



IRS speeds up help to homeowners

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The Internal Revenue Service isn't about to forgive debtors, but the nation's tax collector is making it a bit easier for some homeowners to refinance or sell their property.

On a conference call with reporters Tuesday, IRS Commissioner Doug Shulman outlined an expedited procedure to help financially troubled homeowners who have federal tax liens against their properties. There are more than 1 million federal tax liens tied to real and personal property nationally; the IRS did not have any state-specific data.

Two tax law provisions designed to remove the block to refinancing or sale that a federal tax lien causes date back to 1966, Shulman said. What the IRS is doing is expediting the process. There is no specific time frame, but if a refinance closing is scheduled in two weeks, the IRS will work to have a decision on the application to subordinate or discharge the lien.

In answer to a reporter's question, Shulman said the IRS anticipates this will be the first in a number of steps it will take over the next several months to assist taxpayers, but he did not offer details.

"These are clearly difficult times for the U.S. economy," Shulman said, and many people who are at risk of losing their homes are trying to refinance their mortgages or sell their property, even if they owe more than what it is worth, referred to as a

short sale.

But for those homeowners, a federal tax lien is a barrier to a refinance or sale, because the lien would take precedence over a new loan, which no lender would allow. That's where the chance to subordinate or discharge the lien comes in. "This is not a blanket discharge of tax obligation," Shulman said during the conference call, and does not excuse the tax owed.

Essentially, in case of a refinance, the IRS agrees its claim will be subordinate to, or second to, the new loan. In a short sale, the IRS removes the home from under the tax lien, although the lien still exists against any other property. But this generally takes about 30 days, Shulman said, and a lender or buyer may not want to wait.

"It does make it effectively impossible to refinance," Barry Rosa, Prudential Connecticut Realty's vice president of special services, said of federal tax liens. "No lender in their right mind" will lend without either getting rid of, or subordinating, the tax lien.

"It's a wise idea," he said of the IRS' promise to accelerate the process.

Christopher Brown, an attorney who heads the debtor/credit practice group at Begos Horgan & Brown LLP in Westport, said accelerating the process would help in both a refinance and short sale. He thinks,

however, it will have more impact on the former, because a buyer, especially in this market, is usually not pressured to get a purchase done quickly.

But this might not clear the way for every homeowner, because even a federal tax lien takes a

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back seat to a lien for municipal real estate taxes.

"The subordination doesn't even come into play," Robert Anderson, who has been Seymour's tax collector for 12 years, said when asked whether a town would be willing to do this. The town is first in line for repayment, and it stays there. No attorney, he said, would attempt to sell a property without paying off the property tax lien. And no municipality is likely to agree to allow their taxes to be unsecured against the property.

But, Anderson said, this is likely to come up only in cases where there isn't an escrow account for property taxes and the taxes aren't included in the mortgage payment, because banks will usually make tax payments even if a property is in foreclosure, so they can remain the primary creditor.

A real estate lien is generally not as much of a barrier to sale or refinance as a federal tax lien, Brown said, because there's usually less money involved and the property tax liens have to be paid first out of any refinance or sale proceeds.

And he agreed with Anderson that banks will frequently pay real estate taxes even when the homeowner isn't paying the mortgage.

"The bank definitely does not want anyone to come ahead of it," Brown said, and municipal tax liens will otherwise come first.

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