayer's account within 48 hours of receipt. Lien Units will forward payments for posting by close of business the day of receipt. When a check is received in response to a payoff letter:
- a. Verify if the amount received is correct.
  - b. Verify the due date for payment as stated in the payoff letter has not passed.
  - c. Verify the payment type (e.g., cashier's check, bank/postal money order, bank check, personal check).
  - d. Release liens associated with the payment but only if the tax period is full paid and the funds are certified.

5.12.7.13  
(04-22-2019)  
**Billing Support Voucher**

- (1) Payment of filing fees is primarily a systemic process. The process starts with CLO perfecting the ALS-generated Billing Support Voucher (BSV) and forwarding it to the recording office and Beckley Finance Center, who pays the recording offices through Electronic Funds Transfer (EFT).
- (2) There may be rare occasions where a revenue officer hand-carries a document for immediate filing. In these situations, the fee must be paid by the revenue officer and submitted for reimbursement on their travel voucher. See IRM 5.12.7.10.5, *Hand-Carried NFTL for Filing*.
- (3) When a lien release certificate or notice of withdrawal is provided directly to the taxpayer to file, the taxpayer is responsible for paying the associated filing fee to the recording office. Alternatively, the taxpayer may return the document to the issuing IRS office to be filed through the standard filing process.

5.12.7.14  
(10-18-2013)  
**Lost NFTL**

- (1) A *potentially* lost NFTL is one which has been sent to a recording office but where the filing information has not been returned to the Service. CLO monitors this activity using the Lost Lien Report.

**Reminder:** The IRS considers the NFTL *filed* when the recorder is presumed to have received it. Even if a recorder fails to record a notice which has been sent to them, the notice is still considered *filed* for legal purposes.

5.12.7.14.1  
(10-18-2013)  
**Potential Lost Lien Report**

- (1) ALS generates the Potential Lost Lien (PLL) Listing every 30 days. The listing shows the NFTLs that have been sent to recording offices but no filing information has been entered into the court screen on ALS.
- (2) Recording offices can take days, weeks, or at times, months to record the NFTL filed with them and return that information to the IRS.
- (3) An NFTL hand-carried to the recording office by revenue officers will show as a lost NFTL if the recording information is not input to ALS. To avoid this situation, revenue officers must enter the recording office information to ALS or provide it to CLO to enter into the ALS court screens.
- (4) Without the recording office information, subsequent lien certificate filing cannot occur as this information is used by the recording office to associate subsequent lien certificates with the original NFTL.

5.12.7.14.2  
(10-18-2013)

**Replacement NFTL**

- (5) Revenue officers may at times be asked to assist CLO to locate missing recording office information.
- (1) A replacement NFTL may be required if the recording office information cannot be found. CLO replaces NFTLs and sends notifications to other functions for all lost NFTLs unless there is six months or less time before the CSED.
- (2) CLO issues a replacement NFTL on accounts in the following statuses:
- Automated Collection System - Status 22
  - Field - Status 26
  - Currently Not Collectible - Status 53
  - Installment Agreement - Status 60
  - Defaulted Installment Agreement - Status 64
- (3) When a replacement NFTL is generated on ALS, the CDP notice, if appropriate, is not systemically suppressed.
- (4) For an NFTL that originated in ACS or if the account is currently in status 22, the replacement NFTL is issued using an ACS assignment number.
- (5) For an NFTL on an account currently in status 60, 64, and 53 that originated in Field Collection and an account currently in status 26, the replacement NFTL is issued using the originating revenue officer's name.
- a. If the originating revenue officer's TSIGN cannot be found in ALS, the lost NFTL request will be forwarded to the group manager where the taxpayer resides for confirmation on issuance.
  - b. Calls and requests for other actions from taxpayers on a replacement NFTL are referred to the group manager where the taxpayer resides, or where the NFTL is filed based on the nature of the request.

5.12.7.14.2.1  
(09-21-2017)

**Replacement NFTL  
Assistance Requests to  
Other Functions**

- (1) If taxpayers are in a status that requires specific expertise to determine if replacement NFTL filing is allowed, CLO may request assistance from other functions.

