

Tax Lien Fraud: “. . . see how deep the rabbit hole goes . . .” — Morpheus, *The Matrix*

On August the 8th, 2007 two women, including Rae Copitka and Loma Wharton stood before the Douglas County Commission, in Roseburg, Oregon, and accused Douglas County employees and officials of committing felonies –

1. That the County Clerk, the Recorder, the Sheriff, and the Commissioners all were parties to the commission of multiple felonies and,
2. That they are exposed criminal prosecutions, civil actions, and class action suits.

Jim Shaver in Washington State discovered and presented similar information to his County officials over 10 years ago. <http://www.angelfire.com/wa2/jimshaver> .

The information submitted to the Commissioners was that of "conversion" and "counterfeiting securities" by recording worthless pieces of paper and recording those documents as though they were real.

These two community-minded women launched an attack upon the County's mishandling of the IRS "Notices of Federal Tax Lien." The County Recorder, who works for the Clerk, has for years recorded the notices as though they constituted actual liens.

The ladies did considerable research and organization of the data before placing their information before the Douglas County Commissioners. This author summarizes it as follows:

1. An unidentified IRS employee sends via U.S. Mail a "Notice of Federal Lien" bearing no wet-ink signature or penalty-of-perjury certification statement to the County Recorder (hereinafter "Clerk"),
2. Neither the Clerk demands nor the IRS employee offers proof that:
 - a. Any valid lien existed for which the IRS employee sent notice, or
 - b. Any senior U.S. Treasury Department official authorized the IRS employee actually to enforce the collection of taxes,
3. The Clerk stamps a serial number upon the notice, thereby making into a *security*,
4. The Clerk stamps a seal of office upon the notice,
5. The Clerk records the "Notice of Federal Lien" in the official public records of the county,
6. The Clerk places the notice into the system of records reserved for liens. This effectively creates a lien out of thin air, and ruins the victim's credit rating,
7. The IRS employee purchases a copy of the lien index and uses that as the basis for issuing a Notice of Levy against the property,
8. The IRS employee issues the Notice of Levy and uses it to initiate a process that results in the forced sale of the property,
9. The lien and levy encumber the property with an IRS claim of right which the Clerks makes no effort to substantiate. Until the IRS releases the lien, the victim-owner cannot sell the property because the buyer cannot obtain a title insurance policy and therefore no bank will take a mortgage or loan money on the property,
10. The IRS gets the all money from the sale, and the erstwhile owner gets nothing.

According to the information the ladies placed before the commissioners:

1. No actual lien exists from which the IRS employee sends notice,
2. No IRS Assessment Officer created the summary record of assessment which provides the basis for the lien as required by law, *
3. No IRS Assessment Officer signs the assessment certificate under penalty of perjury as required by law, **
4. The Clerk and the IRS employee conspire fraudulently to concert a worthless notice of Federal Lien into a lien,
5. The Clerk thereby creates a negotiable security which the party secured my use as the basis to sell or foreclose upon the associated real property,
6. The process creates a counterfeit security and constitutes fraud, extortion and racketeering.

This is all now being done via a federal law, Uniform Federal Lien Registration Act, and this act has been adopted by the states. Under this law Notices of Federal Liens for taxes payable to the United States and other liens in favor of the United States, and certificates discharging, partially discharging, or releasing the liens, in accordance with the laws of the United States.

Neither Federal nor State law is not being complied with. ***

No County in any State of the Union can escape these charges.

All of this simply means is that the States have entered into an unholy alliance with the IRS by requiring the Counties to record into a system of records reserved for liens, Notices of Federal Liens, that are not liens, as though they were liens. That no lien, no summary record of assessment and affidavit in support of a summary record of assessment exists. The State and the County employees and officials are perpetrating felonious acts for the benefit of the IRS.

So, in this process the Clerk, the Recorder, the Sheriff, along with any and all official office holders and policy makers, who are with knowledge, are guilty of a multitude of felony crimes. Counterfeiting Securities, fraud, extortion, racketeering, official misconduct, falsifying documents, abuse of seal, are just a few of the felonies being committed against the citizens of each and every county in each and every state in the Union.

Both criminal and civil damage that has been done to property owners for decades.

Subsequently, all of the officeholders and policy makers who have had a hand in this "conversion" are subject to both criminal prosecution and civil suits. There would be no immunity for damages done in the perpetration of a crime carried out by an office holder or policy maker.

How many homes have been seized and sold via this process? How many lives have been destroyed by this process? How many families have been broken apart by this process? How many suicides have been brought about by this process? The damages could easily run into the trillions of dollars. All of which will rest on the counties Risk Management and an abundance of official office holders and policy makers, personally.

