



OFFICE OF
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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MEMORANDUM FOR LOS ANGELES DISTRICT COUNSEL
Attn: Benjamin R. Duncan

FROM: Alan C. Levine
Chief, Branch 1 (General Litigation)

SUBJECT: Electronic Lien Filing - Los Angeles District

This advice is in response to your e-mail concerning the above subject. This document is advisory only and is not to be relied upon or otherwise cited as precedent.

LEGEND:

City: Los Angeles District
Taxpayer: None
Years: None
Assessment: None

ISSUE:

Whether the California electronic lien filing (ELF) enabling legislation "permits" electronic filing of notices of federal tax lien within the meaning of Treas. Reg. § 301.6323(f)-1(d)(2).

CONCLUSION:

The California ELF enabling legislation "permits" electronic filing of notices of federal tax lien within the meaning of Treas. Reg. § 301.6323(f)-1(d)(2).

FACTS:

In response to a memorandum dated May 19, 1997, sent to the Director of Special Procedures regarding ELF in the Los Angeles District, we advised that the existing California Code did not clearly allow for electronic filings of notices of federal tax lien. Accordingly, we suggested "that additional legislation specifically authorizing

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such filings be sought." On October, 19, 1998, we were informed by the Assistant District Counsel, General Litigation (ADC-GL) via e-mail that the Service had obtained such legislation, and, furthermore, the ADC-GL requested that we advise them as to whether they could go forward with the ELF project.

LAW AND ANALYSIS:

We have reviewed the enabling legislation, referred to below, for electronic lien filing for the State of California, and have concluded that it addresses the concerns raised in the memorandum dated May 19, 1997.

The California statutes which expressly authorize county recorders and the Secretary of State to file and record notices of federal tax lien and related certificates are found in sections 2100 - 2107 of the California Code of Civil Procedure, commonly known as the Uniform Federal Lien Registration Act. We believe the language of section 2106.5, which was added to the Code of Civil Procedure, "permits" electronic filing within the meaning of Treas. Reg. § 301.6323(f)-1(d)(2).

In addition, modifications to section 27279 of the California Government Code were made. This section, inter alia, expressly authorizes the recorders of San Bernardino County and Orange County to accept electronic liens, and provides for expansion of the California ELF project and the appointment of an Electronic Recordation Task Force. We believe that these modifications will help the California ELF project move forward.

If you have any further questions, please contact General Litigation, Branch 1 at (202) 622-3610.

cc: Assistant Regional Counsel (GL), Western Region