Status	with TC	Referred to...
71	n/a	Centralized Offer in Compromise (COIC)
72	TC 520 cc 60-67, 81, 83-89	Centralized Insolvency Operation (CIO)
72	TC 520 cc 70-75 or 80	Advisory office for the applicable state
Any (MFT 31)	TC 971 AC 104	Centralized Innocent Spouse Operation (CISO)

- (2) See CLO's procedures in IRM 5.19.12.9.5, *Potential Lost NFTL*.

5.12.7.14.2.2  
(09-21-2017)

## **Replacement NFTL Assistance Actions by Other Functions**

- (1) When CLO notifies one of the functions identified in IRM 5.12.7.14.2.1 above, a decision must be made whether or not the taxpayer's situation precludes filing a replacement NFTL. The function contacted is responsible to make the replacement NFTL filing decision.
- (2) Once CLO has notified the function that a replacement NFTL decision is needed, they will remove the NFTL from the PLL. A response to the notification is not needed. It is the responsibility of the function notified to decide whether or not a replacement NFTL will be filed. However, if the function has a question, contact CLO.
- (3) If the decision is made to file a replacement NFTL, complete Form 12636 and forward to CLO via secure email, notating "do not suppress the CDP notice", if appropriate.
- (4) If the replacement NFTL request is input directly into ALS by the function, the system may query if it is a duplicate NFTL filing. If this occurs:
  - Set answer to "yes";
  - Proceed with input; and,
  - Do not suppress the CDP notice, if appropriate.
- (5) If a replacement NFTL will not be filed, input a TC 583 to reverse the LFI and use a TC 361 to abate the filing fee.



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**Exhibit 5.12.7-1 (04-22-2019)****Notice of Federal Tax Lien - Mutual Collection Assistance Request (MCAR)**

This exhibit relates to IRM 5.12.7.8.2.1, *Preparation of MCAR NFTL*, and shows an annotated Form 668 (Y), *Notice of Federal Tax Lien*. Text in the body of the NFTL identifies that the notice originates with a Mutual Collection Assistance Request and reads as follows:

*This amount is due, owing, and unpaid to the government of [Treaty Partner] and is being collected on behalf of [Treaty Partner] under the provisions of [NN] of the United States - [Treaty Partner] Income Tax Convention and applicable provisions of the Internal Revenue Laws of the United States*

## Exhibit 5.12.7-1 (Cont. 1) (04-22-2019)

## Notice of Federal Tax Lien - Mutual Collection Assistance Request (MCAR)

## Exhibit 5.12.7-1 Mutual Collection Assistance Request (MCAR) NFTL

<b>Form 668(Y)</b> (Rev. February 2004)	Department of the Treasury - Internal Revenue Service <b>Notice of Federal Tax Lien</b>				
Area:	Serial Number: NNNNNNNN		<i>For Optional Use by Recording Office</i>		
As provided by sections 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.					
Name of Taxpayer: <i>First Name Line</i> <i>Second Name Line</i>					
Address: <i>Street Address</i> <i>City, State ZIP</i>					
<b>IMPORTANT RELEASE INFORMATION:</b> For each assessment listed below, unless notice of lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).					
Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
Income	MM/DD/YYYY	XXX-XX-NNNN	MM/DD/YYYY	MM/DD/YYYY	NNN,NNN.NN
****This amount is due, owing, and unpaid to the government of <i>[Treaty Partner]</i> and is being collected on behalf of <i>[Treaty Partner]</i> under the provisions of Article <i>[NN]</i> of the United States – <i>[Treaty Partner]</i> Income Tax Convention and applicable provisions of the Internal Revenue Laws of the United States****					
Place of Filing: <i>Recording Official</i> <i>Recording Office</i> <i>City, State</i>				Total	\$ NNN,NNN.NN
This notice was prepared and signed at _____, <i>City, State</i> , on this, the <u>DD</u> day of <u>Month</u> , <u>YYYY</u> .					
Signature:			Title:		
<i>Requestor's Name, Employee ID #</i>			Phone #		

(NOTE: Certificate of officer authorized by law to take acknowledgements is not essential to the validity of Notice of Federal Tax Lien, Rev. Rul. 71-466, 1971-2 C.B. 409)

Part 1 – Recording Office

Form 668(Y) (Rev. 2-2004) Cat. No. 60025X

## Exhibit 5.12.7-2 (04-22-2019) State and Territory Filing Locations

This exhibit shows the office designated by each state or territory for filing Notices of Federal Tax Lien. The following statements generally apply to all locations, unless specifically noted in the table:

- For real property, the NFTL is filed with the recording office having jurisdiction where the property is located.  
**Note:** Multiple NFTLs may be needed for properties that overlap jurisdictional boundaries (e.g., county, city, parish, etc.).
- For personal property, the NFTL is filed with the recording office having jurisdiction where the person/entity (whose interest the lien applies) resides at the time of filing.  
**Note:** Personal property owned by business entities generally refers to entities whose principal executive office is located within the applicable state or territory.