You can go to:

http://www.co.douglas.or.us/view_bocwebcast.asp?AgendaDT=08/08/2007%2010:00:00%20AM&WebCastArchive=BOC_Regular_public_Meeting_08_08_2007.wmv&CDate=08082007

In case you are using a Mac or the FireFox browser or have difficulty go to:

<http://www.co.douglas.or.us/bocwebcasts.asp>

choose the 08/08/2007 10:00AM meeting and then hit the "MEDIA PLAYER" You then might want to fast forward to approximately the 7 minute 45 second time-marker and hold on. This is a valiant presentation and notice to that county that the commissioners, attorney, clerk and others are counterfeiting securities, and other felonious crimes.

— **NEWS FLASH** —

Douglas County Commissioners Meeting
[Follow up from prior Notice of Lien Filing (fraud) meeting]

http://www.co.douglas.or.us/view_bocwebcast.asp?AgendaDT=08/29/2007%2010:00:00%20AM&WebCastArchive=BOC_Regular_public_Meeting_08_29_2007.wmv&CDate=08292007

click on the latest one dated 8/29/07

<http://www.co.douglas.or.us/bocwebcasts.asp>

choose the 08/29/2007 meeting and then hit the "MEDIA PLAYER," you then advance to 23:12 and see Rae call the commission on its political rhetoric and Loma asks if the commission is profiting from the counterfeit securities. A gentlemen asks how it is the state of Oregon is trying to collect on the same tax debt that the Federal District Court has stated that he owes nothing.

WARNING: www.co.douglas.or.us has had so much demand for the tax lien presentation that its server has shut down several times.

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Assessment

There is no federal income tax liability until the tax has been assessed. The statutory requirement for assessments is classified at Section 6203¹ of the Internal Revenue Code (26 U.S.C. § 6203), and the controlling regulation is classified at Part 301.6203-1 of Title 26 of the Code of Federal Regulations (26 CFR 301.6203-1). The following cases and IRM citations validate the requirement of a procedurally proper assessment being first made before liability issues.

A. Cases:

United States of America v. Dixon, 672 F.Supp. 503 (USDC, Middle Dist. Ala., 1987).

“The defendant correctly contends that the basis of tax liability is the assessment. For a tax liability to be duly collected, it must be first properly assessed. In order for a tax deficiency to be assessed against a taxpayer, an assessment officer must sign and date a Form 23-C. [Emphasis added]

Brafman v. United States of America, 348 F.2d 863 (5th Circuit, 1967).

“The Treasury Regulations are binding on the Government as well as on the taxpayer: “Tax officials and taxpayers alike are under the law, not above it.” *Pacific National Bank of Seattle v. Commissioner*, 9 Cir. 1937, 91 F.2d 103, 105. Even the instructions on the reverse side of the assessment certificate, Form 23C, specify that the original form is to be transmitted to the District Director for signature, after which it will be returned to the Accounting Branch for permanent filing. Case after case has quoted Treasury Regulation § 301.6203-1 and cited it approvingly, and the treatises on taxation take its literal application for granted.”

Huff v. United States of America, 10 F.3d 1440 (9th Cir., 1993).

“Here, however, the IRS seeks to rely solely on these forms (Form 4340) to prove not only that an assessment had been validly made, but that the taxpayer had been provided with a copy of the assessment as per Treasury Regulation § 301.6203-1. We are unaware of any authority indicating that these forms standing alone constitute evidence for the latter proposition. Indeed, no entry on the form contains any information in this regard.”

Radinsky v. United States of America, 622 F.Supp. 412 (USDC, Colorado, 1985).

“In the two briefs filed in this action, the IRS has not explained where it finds statutory authority to employ its tax collection procedures to collect from the plaintiffs a sum of money that has never been assessed as a tax. Since the IRS had no authority to adjust the plaintiffs' account or employ deficiency procedures in

¹ 26 U.S.C. 6203. The assessment shall be made by recording the liability of the taxpayer in the office of the Secretary in accordance with rules or regulations prescribed by the Secretary. Upon request of the taxpayer, the Secretary shall furnish the taxpayer a copy of the record of the assessment.

these circumstances, it is self-evident that the collection of the sum in this manner was wrongful.” [Emphasis added]

Bothke v. Fluor Engineers and Constructors, Inc., 713 F.2d 1405 (9th Cir., 1982).

