

# WHERE TO START?

Are you selling, refinancing, or using your property as collateral for a loan that will not fully pay your tax debt?

If so, you can apply for a lien subordination. Here are some helpful tips to get started.

- You need to get your subordination application to the IRS at least 45 days before the sale or loan resettlement meeting.
- Use Form 14134 to fill out your application. This form can be found at <https://www.irs.gov/pub/irs-pdf/f14134.pdf>.
- For examples when subordination is appropriate, examine Publication 784. You can order the publication at 1-800-829-3676 or download it at <https://www.irs.gov/pub/irs-pdf/p784.pdf>

## How Does a Lien Affect You?

- **Assets.** A lien attaches to all of your assets, which includes property, securities, vehicles, etc. The lien also attaches to future assets that are acquired during the duration of the lien.
- **Credit.** Once the IRS files a Notice of Federal Tax Lien against you, it could limit your ability to get credit.
- **Business.** While the lien attaches to all of your personal property, it also attaches to all business property and to all rights to business property. This includes accounts receivable.
- **Bankruptcy.** If you file for bankruptcy, your tax debt, lien, and Notice of Federal Tax Lien may continue even after the bankruptcy.

## WHO CAN HELP YOU SUBMIT THIS REQUEST?


- Thankfully, Low Income Taxpayer Clinics (LITC) may be able to assist you in applying to the IRS for a Lien Subordination.
- Clinics participating in the LITC program provide representation for individuals in disputes with the IRS. LITCs can also help taxpayers respond to IRS notices and correct account problems. These clinics do have income eligibility requirements.
- You can find a full list of clinics at <https://www.irs.gov/pub/irs-pdf/p4134.pdf>.

## HELPFUL RESOURCES

- **Centralized Lien Operation.** In order to resolve basic and routine lien issues, call (800) 913-6050 or fax (855) 390-3528.
- **Collection Advisory Group.** For all complex lien issues, including subordination, withdrawal, or discharge, find contact information for your local advisory office. This can be found in Publication 4235, Collection Advisory Group Addresses on [irs.gov](https://www.irs.gov).

# SUBORDINATING A FEDERAL TAX LIEN

Helpful Tips and Suggestions for Your Application



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# UNDERSTANDING A FEDERAL TAX LIEN

A federal tax lien is the government's legal claim against your property when you fail to pay a tax debt. The lien protects the government's interest in all of your property, which includes real estate, personal property, and all other financial assets. A federal tax lien exists when:

- The IRS:
  - Assesses your liability;
  - Sends you a bill that explains how much you owe
- You:
  - Neglect or refuse to fully pay the debt in the time the IRS affords you

# WHAT DOES SUBORDINATION DO?

Subordination does not remove the lien, but it allows other creditors to move ahead of the IRS. This can make it easier for you to get a loan, mortgage, or refinance of your home.

# DO YOU HAVE OTHER OPTIONS?

- **Discharge.** A discharge removes the lien from specific property. There are several Internal Revenue Code provisions that determine eligibility. For more information, refer to Publication 783, which can be found on [irs.gov](https://www.irs.gov)
- **Withdrawal.** A withdrawal removes the public Notice of Federal Tax Lien and assures that the IRS is not competing with other creditors for your property. However, you are still liable for the amount due. For eligibility, refer to Form 12277, which can also be found at [irs.gov](https://www.irs.gov)

# WHAT DOES THE APPLICATION REQUIRE?

- **Sections 1, 2, and 3** of Form 14134 are self explanatory, which require basic information about the taxpayer/applicant. If you are using a representative, fill in **Section 4** and indicate that you are being represented.
- **Section 5** pertains to the contact information for your finance company. If you are refinancing or getting a loan, then you enter your existing and new loan amounts in **Section 6**.
- **Section 7** is where you assert that you are submitting a subordination request. If your refinance or loan is to obtain money to apply to your tax debt, then you would check the first box 6325(d)(1). However, if your refinance or loan will not provide money for your tax debt, but you can show that it would mutually benefit you and the IRS, then check the last box 6325(d)(1).
- **Section 8** asks for a description of your property, which could be either real estate or personal property. If the property is real estate, then be sure to include a legible copy of the deed.
- **Section 9** calls for a copy of the appraisal, which is to be completed by a disinterested third party. However, this type of appraisal is not required for a certificate of subordination.
- **Section 10** asks for a copy of the federal tax lien that is attached to your property. You can either provide a copy or state the lien number.
- **Section 11** asks for a copy of the proposed loan agreement. If you do not have a loan agreement, then you need to show how your new loan will benefit the IRS.
- **Section 12** requires a copy of the current title report. If you do not have a title report, then you must list all creditors with liens or claims against the property being sold or used as collateral. For Section 13, the IRS needs a copy of your proposed closing statement in order to determine how the money will be distributed.

# WHAT TYPES OF BASIS FOR SUBORDINATION?

## 6325(d)(1)

A subordination can be issued under this section if you pay an amount of money that is equal to the lien or interest to which the certificate subordinates the lien of the United States.

## 6325(d)(2)

The IRS may issue a subordination under this section if it determines that the issuance of the certificate will increase the amount the government will realize and subordinating the lien will make collection of the tax liability easier.

# IMPORTANT THINGS TO KNOW

- If you want to refinance and can demonstrate to the IRS that you intend to use the savings on your mortgage or cash from your home equity to pay your taxes, the IRS will usually agree to subordinate the lien. In other words, the IRS will subordinate your lien when it is in the best interest of the government.
- The refinancing can be in the government's best interest if: (i) the IRS receives funding from the refinance; or (ii) the interest rate is lower resulting in lower loan payments so that you can make larger installment payments.