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From: [REDACTED]

Sent: Monday, April 29, 2019 2:36:08 PM

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: RE: Equitable Subrogation -sec 6323- coordination

On the surface, the 5 requirements for equitable subrogation may appear to have been satisfied, but the facts in your case are distinguishable from the facts in Han (which you cited and is often cited as it generally sets out the equitable subrogation requirements.) Generally, equitable subrogation is potentially at issue where a claimant with a lien junior to the FTL has satisfied the debt owed a lien interest that is senior to the FTL. Here, the person has paid off the taxpayer's tax lien/liabilities, and now seeks not subrogation having paid off a lien senior to the FTL, but rather a refund.

But the non-taxpayer ex-wife does not have a refund claim. She should have made a request for discharge under section 6325(b)(4). That is the provision that allows people, non-taxpayers, who own property encumbered with a FTL to pay the amount of the lien as determined by the Service, then file a refund suit under section 7426 if they disagree with the amount required by the Service. That is the only remedy available to people in this situation. This ex-wife is in a position very similar to Lori Williams in United States vs Williams, 514 US 527. The government lost, in part, because the Court found that Williams did not have a viable remedy. So, the Court provided her one—a refund action. In response to the outcome in that case, the statutory scheme set out in sections 6324(a)(4) and 7426(a)(4) was enacted. Now people in that situation have a remedy, but it is the exclusive remedy.