“For the condition precedent of liability to be met, there must be a lawful assessment, either a voluntary one by the taxpayer or one procedurally proper by the IRS. Because this country's income tax system is based on voluntary self-assessment, rather than distraint, Flora v. United States , 362 U.S. 145, 176, 4 L. Ed. 2d 623, 80 S. Ct. 630 (1960), the Service may assess the tax only in certain circumstances and in conformity with proper procedures.” [Emphasis added]

In re Western Trading Company, 340 F.Supp. 1130 (1972).

“The Internal Revenue Code provides for a specific procedure for assessment (26 U.S.C. § 6203). An assessment is an administrative determination of tax liability. Kurio v. United States, 281 F. Supp. 252 (S.D.Tex.1968); United States v. Miller, 318 F.2d 637 (7th Cir. 1963). And until the assessment has been made, the tax has not been found to be owing. **** The instant claim for estimated 1969 corporate income tax deficiencies does not qualify under any category. It has never been assessed, it has never "been found to be owing." [Emphasis added]

Bull v. US., 295 U.S. 247 at p.259. in 1935 (Justice Roberts)

“Some machinery must be provided for applying the rule to the facts in each taxpayer's case, in order to ascertain the amount due. The chosen instrumentality for the purpose is an administrative agency whose action is called an assessment ... Once the tax is assessed. the taxpayer will owe the sovereign the amount when the date fixed by law for payment arrives” [Emphasis added]

B. Internal Revenue Manual

IRM § 3.17.46.2.4(1). Assessment Certificate.

“Assessment Certificate: To impose a tax as authorized by the Internal Revenue Code, Assessments are supported by a summary record of assessment signed by an appointed assessment officer. All assessments must be certified by signature of an authorized official on the Summary Record of Assessment (Form 23C, Assessment Certificate-Summary Record of Assessments). A signed Summary Record of Assessment authorizes issuance of notice and other collection actions (refer to IRC Regulations 301.6203-1).” [Emphasis added]

IRM §§ 3.17.63.14.7 through 3.17.63.14.9

All principal, interest and penalty assessments must be recorded on Summary Record of Assessments (Assessment Certificate). The Assessment Certificate is the legal document that permits collection activity. [Emphasis added]

IRM § 3.17.63.14.4 (10-01-2004). Account 6110 Withholding Tax Assessments—Principal

1. “This account is used to summarize the total amounts of assessments of tax class 1 Principal as provided by the Internal Revenue Code. The balance of this account represents total tax class 1 Principal assessments for the year.
2. All principal assessments must be recorded on Summary Record of Assessments (Assessment Certificate). The Assessment Certificate is the legal document that permits collection activity. [Emphasis added]
3. Total tax class 1 assessments for the month will be summarized on computer generated Form 2162 which will become the external subsidiary.”

IRM § 5.17.2.2.1 (10-31-2000). When and How the Tax Lien Arises.

“The federal tax lien arises when any "person" liable to pay any federal tax fails to pay the tax after a demand by the Government for payment. IRC 6321. For federal tax law purposes, a "person" is defined to include individuals, trusts, estates, partnerships, associations, companies or corporations. The lien is effective from the date the Government assesses the tax, even though the notice and demand for payment ordinarily gives the taxpayer an additional 10 days after assessment to pay the tax. Thus, if the taxpayer neglects or refuses to pay the assessed tax, then the lien is deemed to relate back to the assessment date. I.R.C. 6322. The general tax lien created by the assessment is perfected and choate as of the date of the assessment. United States v. Fidelity Philadelphia Trust Company, 459 F. 2d 771 (3rd Cir. 1972).” [Emphasis added]

IRM § 5.17.2.3 (10-31-2000). Filing Notice of the Federal Tax Lien.

“The federal tax lien arises (and is perfected) when the Service meets the requirements of IRC 6321, i.e., an assessment and a notice and demand for payment. However, the law provides that in order for the federal tax lien to have priority against certain competing lien interests, the Service must file a Notice of the Federal Tax Lien (NFTL) pursuant to IRC 6323.” [Parenthesis in original] [Underline emphasis added]

IRM § 5.17.3.1.2.2 (10-31-2000). Conditions Precedent.

“IRC 6331(j) requires the Service to investigate the status of property prior to a levy or seizure of any property which will be sold under IRC 6335. The investigation must include:

- A. The taxpayer must be liable for the tax, and an assessment and notice and demand must have been made, although no judgment need be rendered by a court. [Emphasis added]
- B. The Service must give the taxpayer notice and demand for payment of the tax under IRC 6303(a).
- C. The taxpayer must have neglected or refused to pay the tax for the 10-day period.
- D. The taxpayer must have been given a 30-day written notice of the Services intention to levy (See IRC 6331(d)(2)), and notice that he has the right to contest the proposed levy in a Collection Due Process (CDP) hearing with the Internal Revenue Service Office of Appeals (IRSOA). IRC 6330; Temp. Treas. Reg. 301.6330-1T(a).
- E. The fair market value of the taxpayers interest in the property to be seized must exceed the estimated expenses of the sale. IRC 6331(f).
- F. The property levied upon must be property or rights to property of the taxpayer or be subject to a lien arising under IRC 6321.

