

## *Federal Tax Liens, State Tax Liens, and Judgment Liens*

### **IF YOU'RE SEARCHING UCCS WITHOUT SEARCHING TAX AND JUDGMENT LIENS, YOU MAY BE SEEING ONLY PART OF THE PICTURE.**

Like UCC liens, tax and judgment liens apply to all entities and individuals and ordinarily apply to the same types of property covered by UCC liens. Where a previously existing tax or judgment lien is on file, searching just the UCC records might create the false impression that the intended collateral is unencumbered—an impression that has often led to serious consequences. Unlike UCC liens, Tax and Judgment liens are not consensual, so they can be on file without the Debtor's knowledge of their existence. For these reasons, it's vital to get the full picture.

### **A CRITICAL PART OF THE DUE DILIGENCE PROCESS.**

Federal Tax Liens, State Tax Liens and Judgment Liens can often be found in the same filing offices where UCC Liens are filed making it convenient to search for all these lien types at one time. Doing so is commonly thought of as proper exercise of due diligence. With only the rarest exceptions tax and judgment lien types exist in all fifty states.

#### **FEDERAL TAX LIENS**

When any individual or business entity fails to pay taxes owed to the federal government, federal law grants to the United States a lien upon all their owned property. While the law does not require that these liens be filed in order for them to attach, if they are not filed, taxpayers can transfer their interest in the property to a good faith purchaser. The longer the lien remains un-filed, the greater the likelihood another lien might be filed against the property.

Not wanting to jeopardize their priority, the federal government makes a routine practice of filing liens as they attach. Some states file Federal Tax Liens in the same manner as UCC financing statements; others have created a number of filing systems dissimilar to those found in the Uniform Act or the UCC. Some states handle filing centrally; others may have federal tax liens recorded at the U.S. District Courts. The most common method is to have a filing at the local level only, such as the county recorder or clerk of courts office.

#### **STATE TAX LIENS**

The power to file liens for unpaid taxes is also given to the various states under state law. Although each state's taxation laws are different, most require that a public notice be filed to document the existence of a state tax lien. The majority of those states that do record state tax liens require filing only in a local office, most often a county recorder or clerk of courts office in the county where the property is located. Other states have state tax lien filings at both the Secretary of State and a local office.

#### **JUDGMENT LIENS**

A judgment or decree rendered by a court can become a judgment lien upon the real estate of the judgment debtor. A judgment lien may be obtained after litigation where a lien is placed on property in order to secure payment of a money judgment. Judgment liens are often indexed in the same office as state tax liens. Generally, they are filed at a local office such as the clerk of courts of general jurisdiction or the county recorder. Less than five states have both central and local filing offices for judgment liens.

### **IN A NUTSHELL:**

To get the full picture in your due diligence investigation, search Federal Tax, State Tax and Judgment liens as they ordinarily apply to the same types of property covered by UCC liens; Remember: Tax and Judgment liens are not consensual—they can be on file without the Debtor having any knowledge of their existence;

Tax and judgment liens apply to all entities and individuals in the Public Record of all 50 states and are usually found in the same or similar filing offices.

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