



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

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Expiration Date: 02-03-2027
Affected IRM(s): 5.12.7.6

MEMORANDUM FOR DIRECTOR, FIELD COLLECTION

FROM: THOMAS KRAMER, DIRECTOR COLLECTION POLICY

SUBJECT: Interim Guidance for Revision of Sub-section IRM 5.12.7.6,
Special Condition NFTL (Nominee, Alter Ego, Transferee,
Successor-in-Interest)

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This memorandum provides a revision of IRM sub-section IRM 5.12.7.6, Special Condition NFTL (Nominee, Alter Ego, Transferee, Successor-in-Interest). Please ensure distribution of this information to all affected employees within your organization.

Purpose: This updated IRM sub-section includes changes for processing special condition requests through eApproval, introduces Form 15653, Special Condition NFTL / Levy Request Memorandum, and updates throughout with IRM style guide requirements.

Background/Source(s) of Authority: Revenue officers previously submitted special condition requests for review and approval via secure email. The submission included an individually created and signed memorandum laying out the facts substantiating the request. Submission, review, and approval now takes place in the eApproval application, which documents those actions. Form 15653, Special Condition NFTL / Levy Request Memorandum, replaces the individually created memorandum. It allows flexibility to individualize the memorandum, maintain a standard format, and eliminate the memorandum signatures as that documentation is captured in eApproval.

Procedural Change: Collection personnel will follow the attached revision of sub-section IRM 5.12.7.6, Special Condition NFTL (Nominee, Alter Ego, Transferee, Successor-in-Interest). They will use eApproval for all special condition submissions along with use of Form 15653, Special Condition NFTL / Levy Request Memorandum, to lay out the substantiation for the request.

Effect on Other Documents: This guidance will be incorporated into IRM 5.12.7 within two years from the date of this memorandum.

Effective Date: Date of this memorandum

Contact: If you have questions, contact Christine Kalcevic or Roseanne Miller, Senior Program Analysts via email. Field Collection personnel should direct any questions to Collection Policy through their management staff.

Distribution:

Director, Collection, SBSE
Director, Headquarters Collection,
Director Field Collection
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Attachment: Revised sub-section IRM 5.12.7.6

Attachment to Interim Guidance Memorandum: SBSE-05-0225-0001

The following changes are hereby effective on the date of this memorandum for IRM 5.12.7.6

5.12.7.6

Special Condition NFTL (Nominee, Alter Ego, Transferee, Successor-in-Interest)

- (1) Under certain circumstances a statutory lien continues to attach to transferred property even though no NFTL was on file at the time of transfer. For example, the taxpayer (transferor) transfers property to a party (transferee) and does not receive adequate and full consideration in money or money's worth. The transferee is not considered a purchaser and so does not qualify for the protection of IRC § 6323. Those who are not protected by IRC § 6323 compete against the statutory lien (based on the assessment date) rather than the notice filing date. See IRC § 6323(h)(6) for a more complete definition of a purchaser. There are certain circumstances, even without a transfer, where the taxpayer has an interest in property owned by a third party. These circumstances include nominee and alter ego situations. A nominee is someone who holds legal title to the property while the taxpayer has a beneficial interest to which the statutory tax lien attaches. An alter ego situation is where the taxpayer and a third party are so closely aligned that legally they are regarded as having the same identity. Therefore, the taxpayer has a beneficial interest in all of the alter ego's property to which the statutory lien attaches. As with the transfer discussed above, neither the nominee nor the alter ego have protection under IRC § 6323. See IRM 5.17.14.7, Nominee, Alter Ego, and Transferee Elements.
- (2) Revenue Officers (RO) may encounter situations where the taxpayer has transferred property and circumstances indicate actual or constructive fraud. Property may have been acquired in the name of another person or entity and the taxpayer controls the property to such an extent that the title holder is possessed of 'color of title'. See IRM 5.17.2.5.7, Property Held by Third Parties, for nominee, alter ego, and transferee theory. Generally, no fraud is indicated if the transfer was made at a time when no tax liability had accrued or was anticipated, or the taxpayer did not retain any use or control of the property. See also paragraph two in both IRM 5.12.7.6.1, Nominee NFTL, and IRM 5.12.7.6.3, Transferee NFTL.
- (3) An NFTL for a **nominee** situation contains a statement on the attachment for the NFTL. The statement expresses the lien's attachment, through the NFTL, to the specific property identified in the attachment. See also IRM 5.12.7.6.1, Nominee NFTL.
- (4) An NFTL in an **alter ego** situation will not be limited to certain identified property. Because of the broad nature of the lien asserted with alter egos, the facts of each case should be carefully considered before asserting an alter ego theory. See also IRM 5.12.7.6.2, Alter Ego NFTL.

- (5) An NFTL for a **transferee** situation contains a statement on the attachment for the NFTL. The statement expresses the lien's attachment, through the NFTL, to the specific property identified in the attachment. See also IRM 5.12.7.6.3, Transferee NFTL.
- (6) An NFTL for a **successor-in-interest** situation will not be limited to certain identified property. Because of the broad nature of the lien asserted with successors, where state law provides that the successor is primarily liable for the predecessor's debts, the facts of each case should be carefully considered before asserting a successor-in-interest. See also IRM 5.12.7.6.4, Successor-In-Interest NFTL.
- (7) If an NFTL is filed in the name of the taxpayer before the transferee encumbers or sells the property to a valid purchaser, the government's lien interest is fully perfected. In these circumstances, the lien can be enforced by a seizure of the property from the transferee or subsequent valid purchaser, or by a suit to foreclose the lien. A special condition NFTL would not be required in this situation.
- (8) A special condition NFTL is generally intended as a foundation for the pursuit of enforcement action such as levy, seizure, suit to foreclose a lien, or other related action. Collection and counsel resources should be taken into consideration if the case collection action plan does not include pursuit of enforcement actions.
- (9) A special condition NFTL may **not** be filed without the written approval of area counsel.

Note: See IRM 5.12.7.6.5, Special Condition NFTL Processing Through eApproval: Request, Review, and Approval, for instructions on the request, approval, and filing of a special condition NFTL.

5.12.7.6.1 Nominee NFTL

- (1) A nominee is someone designated to act for another. In the context of the federal tax lien, a nominee is generally a third party who holds legal title to property of a taxpayer while the taxpayer enjoys full use and benefit of that property. The statutory lien attaches to all property and rights to property of the taxpayer even if a third party holds legal title. The third party can be any person listed in IRC § 7701 (a) (1).
- (2) A nominee situation normally involves a fraudulent conveyance or transfer of a taxpayer's property to avoid legal obligations. To establish attachment of the statutory lien in a nominee situation, it must be shown that while a third party may have legal title to the property, it is the taxpayer that enjoys the full use and benefit.

Note: If there are fraud indicators associated with a property transfer prior to the assessment (i.e. statutory lien arising) and little evidence that the taxpayer controls or enjoys full use and benefit of the property, contact area counsel as soon as

practicable to discuss making a suit referral to the Department of Justice.