- G. Court approval must have been obtained in the case of certain residences.
- H. There has been a thorough consideration of alternative collection methods.”
[Emphasis added]

IRM § 5312(1), MT 5300-1.

“(1) The assessment is made by an assessment officer designated by the District Director or Service Center Director, as appropriate. The assessment officer signs a Form 23-C, Assessment Certificate, and this record, through supporting data, provides identification of the taxpayer by name and number, the taxable period, the nature of the tax and the amount assessed.” “(3) The assessment lists support the assessment certificate, which is used to summarize and record the official action of the assessment officer. [Emphasis added]

(IRM =’s Internal Revenue Manual)

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26 USC § 7806. Construction of title - (a) Cross references - The cross references in this title to other portions of the title, or other provisions of law, where the word “see” is used, are made only for convenience, and shall be given no legal effect. (b) **Arrangement and classification -** No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion of this title, nor shall any table of contents, table of cross references, or similar outline, analysis, or descriptive matter relating to the contents of this title be given any legal effect. The preceding sentence also applies to the sidenotes and ancillary tables contained in the various prints of this Act before its enactment into law.

26 USC § 6065 Verification of returns - Except as otherwise provided by the Secretary, any return, declaration, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury.

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713.901 Florida Uniform Federal Lien Registration Act.--

(1) SHORT TITLE.--This section may be cited as the "Florida Uniform Federal Lien Registration Act." The 2007 Florida Statutes

[Title](#) [V Chapter](#) [28 View Entire Chapter](#)
JUDICIAL BRANCH CLERKS OF THE CIRCUIT COURTS

28.222 Clerk to be county recorder.--

(1) The clerk of the circuit court shall be the recorder of all instruments that he or she may be required or authorized by law to record in the county where he or she is clerk.

(2) The clerk of the circuit court shall record all instruments in one general series called "Official Records." He or she shall keep a register in which he or she shall enter at the time of filing the filing number of each instrument filed for record, the date and hour of filing, the kind of instrument, and the names of the parties to the instrument. The clerk shall maintain a general alphabetical index, direct and inverse, of all instruments filed for record. The register of Official Records must be available at each office where official records may be filed.

(3) The clerk of the circuit court shall record the following kinds of instruments presented to him or her for recording, upon payment of the service charges prescribed by law:

(a) Deeds, leases, bills of sale, agreements, mortgages, notices or claims of lien, notices of levy, tax warrants, tax executions, and other instruments relating to the ownership, transfer, or encumbrance of or claims against real or personal property or any interest in it; extensions, assignments, releases, cancellations, or satisfactions of mortgages and liens; and powers of attorney relating to any of the instruments.

(b) Notices of lis pendens, including notices of an action pending in a United States court having jurisdiction in this state.

(c) Judgments, including certified copies of judgments, entered by any court of this state or by a United States court having jurisdiction in this state and assignments, releases, and satisfactions of the judgments.

(d) That portion of a certificate of discharge, separation, or service which indicates the character of discharge, separation, or service of any citizen of this state with respect to the military, air, or naval forces of the United States. Each certificate shall be recorded without cost to the veteran, but the clerk shall receive from the board of county commissioners or other governing body of the county the service charge prescribed by law for the recording.

(e) Notices of liens for taxes payable to the United States and other liens in favor of the United States, and certificates discharging, partially discharging, or releasing the liens, in accordance with the laws of the United States.

(f) Certified copies of petitions, with schedules omitted, commencing proceedings under the ¹Bankruptcy Act of the United States, decrees of adjudication in the proceedings, and orders approving the bonds of trustees appointed in the proceedings.

(g) Certified copies of death certificates authorized for issuance by the Department of Health which exclude the information that is confidential under s. [382.008](#), and certified copies of death certificates issued by another state whether or not they exclude the information described as confidential in s. [382.008](#).

(h) Any other instruments required or authorized by law to be recorded.

(4) Any reference in these statutes to the filing of instruments affecting title to real or personal property with the clerk of the circuit court shall mean recording of the instruments.

(5) The clerk of the circuit court may maintain a separate book for maps, plats, and drawings recorded pursuant to chapters 177, 253, and 337.

