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Tax Regs in Plain English

# IRS Restructuring and Reform Act of 1998

## 3435 - Increase in Amount of Certain Property on Which Lien Not Valid

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### Section 3435

**A. Provision covered:** RRA § 3435 -- Increase in Amount of Certain Property on which Lien not Valid -- I.R.C. §§ 6323(b)(4), (b)(7), and (b)(10).

**B. Background:** Under I.R.C. § 6321, if any person liable for any tax fails to pay the tax after demand, a lien in favor of the United States automatically attaches to all of that person's real and personal property or rights to property. The lien is not valid against "any purchaser, holder of a security interest, mechanic's lienor, or judgment lien creditor" until the Service files a Notice of Federal Tax Lien. I.R.C. § 6323(a). However, a filed Notice of Federal Tax Lien is not valid against persons holding certain interests in property of the taxpayer that are specified in I.R.C. § 6323(b). These interests are often referred to as "superpriority" interests. Two of these interests are limited by a specific dollar amount. Under the previous law, I.R.C. § 6323(b)(4) granted superpriority status to persons who purchased household goods, personal effects, and items exempt from levy under I.R.C. § 6334(a) from a taxpayer in a casual sale, such as a yard sale, to the extent that the sale was for less than \$250. I.R.C. § 6323(b)(7) granted superpriority status to contractors, repairmen, mechanics who had contracted with the taxpayer for repairs or improvements to be made to the taxpayer's owner-occupied personal residence, if the contract was for not more than \$1,000. In addition, under I.R.C. § 6323(b)(10), a superpriority was granted to banks and building and loan associations which made passbook loans to their

customers, provided that those institutions retain the passbooks in their possession until the loan is completely paid off.

**C. Change(s):** RRA § 3435 amends I.R.C. § 6323(b)(4) to increase the dollar limit for purchasers at a casual sale from \$250 to \$1,000. RRA § 3435 also amends I.R.C. § 6323(b)(7) to increase the dollar limit on mechanic's lienors providing home improvement work for owner-occupied personal residences from \$1,000 to \$5,000. Both amounts will be adjusted for inflation occurring in calendar years beginning after 1998. In addition, I.R.C. § 6323(b)(10) is amended to reflect current banking practices, where a passbook-type loan may be made even though an actual passbook is not used.

**D. Impact:** Significant - Collection personnel should be trained in the new "super priority" coverages and dollar limits. The effective date is the date of enactment.

### **E. Necessary Actions**

1. Actions/Procedures: Instructions by memorandum or IRM revision should be issued and training accomplished before enactment.
2. Things we CAN do: File Notices of Federal Tax Lien and obtain priority over purchasers from a taxpayer in casual sales when the total sale's price is \$1,000 or more, obtain priority over mechanic's lienors if the contract price is over \$5,000, and obtain priority over banks and building and loan associations which make loans to their customers which are not secured by a savings deposit, share, or other account.

**F. Other Special Comments:** None.

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Tuesday, 14-Jul-1998 07:44:00 EDT