(3) Consider the following circumstances when developing your case:

- a. the taxpayer is paying maintenance expenses,
- b. the taxpayer is using the property as collateral for loans,
- c. the taxpayer is paying state and local taxes on the property,
- d. the taxpayer has the use or benefit from the property, or
- e. other relevant facts. See also IRM 5.17.2.5.7.2, Nominee.

(4) The taxpayer may record fraudulent transfer documents that make it appear as if the transfer of the property was to a valid purchaser prior to the filing of the NFTL. For example, the taxpayer may record a warranty deed showing the alleged purchaser paid fair market value for the property instead of a quit-claim deed for love and affection.

(5) Examples of nominee situations include:

Example: Minnie College owes \$70,000 for tax periods 201812 and 201912 assessed in April 2021. Minnie has a daughter named Molly. Minnie deeds property valued at \$250,000 to Molly for no cost in January 2020. Minnie continues to maintain the property and uses it as collateral for obtaining a car in January 2021. Even though Molly lives on the property, Molly is a nominee of Minnie because consideration was not paid for the property.

Example: Sam Smith is the beneficiary of an Illinois Land Trust, the corpus of which consists of land located in the state of Illinois. ABC Trust Co. is designated as the trustee of the trust. Although under Illinois law the trustee is the legal owner of the land, Sam retains full use and benefit of the land, including control over disposition. Therefore, ABC Trust CO is Sam's nominee with respect to the land held in the trust. A nominee NFTL should be filed in the county office where the land is located in the name of "ABC Trust CO, nominee of Sam Smith".

(6) A nominee NFTL may **not** be filed without the written approval of area counsel.

5.12.7.6.2

Alter Ego NFTL

(1) The "alter ego" (second self) doctrine has been summarized as follows: The obligations of a corporation will be recognized as those of another person, and vice versa, where it appears that the corporation is not only influenced and governed by that person, but there is such a unity of interest and ownership that the individuality or separateness, of the person and the corporation has ceased. Also the facts are such that adherence to the fiction of the separate existence of the corporation would, under the particular circumstances, sanction a fraud or promote an injustice. The alter ego question does not concern property rights and should not focus on whether

the taxpayer had a state-law enforceable property right in property. Rather, a proper alter ego analysis focuses on which entities are liable for the debt and whether two entities that are formally separate should be regarded as one.

Note: It is generally more difficult to establish alter ego relationships than a nominee situation.

(2) There are two elements to the alter ego doctrine:

- a. Unity of ownership and interest, and
- b. Fraud or inequity would result from the failure to disregard the corporate entity.

(3) Some factors pertinent to a determination to disregard the corporate entity are whether the individual:

- a. is in a position of control or authority over the entity;
- b. controls the entity to shield themselves from personal liability;
- c. uses the business entity for their own financial benefit;
- d. uses the business entity to assume personal debts, or debts of another, or
- e. uses personal funds to pay the business entity's debts.

(4) Some facts establishing the factors in (3) above are:

- a. commingling of funds and other assets,
- b. failure to segregate funds of the separate entities,
- c. an unauthorized diversion of corporate funds or assets to other than corporate uses,
- d. treatment by an individual of the assets of the corporation as their own,
- e. failure to obtain authority to issue stock or to subscribe to or issue the same,
- f. holding out by an individual that they are personally liable for the debts of the corporation,
- g. failure to maintain minutes or adequate corporate records, and the confusion of records of separate entities,
- h. the identical equitable ownership in two entities,
- i. the failure to adequately capitalize a corporation, the total absence of corporate assets, and under capitalization,

(5) Explore the possibility of using the processes of jeopardy, transferee assessment, nominee NFTL, emergency lien foreclosure action, or emergency transferee or fraudulent conveyance suit before filing an NFTL in the name of an alter ego.

(6) Do not file an NFTL in the name of an alter ego without legal review, advice, and written direction from area counsel as to:

- a. the need for a supplemental assessment,
- b. a new notice and demand, and

c. the language to be incorporated in the NFTL.

(7) Refer to the Legal Reference Guide for Revenue Officers, IRM 5.17.2, Federal Tax Liens, for additional information.

5.12.7.6.3

Transferee NFTL

(1) The term transferee can be a confusing concept because the term is used in different ways. In the context of this IRM section, transferee refers specifically to when a statutory lien attaches to property and the property has been transferred by the taxpayer through a gift, bequest, devise, or inheritance before an NFTL could be filed. There is no requirement that the taxpayer retain use of or a beneficial interest in the property. With the approval of area counsel, a special condition NFTL naming the transferee and the property transferred may be filed. Substantiation for a transferee NFTL filing includes tracing the statutory lien for the assessment through the transfer. Document by confirming that the dates the statutory lien(s) arose occurred prior to the date(s) of transfer. This is also referred to as lien-tracing.

Example: William and Mary have outstanding tax liabilities but state they have no property and so cannot pay their liability. They gave their \$600,000 home to their son Bob after the liabilities and statutory lien arose but before an NFTL was filed. After which, they moved into leased property. So, Bob now has the deed to the property, lives in the home, maintains it, and has used the property to finance a mortgage. Bob is a transferee because the statutory lien existed before the transfer, and Bob did not pay for the property.

(2) Contact area counsel as soon as practicable to discuss making a suit referral to the Department of Justice if there are fraud indicators associated with a property transfer prior to the assessment (i.e. statutory lien arising) and little evidence that the taxpayer controls or enjoys full use and benefit of the property.

(3) Other uses for transferee include:

- a. An administrative transferee assessment under IRC 6901. An IRC 6901 assessment carries its own statutory federal tax lien. Normal NFTL filing procedures and appeal rights are followed.
- b. Other transferee options include pursuing a suit to establish a transferee liability or set aside a fraudulent transfer. A transferee judgment lien is not the same as a statutory federal tax lien and can't be used as the basis to file a special condition transferee NFTL.

(4) For more information about transferee situations, see the following references:

- IRM 5.17.14, the Legal Reference Guide for Revenue Officers - Fraudulent Transfers and Transferee and Other Third Party Liability

- IRM 5.1.14.2, Transferee Liability and Fraudulent Conveyances, for information on Transferee liabilities assessed under IRC 6901
- IRM 25.3, Litigation and Judgments series when pursuing suit recommendations regarding fraudulent transfers.

5.12.7.6.4

Successor-In-Interest NFTL

- (1) Dependent on state law, it may be possible to administratively collect the primary liability of the taxpayer corporation from the successor corporation. Where it is possible to administratively collect the primary liability from the successor, after obtaining the concurrence of area counsel, a special condition successor-in-interest NFTL, naming the successor corporation (corporation X, as successor to taxpayer A), should be filed to preserve the government’s priority over other creditors.
- (2) For more information about successor-in-interest situations, see the following references:
 - IRM 5.17.14.2.3, Successor Liability Theory
 - IRM 5.17.14.3.3.4, Successor Liability of a Corporation as a Transferee
 - IRM 5.17.14.6, Successor Liability as Primary Liability
 - IRM 5.1.14.2, Transferee Liability and Fraudulent Conveyances, for information on Transferee liabilities assessed under IRC 6901.
- (3) A successor-in-interest named on a special condition NFTL **may be entitled to CDP rights** for the filing. Follow the IF THEN chart below to determine if the successor-in-interest (SII) is entitled to CDP rights and always request confirmation from counsel as to whether the successor-in-interest qualifies for CDP rights.