(6) All instruments recorded in the Official Records shall always be open to the public, under the supervision of the clerk, for the purpose of inspection thereof and of making extracts therefrom; but the clerk shall not be required to perform any service in connection with such inspection or making of extracts without payment of service charges as provided in s. [28.24](#).

History.--ss. 2, 4, ch. 71-4; s. 24, ch. 81-259; s. 2, ch. 84-114; s. 2, ch. 92-25; s. 1, ch. 93-42; s. 100, ch. 94-119; s. 11, ch. 94-348; s. 1324, ch. 95-147; s. 2, ch. 95-214; s. 83, ch. 97-237; s. 3, ch. 99-259.

¹**Note.**--Replaced by the 1978 Bankruptcy Code.

(2) **SCOPE.**--This section applies only to federal tax liens and to other federal liens, notices of which, under any act of Congress or any regulation adopted pursuant thereto, are required or permitted to be filed in the same manner as notices of federal tax liens.

(3) **PLACE OF FILING.**--

(a) Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens, notices of which, under any act of Congress or any regulation adopted pursuant thereto, are required or permitted to be filed in the same manner as notices of federal tax liens, must be filed in accordance with this section.

(b) Notices of liens upon real property for obligations payable to the United States, and certificates and notices affecting the liens, shall be filed in the office of the clerk of the circuit court of the county in which the real property subject to the liens is situated. If by law the county recorder and custodian of the official records of a county is other than the clerk of the circuit court, a reference in this section to the clerk of the circuit court shall be deemed to be the county recorder so designated by law.

(c) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States, and certificates and notices affecting the liens, shall be filed as follows:

1. If the person against whose interest the lien applies is a corporation or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the Secretary of State.

2. If the person against whose interest the lien applies is a trust that is not covered by subparagraph 1., in the office of the Secretary of State.

3. If the person against whose interest the lien applies is the estate of a decedent, in the office of the Secretary of State.

4. In all other cases, in the office of the clerk of the circuit court of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.

(4) EXECUTION OF NOTICES AND CERTIFICATES.--Certification of notices of liens, certificates, or other notices affecting federal liens by the Secretary of the Treasury of the United States or his or her delegate, or by any official or entity of the United States responsible for filing or certifying of notice of any other lien, entitles them to be filed, and no other attestation, certification, or acknowledgment is necessary.

(5) DUTIES OF FILING OFFICER.--

(a) If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in paragraph (b) is presented to a filing officer who is:

1. The Secretary of State or his or her designee, the filing officer shall cause the notice to be marked, held, and indexed in accordance with the provisions of ss. [55.202](#) and [55.203](#).
2. Any other officer described in subsection (3), the filing officer shall mark and index the notice or certificate in the same manner as other instruments filed for recording in the official records.

(b) If a certificate of release, nonattachment, discharge, or subordination of any lien, or if a refiled notice of federal lien, is presented to the Secretary of State for filing, he or she shall:

1. Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of the Uniform Commercial Code, but the notice of lien to which the certificate relates may not be removed from the files.
2. Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of the Uniform Commercial Code.
3. Cause a refiled notice of federal lien to be marked, held, and indexed as if the refiled notice were a continuation statement within the meaning of the Uniform Commercial Code.

(6) FEES.--

(a) The charges or fees of the Secretary of State, with respect to a notice or certificate filed under this section, or for searching records with respect thereto, are:

1. For filing a notice of lien, which fee shall include the cost of filing a certificate of release or nonstatement for said notice of lien, \$25.
2. For indexing of each additional debtor or secured party, \$3.
3. For each additional facing page attached to a notice or certificate, \$3.
4. For use of a nonapproved form, \$5.
5. For filing a certificate of discharge or subordination, \$12.
6. For filing a refiled notice of federal lien, \$12.
7. For filing any other document required or permitted to be filed under this act, \$12.
8. For certifying any record, \$10.

(b) The charges or fees of the clerks of the circuit court with respect to a notice or certificate filed under this section shall be the same as prescribed in s. [28.24](#), relating to instruments recorded in the official records.

(7) UNIFORMITY OF APPLICATION AND CONSTRUCTION.--This section shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this section among the states enacting it and to permit a filing officer, including the Secretary of State, who is now using a paper filing system to record notices of liens, certificates, and other notices affecting federal tax liens or other federal liens to use a filing system consisting of paper or an electronic or magnetic medium, or some combination thereof, as he or she considers appropriate, and to permit federal officials to file notices of liens upon real or personal property for obligations payable to the United States, and certificates and notices affecting those liens, under the filing system being maintained by the Secretary of State or the filing officer.

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