### ALABAMA

<i>Recording Office for Real Property</i>	<i>Recording Office for Personal Property</i>
Judge of Probate for the county	Corporation, Partnership, Trust: Secretary of State Decedent Estate: Judge of Probate for the county where the estate is administered All Others: Judge of Probate for the county

### ALASKA

<i>Recording Office for Real Property</i>	<i>Recording Office for Personal Property</i>
Recorder of the recording district	Recorder of the recording district

### AMERICAN SAMOA

<i>Recording Office for Real Property</i>	<i>Recording Office for Personal Property</i>
Territorial Registrar	Territorial Registrar

### ARIZONA

<i>Recording Office for Real Property</i>	<i>Recording Office for Personal Property</i>
County Recorder	Corporation, Partnership, Trust, Decedent Estate: Secretary of State All Others: County Recorder

### ARKANSAS

<i>Recording Office for Real Property</i>	<i>Recording Office for Personal Property</i>
Circuit Clerk and Recorder of the county	Corporation, Partnership, Trust, Decedent Estate: Secretary of State All Others: Circuit Clerk and Recorder of the county

**Exhibit 5.12.7-2 (Cont. 1) (04-22-2019)**  
**State and Territory Filing Locations**

**CALIFORNIA**

<i><b>Recording Office for Real Property</b></i>	<i><b>Recording Office for Personal Property</b></i>
County Recorder	Corporation, Limited Liability Company, Partnership, Trust, Decedent Estate: Secretary of State All Others: County Recorder

**COLORADO**

<i><b>Recording Office for Real Property</b></i>	<i><b>Recording Office for Personal Property</b></i>
County Clerk and Recorder	Secretary of State

**CONNECTICUT**

<i><b>Recording Office for Real Property</b></i>	<i><b>Recording Office for Personal Property</b></i>
Town Clerk	Secretary of State

**DELAWARE**

<i><b>Recording Office for Real Property</b></i>	<i><b>Recording Office for Personal Property</b></i>
Recorder of Deeds of the county	Corporation, Partnership, Limited Liability Company, Trust: Secretary of State All Others: Recorder of Deeds of the county

**DISTRICT OF COLUMBIA**

<i><b>Recording Office for Real Property</b></i>	<i><b>Recording Office for Personal Property</b></i>
Recorder of Deeds	Recorder of Deeds

**FLORIDA**

<i><b>Recording Office for Real Property</b></i>	<i><b>Recording Office for Personal Property</b></i>
Clerk of the Circuit Court (or County Court-house) of the county	Corporation, Partnership, Trust, Decedent Estate: Secretary of State All Others: Clerk of the Circuit Court (or County Court-house) of the county

**GEORGIA**

<i><b>Recording Office for Real Property</b></i>	<i><b>Recording Office for Personal Property</b></i>
Clerk of the Superior Court of the county	Clerk of the Superior Court of the county

**Exhibit 5.12.7-2 (Cont. 2) (04-22-2019)**  
**State and Territory Filing Locations**

**GUAM**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Department of Land Management*	Clerk of the U.S. District Court of Guam

\*Some real property may be unregistered. If encountered, contact Area Counsel.