Table Title: Successor-In-Interest CDP Qualification

If ...	Then ...
If the Service has made a determination that the taxpayer has ceased to exist, and the taxpayer has not been given CDP rights for a NFTL for the assessments listed on the successor-in-interest NFTL	The successor-in-interest is entitled to CDP rights. In these circumstances, the successor-in-interest is primarily liable for the tax and steps into the shoes of the taxpayer.
If a CDP notice was issued to the taxpayer	The successor-in-interest is not entitled to CDP rights for the successor-in-interest NFTL filing.

5.12.7.6.5

Special Condition NFTL Processing Through eApproval: Request, Review, and Approval

(1) The request and approval of a special condition NFTL involves a request memorandum (Form 15653), from an RO, approval by their manager, review by CEASO advisory, and approval by area counsel. For instructions and tips, see the following:

- Preparing the contents of a special condition request memorandum including name line tips, see IRM 5.12.7.6.5.2(4), Revenue Officer Request Actions.
- Preparing the required draft special condition NFTL, see the table IRM 5.12.7.6.5.3, Name Line Tips, and IRM 5.12.7.6.5.3, Preparing the Draft Special Condition NFTL.
- Tips creating a draft special condition NFTL including what to incorporate and what to avoid, see IRM 5.12.7.6.5.3.1, Tips When Preparing the Special Condition NFTL.
- The requirement to have a regular NFTL on file, see IRM 5.12.7.6.5.1, Taxpayer NFTL Filing When Special Condition NFTL Filed.

Reminder: A special condition NFTL may **not** be filed without the written approval of area counsel.

(2) **Processing special condition NFTL requests:** All special condition requests are processed through eApproval, which is on an electronic SharePoint platform containing other enforcement approval processes described on the Knowledge Management site, eApproval Table of Contents (sharepoint.com). Access to eApproval is through the Business Entitlement Access Request System (BEARS). BEARS entitlements are located on eApproval Access Request. all participants (i.e., RO, RO-GM, advisor-GM, advisor, counsel, and CLO FORT) in the review and approval process complete their actions through eApproval. Make use of the available assistance where needed from the eApproval Information Center.

(3) **Step 1 – the Request:** The RO or initiator’s information is in the table below.

Table Title: RO

Item	Events
1	Create and submit the special condition case from within the application. Note: If an RO’s GM has authorized a by-pass of CEASO advisory because of exigent circumstances, the RO is responsible for completing the CEASO advisor’s review. See IRM 5.12.7.6.5.4, CEASO Advisory Review Actions.
2	For Approval of: a) Levy: When the area counsel attorney approves only a special condition levy, they return it directly to the RO.

Item	Events
	<p>b) NFTL: The area counsel attorney returns the case to the CEASO advisor, who works with CLO FORT to obtain the SLID(s). When the RO hand-carries the NFTL for filing, CLO FORT send the document for filing through eApproval and the RO remains responsible for verifying all information on the NFTL before printing the document and maintains contact with the CEASO advisor and CLO FORT through eApproval. See IRM 5.12.7.6.5.4, CEASO Advisory Review Actions.</p>
3	<p>REVISION: Any reviewer or approver may request a revision.</p>
4	<p>DECLINE: Only your GM or the area counsel attorney may decline to pursue a special condition request.</p>

(4) **Step two – GM Review:** The RO's manager is the second step in the approval process. As the GM can decline the case, if the special condition NFTL is a protective action only, give consideration to economic factors, and the resources of field collection and area counsel. Look for consideration of these factors in the request package.

Table Title: GM

Item	Events
1	<p>REVIEW: The GM's responsibility is to review the case for appropriateness of the action to be taken and accuracy of the package. Remember to:</p> <ul style="list-style-type: none"> a) Check that name lines match in the RO request memorandum and draft NFTL and there is only one special condition per NFTL. b) Check for documentation substantiating the request and whether the RO uses the recommended file naming conventions as it makes it easier for reviewers and approvers. c) Re-Check the items in a and b above when a case is returned to you. <p>Note: If the RO justifies exigent circumstances such that GM-RO agrees to bypass CEASO advisory, ensure that the RO completes the IRM 5.12.7.6.5.4, CEASO Advisory Review Actions, tasks.</p>
2	<p>DECISION: The GM-RO's decision moves the case forward or sends the case back to the RO.</p>

(5) **Step Three – CEASO Advisory Actions:** The third step is the review process in CEASO advisory. eApproval includes the tasks for both the CEASO GM and the CEASO advisor. See the two tables below for CEASO advisory information. See also IRM 5.12.7.6.5.4, CEASO Advisory Review Actions.

Table Title: CEASO Advisory GM

Item	Events
1	READY FOR ASSIGNMENT: The CEASO advisory GM either assigns new cases or reassigns reviewed cases back to their CEASO advisor.
2	NOT READY FOR ASSIGNMENT: The CEASO advisory GM returns incomplete cases to the RO's GM.

Table Title: CEASO Advisor

Item	Events
1	REVIEW the case for appropriateness of the action to be taken and accuracy of the documents and substantiation provided. Use IRM 5.12.7.6.5.4, CEASO Advisory Review Actions
2	For Approval of NFTL: Counsel returns the case to the Advisor, the Advisor works with CLO FORT to obtain SLIDs, and if CLO FORT is filing the NFTL, the Advisor receives notification when that action is complete. If the RO hand-carries the NFTL for filing, the Advisor receives an eApproval notification when the action is completed. The Advisor is responsible to archive the case.

(6) **Step 4 – Counsel Review:** The final step is the responsibility of area counsel. They must approve all special condition NFTLs and any associated enforcement action, court action, or protective action recommended by the originating RO.

Table Title: Area Counsel

Item	Events
1	ASSIGN: The area counsel manager assigns the case to their attorney.
2	REVIEW & DECISION: The area counsel attorney assigned reviews the case. They determine whether the documentation and substantiation provided justify approving the filing of special condition NFTL(s).

(7) If the area counsel attorney approves a special condition NFTL and associated enforcement action, generally they return the request package to the CEASO advisor (IRM 5.12.7.6.5.4, CEASO Advisory Review Actions) with any document perfections needed. There may be occasions because of time and/or inventory considerations where the RO perfects the approved special condition NFTL. In either situation, perfecting the draft NFTL involves following area counsel's directions as to

the name line, property description, and any other special identifying language.

Caution: Counsel opinions and communications should not be copied and pasted into the ICS history. Contacts with counsel may be generally described, but in order to preserve the attorney-client privilege, counsel communications should not be copied verbatim into the history.

- (8) Generally, where a suit is anticipated and even though they have reviewed the draft suit package along with the special condition NFTL request, the area counsel attorney will need to have the suit package re-presented to them once the special condition NFTL has been filed.

