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**From:**

**Sent:** Thursday, November 06, 2008 3:25:23 PM

**To:**

**Cc:**

**Subject:**

a Corporation (“ ”) failed to pay certain employment taxes in connection with the payment of wages to its employees during and . did not make an election to be classified as an association. Treas. Reg. § 301.7701-3(a). Accordingly, is disregarded as an entity separate from its sole owner, . *Id.* at § 301.7701-2(c)(2). During June 2007 the Service thereafter filed a Notice of Federal Tax Lien (NFTL) (Form 668) in with the Recorder of Deeds in the , and this notice included the following:

Name of Taxpayer

Residence

We confirmed that the above address, while listed as an address of “residence”, is the business address of . According to the Service’s records, lives at a different address. A third-party lender considering extending credit to discovered the NFTL and has asked the Service to subordinate the Service’s tax lien. The third-party has not alleged that the Service’s NFTL is incorrectly filed, and it apparently believes that the tax lien attached to property and rights to property. The Service’s Technical Services branch has questioned the NFTL’s validity, in light of the fact that it contains both the limited liability company’s name and the owner’s name on it.

On October 30, 2008 , the Revenue Officer making this request, confirmed to us that is not liable for the employment taxes and has no existing liabilities to the Service. Rather, the lien encumbers property and rights to property.

We recommend advising that the Service has no lien against and that a subordination is therefore unnecessary. In this case Service should have

followed Internal Revenue Manual 5.12.2.6.3(1) when preparing the NFTL. This states, in part, ". . . [w]hen filing a NFTL on a single-member disregarded LLC, only the name of the single member should appear on the lien document. Do not include the name of the disregarded LLC . . ."

We also recommend that \_\_\_\_\_ file a notice of withdrawal of the tax lien, pursuant to Treas. Reg. 301.6323(j)-1, as to " \_\_\_\_\_".

Please call if you have any questions.