**HAWAII**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Bureau of Conveyances	Bureau of Conveyances

**IDAHO**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
County Recorder	Corporation, Partnership, Trust, Decedent Estate: Secretary of State <u>All Others:</u> County Recorder

**ILLINOIS**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Recorder of Deeds or County Clerk & Recorder, as applicable in the county*	Non-Individual (Corporation, Partnership, Estate, Trust): Secretary of State All Others: Recorder of Deeds or County Clerk & Recorder, as applicable in the county*

\*See Rev. Proc. 68-1, 1968-1 CB 741, superseding Rev. Proc. 67-15, 1967-1 CB 592

**INDIANA**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
County Recorder	County Recorder

**IOWA**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
County Recorder	Corporation, Partnership: Secretary of State <u>All Others:</u> County Recorder

**Exhibit 5.12.7-2 (Cont. 3) (04-22-2019)**  
**State and Territory Filing Locations**

**KANSAS**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Register of Deeds of the county	Corporation, Partnership, Trust, Decedent Estate: Secretary of State All Others: Register of Deeds of the county

**KENTUCKY**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
County Clerk (or County Court Clerk)	County Clerk (or County Court Clerk) where the property is located*

\*See *Harrison v. Harold Cox Concrete Constr. Co.*, 440 F.Supp. 859 (W. D. Ky 1977)

**LOUISIANA**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Immovable Property: Clerk of Court of the parish or, in Orleans Parish, with the Recorder of Mortgages	Movable Property: Clerk of Court of the parish or, in Orleans Parish, with the Recorder of Mortgages (filing officer), for inclusion in the master index of information maintained by the Secretary of State

**MAINE**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Registry of Deeds in the county	Timber to be cut, as-extracted collateral (oil, gas, minerals): Registry of Deeds in the county where the mortgage on the real estate concerned would be filed or recorded All Others: Secretary of State

**MARYLAND**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Clerk of the Circuit Court of the county	Clerk of the Circuit Court of the county

**MASSACHUSETTS**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Register of Deeds of the county	United States District Court Clerk of Court*

\*Rev. Rul. 85-89, 1985-2 CB 326



**Exhibit 5.12.7-2 (Cont. 4) (04-22-2019)**  
**State and Territory Filing Locations**

**MICHIGAN**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Register of Deeds of the county	Corporation, Partnership: Secretary of State All Others: Register of Deeds of the county

**MINNESOTA**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
County Recorder	Corporation, Partnership: Secretary of State All Others: County Recorder

**MISSISSIPPI**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Chancery Clerk of the county	Corporation, Partnership, Trust, Decedent Estate: Secretary of State All Others: Chancery Clerk of the county

**MISSOURI**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Recorder of Deeds of the county	Recorder of Deeds (or the Clerk of the Circuit Court as ex officio Recorder of Deeds) of the county where the property is located

**MONTANA**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Clerk and Recorder of the county	Corporation, Partnership, Trust, Decedent Estate: Secretary of State All Others: Clerk and Recorder of the county

**NEBRASKA**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Register of Deeds of the county*	Secretary of State

\*All lien document filings are delivered, and payment made, to the Secretary of State's office, which then forwards the notice to the proper Register of Deeds.

**Exhibit 5.12.7-2 (Cont. 5) (04-22-2019)**  
**State and Territory Filing Locations**

**NEVADA**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
County Recorder	Corporation, Partnership, Trust, Decedent Estate: Secretary of State <u>All Others:</u> County Recorder

**NEW HAMPSHIRE**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Registry of Deeds of the county	Secretary of State

**NEW JERSEY**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
County Clerk	County Clerk where the property is situated

**NEW MEXICO**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
County Clerk	County Clerk

**NEW YORK**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
County Clerk, except for New York City*	Corporation, Partnership: Secretary of State <u>All Others:</u> County Clerk, except for New York City**

\*For real property located in the counties of Kings, Queens, New York, or the Bronx, the NFTL is filed in the Office of the City Register of the city of New York for such county. For property located in two or more counties, NFTL is filed in the office of the Clerk or the City Register, as applicable, in each of such counties.

\*\* If the person/entity against whose interest the lien applies resides in the counties of Kings, Queens, New York or the Bronx, the NFTL is filed in the Office of the City Register of the city of New York for such county. When there is more than one person/entity against whose interest the lien applies, the NFTL shall be filed for each person/entity.