5.12.7.6.5.1

Taxpayer NFTL Filing When Special Condition NFTL Filed

- (1) As part of the special condition NFTL request process, ensure that a regular NFTL, naming the taxpayer and covering the same statutory liens (assessments), is filed for real and personal property, before the special condition NFTL filing. This is to ensure that CDP rights have been afforded through the filing of the regular NFTL (see also IRM 5.12.7.6.6, Appeal Rights for Special Condition NFTL). The location for any such regular NFTL filing will be in accordance with Exhibit 5.12.7-2, State and Territory Filing Locations, and in keeping with where the taxpayer resides at the time of filing.

5.12.7.6.5.2

Revenue Officer Request Actions

- (1) RO actions for a special condition NFTL request pre-approval include:
- a. Identify, as part of case review and analysis, when the elements exist to pursue a special condition NFTL. See IRM 5.12.7.6.1, Nominee NFTL; IRM 5.12.7.6.2, Alter Ego NFTL; IRM 5.12.7.6.3, Transferee NFTL; and IRM 5.17.2.5.7, Property Held By Third Parties.
 - b. Identify **all** special conditions that are applicable for the case when submitting to CEASO advisory and area counsel for consideration.

Reminder: Each special condition has its own criteria and is represented on a separate special condition NFTL.

- c. See IRM 5.12.7.6.5.1, Taxpayer NFTL Filing When Special Condition NFTL Filed.
- d. Seek pre-submission advice on the merits of the case from CEASO advisory or area counsel to ensure that the elements needed to substantiate the request have been established.
- e. Prepare the request.

Reminder: If this is a successor-in-interest request, include the analysis completed using the table in IRM 5.12.7.6.4(3), Successor-in-Interest NFTL, and request counsel confirmation as to whether or not the successor-in-interest qualifies for CDP rights.

(2) **Draft special condition NFTL and preparing the request memorandum:** These are the two items included in a special condition request package and they are discussed below:

- a) **Draft NFTL:** When preparing the draft NFTL, use the ICS instructions in IRM 5.12.7.6.5.3 below. Use the ICS template particularly for nominee and transferee NFTL requests as the template will automatically create an exhibit as an attachment to the NFTL for entering the required property description. The draft special condition NFTL should reflect the proposed alternative in the draft name line. When the area counsel attorney approves filing of a special condition NFTL, the draft NFTL must be rechecked and perfected based on the language provided by the attorney before filing. See also IRM 5.12.7.6.5.3 and IRM 5.12.7.6.5.3.1.
- b) **Request Memorandum:** Counsel has advised that the request memorandum should specify the condition theory proposed (nominee, alter ego, transferee, or successor-in-interest) and should not propose multiple special condition alternatives. Use Form 15653, Special Condition NFTL / Levy Request Memorandum, to complete the memorandum. See also paragraph (4) below for the contents included in the memorandum.

NOTE: Form 15653 does **not** need or contain signature fields. eApproval processing provides documentation for the memorandum request reviews and approvals.

- (3) **Do not use ALS or ICS regular NFTL request** to create a special condition nominee or transferee NFTL because both require inclusion of a description of the property attached by the lien in an exhibit connected to the NFTL. ALS does not have the capability to add text to the body of an NFTL. It allows, in addition to the entity information, only the standard information, i.e., MFT, tax period, TIN, etc. When needing a property description for a nominee or transferee NFTL, manually prepare it and use the templates available in ICS.
- (4) **The Special Condition NFTL / Levy Request Memorandum (Form 15653)** allows flexibility to individualize the memorandum while maintaining a standard format. The parts of the memorandum include a header, introduction, body, conclusion, and after the conclusion an exhibit listing section. There are maneuverability buttons at the top of each page. The form opens in edit mode containing instructions, all sections, and tables. The Finalize button shows only the completed memorandum without instructions and unused sections. Maneuver back and forth between Unlock and Finalize buttons to view its interim appearance or check spacing and then continue editing. There are some required sections, but other sections are optional based on the needs of the individual case circumstances. When a section is unneeded, do not

enter any text and it will not appear in the finalized memorandum (i.e., do not enter NA). Each section starts with an Exhibit number field for convenience allowing identifying exhibits related to that section. A section starts with one paragraph number field and a paragraph field. Click the + sign to add another paragraph. Use the ▲ ▼ buttons to change position of multiple paragraphs within a section.

- a. The **Header** contains the taxpayer and third-party name(s) and two check boxes. One asks if a CSED expires within 3 years of the request. The other asks if urgent action is needed. Selecting yes for either box causes a corresponding section to be included in the memorandum.

Reminder: Form 15653 does **not** contain signature fields. eApproval processing provides those review and approval authorizations for the special condition request.

- b. The **Introduction** provides boxes to indicate if the request is for an NFTL, a levy, or both and allows for brief statements to introduce the case.
- c. The **Body narrative sections** provide a section to discuss the taxpayer. Then a required Special Condition Third Party Discussion section allowing development of and substantiation for the requested action. Check the box for each condition that applies to the third party and that will create an associated section for that condition. Check the applicable substantiation fact boxes in the condition section that is added to the memorandum and the associated paragraphs with instructions will open. Click to add an additional third-party, if applicable. See IRM 5.12.7.6.3, Transferee NFTL and IRM 5.1.14, Field Collection Techniques and Other Assignments for IRC § 6901 requests.

Reminder: A special condition NFTL filing must be able to withstand a court challenge (with minimal additional development).

- d. The **Body tables** provide a required Basis for Assessment section. There is a table for the assessments and, also paragraph fields to describe what is relevant from the transcripts for the request. The required Taxpayer NFTL table confirms for counsel with whether the taxpayer received their NFTL CDP rights. See also IRM 5.12.7.6.4(3) table titled, Successor-In-Interest CDP Qualification.

Note: A CSED discussion requirement exists only if there is a CSED expiring within 3 years of the special condition request. A yes check for that box in the memorandum Header, will trigger a corresponding section to open in Form 15653 after the assessment section.

Note: A yes checked box for Urgent Action Needed in the memorandum Header triggers a corresponding section to open in Form 15653 after the

NFTL section.

- e. Include enforcement plans in Form 15653 since a special condition NFTL is generally intended for enforcement. If planning an action such as a suit to foreclose the lien, summarize the planned suit, its basis, and an estimate of when the intended action will take place. If the special condition NFTL is protective in nature, provide all relevant background needed to determine whether a protective special condition NFTL is appropriate.

Reminder: Always seek advice for any questions from the CEASO advisor or counsel before submitting a special condition request in eApproval.

(5) Forward the completed request through eApproval to the group manager for approval of the decision.

(6) The manager forwards an approved request through eApproval to CEASO advisory for review.

Caution: If an RO's GM allows a by-pass of CEASO advisory, the RO assumes responsibility to perform the CEASO advisor review as instructed in IRM 5.12.7.6.5.4, CEASO Advisory Review Actions. CLO FORT will then contact the RO or GM through eApproval instead of CEASO advisory if any errors are identified.

