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From:

Sent: Wednesday, July 20, 2011 5:58:17 PM

To:

Cc:

Subject: Your Request for Assistance

You requested an opinion on whether the practice in Texas of captioning Notices of Federal Tax Lien (NFTL) in the following manner, "Entity/Person X, as nominee, alter ego, and/or transferee of Entity/Person Y", is legally permissible. You specifically questioned the legality of including "transferee" in the entity identifications when the facts of the cases do not support "transferee" liability but rather a nominee lien theory. In sum, we have no problem with captioning of the NFTL in this manner. The word "transferee" in this context is being used as a synonym for "nominee" (and "alter ego" is being added in the alternative). The Service is using the term "transferee" in its ordinary, everyday meaning -- a person to whom a transfer of property is made. In other words, not all cases involving transferees will involve transferee liability. Support for using the every day meaning of the term "transferee" is contained in the Internal Revenue Manual (IRM). For example, the term "transferee" is used in the discussion specific to nominee liens. See IRM 5.12.2.6.6(2). Additionally, IRM 5.12.2.6.4 provides that not all transferee cases are transferee liability cases. However, we note that there are IRM provisions that suggest that "transferee" and "alter ego/nominee" are mutually exclusive -- meaning you can have one but not the other. See IRM 5.17.14.3(2) and IRM 5.12.2.6.4.1(7). We believe these provisions may be the reason you questioned the captioning.

In sum, while the inclusion of "transferee" in the entity identification section or caption may not be necessary, it is not legally prohibited in the context in which it is used. The use of "transferee" in this manner does not affect the enforceability of the liens, regardless of whether its use is appropriate. In the entity identification section of the NFTLs, "transferee," "alter ego" and "nominee" is used both disjunctively and conjunctively. Therefore, the unnecessary use of one term is of little consequence.

We coordinated this response with the
Counsel. If you have any questions, feel free to contact me.

of Chief