**NORTH CAROLINA**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Clerk of the Superior Court of the county	Corporation, Partnership: Secretary of State <u>All Others:</u> Clerk of the Superior Court of the county

**Exhibit 5.12.7-2 (Cont. 6) (04-22-2019)**  
**State and Territory Filing Locations**

**NORTH DAKOTA**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
County Recorder*	Corporation, Partnership, Trust, Decedent Estate: Secretary of State All Others: County Recorder*

\*All lien document filings must be delivered, and payment made, to the Secretary of State's office for input to the central indexing system. The Secretary of State forwards the filings and distributes payment to the applicable recording offices for recordation. County Recorders do not accept filings outside this process. This also applies to hand-carried lien documents. Once the hand-carried document is recorded, the document will be mailed to the initiator with the recording information. *North Dakota Century Code, Uniform Federal Lien Registration Act, Chapter 35-29.*

**NORTHERN MARIANA ISLANDS**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Commonwealth Recorder's Office in the Commonwealth Superior Court	Clerk of the District Court of the U.S. for the District of the Northern Mariana Islands

**OHIO**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
County Recorder	County Recorder

**OKLAHOMA**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
County Clerk	Corporation, Partnership, Trust, Decedent Estate: Oklahoma County Clerk All Others: County Clerk

**OREGON**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Recorder of Conveyances of the county*	Secretary of State

\*If the county does not have a Recorder of Conveyances, the notice of tax lien against real property must be filed with the County Clerk where the real property is located. R.S. § 87.806(2).

**PENNSYLVANIA**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Prothonotary of the county	Prothonotary of the county

**Exhibit 5.12.7-2 (Cont. 7) (04-22-2019)**  
**State and Territory Filing Locations**

**PUERTO RICO**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Registry of the Property of Puerto Rico*	Clerk of the District Court of the U.S. for the District of Puerto Rico

\*From January 7 to March 7, 2016, the recording office address on face of NFTL remained Section of the Registry of Property of the district where the real property was located. EFFECTIVE March 7, 2016, the recording office address on the face of the NFTL changed to the Registry of the Property of Puerto Rico, Administrative Office, Department of Justice, PO Box 9020192, San Juan, PR 00902-0192. *United States v. Flores*, 76-1 USTC P 9394, 535 F.2d 135 (1976); *In re Escribano*, 433 B.R. 59 (Bankr. D. Puerto Rico 2010), Law No. 209; *Ley de Aranceles* (Fees of the Registry) effective January 7, 2016; and Law No. 210, *Ley del Registro de la Propiedad Inmobiliaria* (Law of the Registry of the Property) effective March 7, 2016.

**RHODE ISLAND**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Town/City Clerk or Recorder of Deeds of the city or town*	Town/City Clerk or Recorder of Deeds of the city or town*

\*NFTL is filed by the city or town clerk if they have custody of the land records. Gen. Laws of RI 1956, § 34-34-1.

**SOUTH CAROLINA**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Register of Deeds/ Conveyances or Clerk of Court (if no Register of Deeds) of the county	Register of Deeds/Conveyances or Clerk of Court (if no Register of Deeds) of the county where the property is located

**SOUTH DAKOTA**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Register of Deeds of the county	Corporation, Partnership (with principal place of business in state): Office of Secretary of State All Others: Register of Deeds of the county

**TENNESSEE**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Register of Deeds of the county	Register of Deeds of the county where the property is located

## Exhibit 5.12.7-2 (Cont. 8) (04-22-2019) State and Territory Filing Locations

### TEXAS

<i>Recording Office for Real Property</i>	<i>Recording Office for Personal Property</i>
County Clerk	Corporation, Partnership: Secretary of State All Others: County Clerk

### U.S. VIRGIN ISLANDS

<i>Recording Office for Real Property</i>	<i>Recording Office for Personal Property</i>
Register of Deeds for the judicial district	Clerk of the District Court of the U.S. Virgin Islands

### UTAH

<i>Recording Office for Real Property</i>	<i>Recording Office for Personal Property</i>
County Recorder	County Recorder

### VERMONT

<i>Recording Office for Real Property</i>	<i>Recording Office for Personal Property</i>
Town/City Clerk	Town/City Clerk where the property is located

### VIRGINIA

<i>Recording Office for Real Property</i>	<i>Recording Office for Personal Property</i>
Clerk of the Circuit Court of the county or city	Corporation, Partnership: Clerk of the State Corporation Commission Trust, Decedent Estate: Clerk of the Circuit Court of the county or city having jurisdiction over the qualification of the trustee or probate of the will All Others: Clerk of the Circuit Court of the county or city where the taxpayer resides

### WASHINGTON

<i>Recording Office for Real Property</i>	<i>Recording Office for Personal Property</i>
County Auditor	Department of Licensing