5.12.7.6.5.3

Preparing the Draft Special Condition NFTL

(1) ICS template guidelines to use in preparation of the draft special condition NFTL are shown below:

- a. ICS NFTL templates for manually preparing Notices of Federal Tax Lien include special condition NFTL choices. The nominee and transferee templates automatically create an Exhibit for providing the property description.
- b. CLO FORT provides the SLID(s) through eApproval only **AFTER** approval documented in eApproval. CLO FORT also provides through eApproval SLID(s) for manual NFTL filing.
- c. **If the ICS template is unavailable**, prepare the NFTL using the PDF fillable version from the Publishing catalog.

(2) Name lines need to be clear and accurate. The table below contains tips to assist in developing the appropriate name line. See also IRM 5.12.7.6.5.3.1, Tips When Preparing the Special Condition NFTL.

Table Title: Name Line Tips

Item	Name Line Tips
1	A special condition NFTL identifies to creditors that the property, or certain property, held by, or in the name of, a third party is encumbered by the taxpayer's statutory lien(s).
2	A special condition NFTL lists only one condition.
3	If counsel approves multiple conditions, each condition will have its own NFTL.
4	Appropriate name line examples: <ul style="list-style-type: none"> • Third Party as nominee of Taxpayer • Third Party A (dba Third Party A1) as alter ego of Taxpayer • Third Party as transferee of Taxpayer • Third Party as successor-in-interest to Taxpayer
5	Name lines to avoid: <ul style="list-style-type: none"> • Third Party as nominee, alter ego, and / or transferee of Taxpayer • Third Party A as nominee of Third Party A1 as alter ego of Taxpayer

(3) The step table below provides instructions for drafting the special condition NFTL.

Table Title: Draft Special Condition NFTL Creation Instructions

Step	Action
1	From the Case Summary screen in ICS from within case , select from the ICS Template list Form 668Y Notice of Federal Tax Lien (Manual Filing) .
2	Select the taxpayer then click Next .
3	The taxpayer name and address listing appears. Ensure the taxpayer's address of record is selected then click Next .
4	Select the periods to be included on the NFTL then click Next .
5	A pop-up fill-in dialogue box appears. Select the special condition from the drop-down box.
6	Skip the "Enter the Serial Number" field as no SLID should be placed on the draft document at this time.
7	Complete the entity section of the NFTL by entering: <ul style="list-style-type: none"> a. Name of the special condition entity, b. Verify the taxpayer's name is correct. <p style="text-align: center;">Note: These two name line items will be perfected later by area</p>

Step	Action
	<p>counsel if the request is approved.</p> <p>c. the name of the taxpayer.</p> <p>Reminder: Neither the taxpayer nor third party TIN belong in the name line.</p> <p>Reminder: A special condition NFTL lists only one condition. If counsel approves multiple conditions, each condition will have its own NFTL. Do not create a name line mixing together more than one condition. See the table in IRM 5.12.7.6.5.2, Revenue Officer Request Actions.</p> <p>Caution: The longer a name line is the harder it is to reconcile it with the character limitation restrictions in ALS. Work with CLO FORT and counsel to create an acceptable truncation in ALS that allows the ALS document to effectuate a future IRC 6325(a) lien release.</p>
8	<p>Ensure the taxpayer's address is correct.</p> <p>Reminder: Do NOT enter the address of the third party nominee/transferee. This field is for the taxpayer's address of record.</p>
9	<p>Enter the tax period information.</p>
10	<p>For an asset specific NFTL (i.e., nominee and transferee NFTL), use the ICS template as it prints the following text on the face of the NFTL, The lien(s) identified on this special condition Notice of Federal Tax Lien attaches/attach to the following property: see attachment.</p> <p>Reminder: The ICS template also produces an exhibit for entering the property description. Enter the property description in the pop-up window's property description field. This field is limited to 250 characters. If the description is longer than 250 characters, enter it directly into the Exhibit created by using the ICS template.</p> <p>a. A personal property description example:</p> <p style="padding-left: 40px;">Example: Seascape Yacht, VIN 65T23465, Location: Blackrock Court, Seaside, FL 94899.</p> <p>b. A real property description example:</p> <p style="padding-left: 40px;">Example: Enter the legal description of the real property and if available the address of the real property.</p> <p>Reminder: If an Alter Ego or Successor-In-Interest NFTL is being filed where the name line will not fit into ALS, select and use the appropriate ICS NFTL template then work with counsel and CLO FORT on length accommodations between the document to be filed and how that name line will be represented in ALS.</p>

Step	Action
11	Enter the filing location.
12	Enter where the document is being prepared.
13	Enter date notice prepared.
14	Recheck that all information entered in the pop-up window is correct.
15	Click "save".
16	<p data-bbox="370 558 1360 615">From the Print Manager, Click "Switch to Word" and review the document for accuracy.</p> <p data-bbox="370 663 1464 720">Reminder: Use the ICS Template for a nominee or transferee NFTL to automatically create an Exhibit for entering the property description.</p> <p data-bbox="370 768 1455 989">Caution: If the nominee/transferee template is not selected, attempting to enter the property description on the face of the NFTL may cause the bottom sections of the NFTL document to roll over to another page. To fix this, simply place your cursor over the empty rows, click "Table" on the Word Menu Bar (at the top), scroll down to the "Delete" command and over to "Rows" and click. This will delete the unused rows and roll up the unused sections from the other page back to the NFTL. Make sure to execute this fix on both pages of the NFTL.</p>

5.12.7.6.5.3.1

Tips When Preparing the Special Condition NFTL

- (1) Document perfection is important when creating a manual NFTL. Most special condition NFTLs are created manually using the ICS template either because the NFTL contains specialized language and property descriptions (i.e., nominee and transferee situations) or the name line is too long for ALS character spacing. The ICS template creates an exhibit for the nominee and transferee property descriptions. Even though the ICS template is used to create special condition NFTL, the information must be stored in ALS for any future document maintenance. That is why it is important to work with CLO FORT to ensure a reasonable facsimile is entered into ALS. The reason for this matching is that it allows the recording office receiving a release of the lien or NFTL withdrawal to recognize the correct document to release or withdraw.
- (2) Normally the CEASO advisor will have the time to provide the draft special condition NFTL to the CLO FORT and obtain a SLID. However, there may be rare occasions when a SLID is needed for an immediate hand-carry filing. In those circumstances, contact the CLO FORT directly for the SLID and provide the **draft special condition NFTL**.
- (3) The draft special condition NFTL Word file is used to request either a SLID or assistance from CLO FORT whose email address is *SBSE CLO FORT. The

information on the special condition NFTL(s) filed with the recording office and how that NFTL data is reflected in ALS must match as closely as possible. **Additionally, it is imperative that the information on a filed special condition NFTL meet limitations in ALS, which is a legacy system (i.e., ALS name line restrictions, etc.).** For columns **a** through **f** the data must match exactly. This is to ensure that every statutory lien on every NFTL can be tracked and released timely.

- (4) Nominee and Transferee special condition NFTLs require a property description. The ICS template for these two NFTL types will automatically create an exhibit page for the property description. For real property, provide the legal description as well as an identifying description such as the address of the property, if one exists. If the tax lien attaches to a third party numbered account, appropriately redact the first portion of the account number.

Reminder: Property Description TIP: Use the ICS template property description exhibit and avoid the recording office rejecting an attached copy of a previously recorded deed document.

(5) Name Line/Entity Section TIPS:

- A special condition NFTL lists only one condition. If counsel approves multiple conditions, each condition will have its own NFTL.
- Neither the taxpayer nor the third party SSN or EIN belong anywhere in the entity section of the NFTL. The only TIN on the NFTL should be the taxpayer's redacted TIN in column "c".
- See also the table in IRM 5.12.7.6.5.2, Revenue Officer Request Actions.

(6) TIPS for Form 668(Y) columns (a) - (f):

- The taxpayer's **redacted** TIN goes in column "c". Do NOT use the third party's TIN.
- Ensure all statutory lien(s) identified on the NFTL are active and that revocations are filed for any expired/released liens before they are reflected on the NFTL.
- Ensure all balances have been calculated correctly.
- Ensure all assessment dates are accurate.
- Ensure all column "e" refile dates have been calculated correctly

Reminder: See IRM 5.12.8, Notice of Lien Refiling, and IRC 6323(g).

(7) General TIPS:

- Use the IRM ON-LINE current revision for ease with searching. In addition, there are buttons at the top of the IRM 5.12.7 page to access: (1) the PDF view, (2) the Publishing Catalog page containing links to all the IRM's revisions, (3) associated Interim Guidance, (4) the SERP IRM view, (5) the IRS.gov IRM view, (6) a link to the IRM library, and (7) a contact link for questions.

- Ensure the regular NFTL is filed (IRM 5.12.7.6.5.1, Taxpayer NFTL Filing When Special Condition NFTL Filed).
- Ensure that CEASO advisory has reviewed the package and draft NFTL (IRM 5.12.7.6.5.4, CEASO Advisory Review Actions).
- Ensure the counsel opinion is followed.
- **Remember**, input errors increase the maintenance burden for a statutory lien. That lien may be reflected on numerous NFTLs, amended NFTLs, and refiled NFTLs. If the self-release clause is triggered or a premature release occurs in one instance, the underlying statutory lien is released. A revocation of release must be filed for each NFTL, amended NFTL, or refile NFTL reflecting that statutory lien in order to restore the lien. Until the revocation is filed to replace each instance releasing the lien, a new NFTL cannot be filed.

5.12.7.6.5.4

CEASO Advisory Review Actions

- (1) CEASO advisors often become involved with a special condition NFTL request prior to receipt of the request through eApproval. CEASO advisors provide advice to ROs on the merits of the case and the substantiation needed for approval. The CEASO advisor will seek the assistance of area counsel, as needed, at this stage.

Caution: If a group manager allows an RO to by-pass the CEASO advisor review, the manager needs to ensure the RO performs the review as instructed below in (3) and subsequent paragraphs of this sub-section. The CEASO advisory manager will be notified of a by-pass.

- (2) When the CEASO advisor receives a special condition NFTL request package through eApproval, they open an ICS NFOI 191 control.
- (3) The CEASO advisor is responsible to review and perfect the request package for approval consideration. They are to ensure:
 - a) The eApproval case contains the request memorandum (Form 15653), the draft special condition NFTL, and exhibits adequately documenting and substantiating the request.

Reminder: Counsel will want to see the ICS case history, the transcripts, and that CDP rights have been provided to the taxpayer through a regular NFTL filing. See also the table in IRM 5.12.7.6.4(3), Successor in Interest CDP Qualification, and IRM 5.12.7.6.5.1, Taxpayer NFTL Filing When Special Condition NFTL Filed.
 - b) The theory or theories selected in the request memorandum (Form 15653) appropriately outlines and substantiates the condition(s) selected.
 - c) The draft special condition NFTL(s) has correct taxpayer liability information in the body, the name line contains only one condition and no TINs, the name line length falls within ALS parameters, and there are no typos in the document. See also IRM 5.12.7.6.5.3 and IRM 5.12.7.6.5.3.1, for instructions and tips when

creating the draft special condition NFTL(s) and IRM 5.12.7.6.5.5, Special Condition NFTL SLID Numbers.

Caution: Elevate any multiple name line conditions. Each special condition NFTL should have only one condition type in the name line and not mix more than one condition such as *X is the transferee of Y, Y is the transferee of Z, Z is the alter ego of the taxpayer.*

Caution: The longer a name line is the harder it is to reconcile it with the character limitation restrictions in ALS. Work with CLO FORT and counsel to adjust the name line in ALS to effectuate a systemic future IRC 6325(a) lien release.

- (4) Once the request is ready, the CEASO advisor forwards the request through eApproval to area counsel for their review and approval
- (5) Once a CEASO advisor receives from area counsel via eApproval an approved special condition NFTL and any associated enforcement actions, they perfect the:
 - a) name line,
 - b) special condition, and
 - c) check that there is an attached property description for any notices of nominee or transferee NFTL, based on area counsel's instructions.

Caution: Elevate any multiple name line conditions. Each special condition NFTL should have only one condition type in the name line and not mix more than one condition such as *X is the transferee of Y, Y is the transferee of Z, Z is the alter ego of the taxpayer.*

(6) The CEASO advisor then forwards the package through eApproval to CLO FORT. eApproval provides a systemic email notification to the RO. See in IRM 5.12.7.6.5(5) and in the table titled, CEASO Advisor, item 2 as well as IRM 5.19.12.2.5.2, Special Condition NFTLs.

Reminder: The FORT will notify the CEASO advisor or the requestor through eApproval of any problems they encounter with the package including problems entering the NFTL information into ALS. The procedure is the same even if the circumstances are exigent and the RO will hand-carry the special condition NFTL(s) for filing.

- (7) CLO FORT sends, the CEASO advisor through eApproval, a copy of the special condition NFTL, including the SLID assigned by ALS, sent to the recording office for filing. This includes a notification to the RO. Again, CEASO advisory must ensure that the FORT notifies them through eApproval when printing and mailing the special condition NFTL(s) for filing. CLO FORT sends to the RO through eApproval special condition NFTL(s) for hand-carry. This includes a notification to the CEASO advisor.

Note: If a SLID must be obtained by CEASO advisory or the RO, see IRM

5.12.7.6.5.7, Post Approval Exigent Circumstance Actions, for methods of obtaining the SLID when manually creating an NFTL.

- (8) The CEASO advisor, at this point, reminds the RO to monitor ALS and eApproval for the posting of the recording information and uploading of the special condition NFTL(s) filed copy. They also remind the RO to issue the appropriate letters identified in IRM 5.12.7.6.6, Appeal Rights for Special Condition NFTL to the special condition entity, taxpayer, and any applicable Powers of Attorney.

Reminder: ALS does not issue any CDP notice letters such as for the taxpayer's regular NFTL filing or a Successor in Interest meeting the CDP criteria. ALS also does not send letters to the third-party or taxpayer for special condition NFTL(s) as part of the filing process. (see IRM 5.12.7.6.4(3), IRM 5.12.7.6.5.1, and IRM 5.12.7.6.6).