### WEST VIRGINIA

<i>Recording Office for Real Property</i>	<i>Recording Office for Personal Property</i>
Clerk of the County Commission	Clerk of the County Commission

**Exhibit 5.12.7-2 (Cont. 9) (04-22-2019)**  
**State and Territory Filing Locations**

**WISCONSIN**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
Register of Deeds of the county	<u>Corporation, Partnership, Trust, Decedent Estate:</u> Department of Financial Institutions <u>All Others:</u> Register of Deeds of the county

**WYOMING**

<b><i>Recording Office for Real Property</i></b>	<b><i>Recording Office for Personal Property</i></b>
County Clerk	<u>Corporation, Partnership, Trust, Decedent Estate:</u> Secretary of State <u>All Others:</u> County Clerk

**Exhibit 5.12.7-3 (04-22-2019)**  
**Restitution NFTL**

This exhibit relates to IRM 5.12.7.7.4, *Restitution-Based Assessment*, and illustrates how to manually create a Restitution NFTL. The annotated NFTL includes reminders for the fields on the Form 668(Y)::

- Serial Number: Obtain SLID from ALS.
- Name of Taxpayer: Include only one taxpayer against whom a restitution assessment was made.
- Address: Show the taxpayer's last known address.
- Kind of Tax: Insert an "R" before the form number of the tax for which restitution was ordered.
- Tax Period Ended: Show the tax period for which restitution was ordered (TC 971 with action codes
- Identifying Number: Redact the SSN of the taxpayer against whom a restitution assessment was made.
- Date of Assessment: List the date on which the restitution assessment was made on the MFT 31 module.
- Last Day for Refiling: Calculate 10 years and 30 days from the date in column d.
- Unpaid Balance of Assessments: Do not include interest that may accrue under Title 18.
- Body of form: Type this statement on the face of the Form 668(Y):  
*Pursuant to IRC § 6201(a)(4), these assessments reflect the amount of restitution ordered payable to the IRS.*



**Exhibit 5.12.7-3 (Cont. 1) (04-22-2019)**  
**Restitution NFTL**

**Exhibit 5.12.7-3 Restitution NFTL**

<b>Form 668(Y)</b> (Rev. February 2004)	Department of the Treasury - Internal Revenue Service <b>Notice of Federal Tax Lien</b>				
Area:	Serial Number: NNNNNNNNNN		<i>For Optional Use by Recording Office</i>		
As provided by sections 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.			<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <i>Obtain SLID from ALS</i> </div>		
Name of Taxpayer: TAXPAYER NAME			<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <i>Include only one taxpayer against whom a restitution assessment was made</i> </div>		
Address: STREET ADDRESS CITY, STATE ZIP			<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <i>Show the taxpayer's last known address</i> </div>		
<b>IMPORTANT RELEASE INFORMATION:</b> For each assessment listed below, unless notice of lien is refilled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).					
Kind of Tax (a)	Tax Period Ended (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
R1040	MM/DD/YYYY	XXX-XX-NNNN	MM/DD/YYYY	MM/DD/YYYY	NNN,NNN.NN
<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <i>Insert an "R" before the form number of the tax for which restitution was ordered</i> </div>	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <i>Show the tax period for which restitution was ordered (TC 971 with action codes 180-189)</i> </div>	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <i>Redact the SSN of the taxpayer against whom a restitution assessment was made</i> </div>	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <i>List the date on which the restitution assessment was made on the MFT 31 module</i> </div>	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <i>Calculate 10 years and 30 days from the date in column d</i> </div>	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <i>Do not include interest that may accrue under Title 18</i> </div>
<b>**** Pursuant to IRC § 6201(a)(4), these assessments reflect the amount of restitution ordered payable to the IRS. ****</b>					
<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <i>Type this statement on the face of the Form 668(Y)</i> </div>					
Place of Filing				Total	\$ NNN,NNN.NN
This notice was prepared and signed at _____, on this, _____ the _____ day of _____, _____.					
Signature			Title		
Employee #			Phone #		
(NOTE: Certificate of officer authorized by law to take acknowledgements is not essential to the validity of Notice of Federal Tax Lien, Rev. Rul. 71-466, 1971-2 C.B. 409)					

Part 1 – Recording Office

Form 668(Y) (Rev. 2-2004) Cat. No. 60025X