- (9) The CEASO advisor closes their ICS control at this point.
- (10) The CLO FORT and CEASO advisor are responsible to ensure the RO uploads to the eApproval Attachment tab an electronically scanned copy of the filed special condition NFTL(s) and on the Details tab clicks the NFTL filed button. This triggers the eApproval systemic notifications. The RO may also upload any associated taxpayer NFTL with the recording information. The CEASO advisor associates this with their closed case file. The FORT will also retain an electronic copy of the filed special condition NFTL and any associated taxpayer NFTL for future reference.
- (11) Subsequent levy or seizure enforcement action is at the Area Office's discretion once the area counsel attorney has approved the special condition theory in writing. Generally, suit packages are re-presented to CEASO advisory and area counsel through the eApproval suit application once the special condition NFTL is in place.

**5.12.7.6.5.5
Special Condition NFTL SLID Numbers**

- (1) Normally the special condition NFTL SLID number will be generated by ALS when CLO FORT inputs the information from the approved special condition NFTL after receiving it from the CEASO advisor via eApproval.

Table Title: SLID Errors to Avoid

Item	Error
1	SLID not obtained from CLO (ALS) and/or self-created.
2	No SLID on document.
3	One SLID for multiple NFTLs, i.e., where the taxpayer has more statutory liens (assessments) than can be accommodated on one NFTL and multiple NFTLs are needed to list all the statutory liens (assessments) but only one SLID is used for the

original and all additional NFTLs.

Example: A nominee NFTL is needed for eighteen (18) statutory liens (assessments). Both ALS and the ICS nominee NFTL template limit the number of statutory lien (assessment) lines to fifteen (15). The remaining three (3) statutory liens (assessments) would be listed on a second nominee NFTL with a second SLID. Both nominee NFTLs would contain the same property description. Each NFTL would have its own SLID.

(2) Phone requests for a SLID in exigent circumstances must also add the SLID to the eApproval case. Work with CLO FORT to accomplish this.

(3) **Do not request** a SLID through ICS for special condition NFTL(s). See (2) above.

(4) **CEASO advisors do not request** a SLID for special condition NFTL(s) through ALS. See (2).

(5) However, the SLID is generated, the RO must ensure that CLO FORT has a copy of the manually filed NFTL by uploading it to the Attachments tab in eApproval. CLO FORT will receive an alert and obtain the filing data from eApproval for ALS.

5.12.7.6.5.6

Post Approval Revenue Officer Actions

(1) After receiving notification through eApproval and downloading a copy of the CLO FORT filed special condition NFTL(s), or having hand-carried the special condition NFTL(s) for filing, the RO **must within five (5) business days** manually prepare and mail the appropriate letters:

- a) Informing the special condition entity and the taxpayer of the special condition NFTL filing. See IRM 5.12.7.4, Manual NFTL Preparation, and IRM 5.12.7.6.6, Appeal Rights for Special Condition NFTL, for those instructions.
- b) Providing the taxpayer, if appropriate, the taxpayer's CDP notice. See IRM 5.12.7.6.5.1, Taxpayer NFTL Filing When Special Condition NFTL Filed.
- c) Also, if counsel confirms a successor-in-interest qualifies for CDP rights, then the CDP notice must be sent to the successor-in-interest. See the table in IRM 5.12.7.6.4(3), Successor-In-Interest NFTL.

Reminder: If hand-carrying, see also IRM 5.12.7.10.5, Hand-Carried NFTL for Filing.

(2) When the special condition NFTL is processed through CLO FORT, the recording office will return the recording information to CLO. The RO must follow-up to ensure the NFTL was properly filed, and the court recording data entered into ALS. CLO

FORT will upload the recording information to eApproval and post it in ALS once it is received. The revenue officer may contact *SBSE CLO FORT for the information, If eApproval does not have it.

- (3) The revenue officer associates this special condition NFTL document, a copy of the approval memorandum from area counsel, and any other relevant documents with their case file.
- (4) The revenue officer proceeds with their intended case actions. See IRM 5.12.7.6.7, Enforcement of Special Condition NFTL.

5.12.7.6.5.7

Post Approval Exigent Circumstance Actions

- (1) Most special condition NFTLs are processed routinely through the CLO FORT. Occasionally there are exigent circumstances such as an imminent property transfer or other jeopardy situation. In these situations, the special condition NFTL is hand-carried to the recording office for filing.

Reminder: See also IRM 5.12.7.6.5.1, Taxpayer NFTL Filing When Special Condition NFTL Filed.

Reminder: If hand-carrying, see also IRM 5.12.7.10.5, Hand-Carried NFTL for Filing.

- (2) Either CEASO advisory or the RO will contact the CLO FORT by phone and follow-up with an expedite secure email request *SBSE CLO FORT for a SLID number "only", if it was not received through eApproval. Contact an eApproval subject matter expert to ensure that the eApproval case was not misrouted. Then explain to the FORT the exigent circumstances and in the secure email include as an attachment the Word version of the approved special condition NFTL. This way the FORT will know to select an entity type in ALS for the special condition, suppress printing the NFTL for filing, and take this NFTL off the normal voucher system for filing fees.
- (3) The FORT creates a special condition NFTL in ALS to mirror the special condition NFTL based on ALS limitations and provides the SLID to the requestor through eApproval. See IRM 5.12.7.6.5.5, Special Condition NFTL SLID Numbers, for those instructions. See also the reminder in table row 10 of IRM 5.12.7.6.5.3(3), Preparing the Draft Special Condition NFTL, about working with counsel and CLO FORT when name line is too long to fit in ALS. This is to create an acceptable ALS truncation for use with an ALS systemic lien release.
- (4) The RO then physically carries the special condition NFTL to the recording office for filing.

Reminder: Ensure that a SLID has been obtained and entered onto the document

before filing. See also IRM 5.12.7.6.5.5, Special Condition NFTL SLID Numbers.

- (5) See IRM 5.12.7.6.5.8, Filing Fee Payment for Special Documents, for instructions on paying filing fees.
- (6) The RO **must within four (4) calendar days** of physically filing the special condition NFTL, forward electronically via eApproval a copy of the filed NFTL with recording information to both the FORT and CEASO advisory.

Reminder: If the recording data is not input to ALS, a legally required timely release may not occur.

- (7) The RO **must within five (5) business days** manually prepare and mail the appropriate letters informing the special condition entity and the taxpayer of the special condition NFTL filing and providing the taxpayer, if appropriate, the taxpayer's CDP notice. See IRM 5.12.7.4, Manual NFTL Preparation, and IRM 5.12.7.6.6, Appeal Rights for Special Condition NFTL, for those instructions.
- (8) The RO associates this special condition NFTL document, a copy of the approval memorandum from area counsel, and any other relevant documents with their case file.
- (9) The RO proceeds with their intended case actions. See IRM 5.12.7.6.7, Enforcement of Special Condition NFTL.

5.12.7.6.5.8

Filing Fee Payment for Special Documents

- (1) **Hand-Carried Documents for filing:** Follow the instructions in IRM 5.12.7.10.5, Hand-Carried NFTL for Filing, and IRM 5.12.7.10.5.1, Other Documents Hand-Carried for Filing.
- (2) **CLO Processed Documents for filing:** ROs may also forward manually prepared documents via eApproval to CLO FORT for processing and fee payment. These documents will be issued (mailed) with the next Tuesday or Thursday NFTL document issuance to recording offices, after receipt.

Example: RO Smith forwards a manually prepared and approved nominee NFTL, containing a property description in the attachment for the special condition NFTL, to CLO FORT via eApproval Wednesday morning. The document is retrieved by CLO FORT Wednesday afternoon. The normal document print cycle is Thursday. RO Smith's nominee NFTL will be batched and mailed with documents scheduled for the Thursday print cycle.

- (3) See also IRM 5.12.7.6.5.1, Taxpayer NFTL Filing When Special Condition NFTL Filed.

5.12.7.6.6

Appeal Rights for Special Condition NFTL

(1) **Parties entitled to CDP rights and issuance of Letter 3172, Notice of Federal Tax Lien and your Rights to a Hearing Under IRC 6320:**

- a. The taxpayer is entitled to collection due process rights only the **first** time that the statutory lien for an assessment appears on a filed NFTL. See IRM 5.12.7.6.5.1, Taxpayer NFTL Filing When Special Condition NFTL Filed.
- b. Persons assessed as transferees under IRC § 6901 have an assessment and statutory lien separate from the transferor/taxpayer entitling them to due process appeal rights.
- c. A successor-in-interest named on a special condition NFTL confirmed by counsel as qualifying for CDP rights. See IRM 5.12.7.6.4, Successor-in-Interest NFTL, and its decision table.

(2) **Parties ONLY entitled to CAP rights:**

- a. Taxpayers upon the filing of an additional NFTL or a special condition NFTL
- b. Parties determined to be nominees.
- c. Parties determined to be alter egos.
- d. Parties determined to be transferees not assessed under IRC § 6901.
- e. Parties determined to be successors in interest **not** meeting the requirements outlined in IRM 5.12.7.6.4, Successor-in-Interest NFTL, and its decision table and without the concurrence of counsel.
- f. **Manually issue** Letter 3177, Special Condition Notice of Federal Tax Lien (NFTL) Filing-Third Party, and related publications after the NFTL has been filed.

Note: Persons determined to be nominees, alter-egos, or transferees not assessed under IRC § 6901 do not meet the definition of eligibility for CDP rights. That definition is outlined in IRC §6320 and identifies the party to receive notice as the taxpayer against whose property the statutory lien has arisen. Occasionally a successor-in-interest steps into the taxpayer's shoes because the taxpayer has ceased to exist in such a way that they are unable to receive or exercise their CDP rights. A statutory lien attaches to all of a taxpayer's property whether or not it is held by a third party. See also Treasury Regulation § 301.6320-1 Question and Answer numbers A7 and B5, IRM 5.12.6, Appeals Processes Involving Liens, and IRM 5.17.2, Federal Tax Liens.

(3) **The taxpayer and certain qualifying successors-in-interest letters to be issued are:**

Letter	When Issued	How Issued
Letter 3172, Notice of Federal Tax Lien and your Rights to a Hearing Under IRC 6320	first time filing Note: Ensure that the regular NFTL, when it is the first time, is filed before or at the same time as the special condition NFTL	<ul style="list-style-type: none"> • Systemically: NFTL is issued through ALS. • Manually: exigent circumstances or NFTL created manually. • Manually: successors-in-interest confirmed by counsel as qualifying for CDP rights.
Letter 3171, Notice of Federal Tax Lien Additional Filing	additional filing	<ul style="list-style-type: none"> • Systemically: NFTL is issued through ALS. • Manually: exigent circumstances or NFTL created manually.
Letter 3886, Notice of Special Condition Notice of Federal Tax Lien (NFTL) Filing –Taxpayer	for every special condition NFTL issued	Always issued manually.

(4) Letter issued to the third party:

Letter	When Issued	How Issued
Letter 3177, Special Condition Notice of Federal Tax Lien (NFTL) Filing-Third Party	for every special condition NFTL issued	Always issued manually

(5) For exigent circumstances or a manually created NFTL, see also:

- IRM 5.12.7.6.5.7, Post Approval Exigent Circumstance Actions
- IRM 5.12.7.4, Manual NFTL Preparation
- IRM 5.12.7.10.5, Hand-Carried NFTL for Filing
- IRM 5.12.7.6.5.8, Filing Fee Payment for Special Documents

Note: Additional IRM references include: IRM 5.12.6, Appeals Processes Involving Liens, and IRM 5.17.2.4, Collection Due Process.

**5.12.7.6.7
Enforcement of Special Condition NFTL**

- (1) In determining what additional enforcement action should be taken after filing the special condition NFTL, consideration must be given to the confusion in the chain of title and redemption rights of the taxpayer. These conditions may depress the marketability of any property.
- (2) A judicial lien foreclosure or seizure followed by suit to foreclose the federal tax lien will generally bring a greater sale price particularly for real property.
- (3) The administrative seizure and sale process may be used if prompt action is needed to protect the government's interest. Include any concerns and relevant facts in the request for opinion from area counsel.

5.12.7.6.8

Retention, Release, and Withdrawal of Special Condition NFTL

- (1) Special condition NFTL documents and case files are unique in nature and have a need to be kept longer than the normal retention period. This allows for subsequent inquiries, collection actions, and eventual lien releases to be resolved timely.
- (2) CEASO advisory will maintain the special condition NFTL, the area counsel authorization memorandum, and associated case histories for one year after the underlying tax liability has been satisfied or one year after the statutory period for collection has expired. See item 43 of Document 12990, Records and Information Management Records Control Schedules. Maintenance of the file may include transferring it to the appropriate Records Control Center as long as precautions are in place to ensure that the special condition NFTL may be timely released. Generally, there will be other cases related to the special condition NFTL file such as a seizure or federal tax lien foreclosure action. It may be appropriate to associate the special condition NFTL file with these other CEASO advisory files.
- (3) The RO file would be disposed of following normal procedures.
- (4) Releases of special condition NFTL are generally processed in the same manner as regular NFTL. The releases are systemically generated through ALS after ALS is notified by Master File of a satisfied module or ALS notes that the collection period has expired. But the release generated by ALS will have a different appearance from the manually prepared and filed special condition NFTL because ALS has certain limitations associated with name line and property descriptions. A recording office may choose to reject the document as too different from the original filing. If the recording office rejects an ALS generated release:
 - a. CLO FORT will utilize their retained copy of the manually created special condition NFTL to prepare and file a manual release.
 - b. The FORT may need to contact CEASO advisory or the RO for their retained copy in order to prepare a manual release.

- (5) A request for withdrawal of a special condition NFTL may be considered where all actions related to all the property associated with the special condition NFTL have been concluded but the underlying statutory lien is still open because the taxpayer's liability has not been satisfied. See IRM 5.12.9, Withdrawal of Notice of Federal Tax Lien.