

Dear Stewart Partners,

In this week's Midweek update, we will offer a refresher on Federal (General) Tax Lien requirements and limitation periods in response to a potential uptick in IRS audits and lien filings resulting from increased IRS funding under the Inflation Reduction Act. We will also provide a summary of mezzanine financing and available related insurance products.

Lastly, as a reminder, TOMORROW is REBA's Women's Networking Group fundraising event at the Women's Lunch Place with proceeds benefitting the Women's Lunch Place. The event is being held at the Women's Lunch Place facility on Newbury Street in Boston. We hope you'll join us at the event which we are a proud sponsor of. There's still time to purchase a ticket if you are interested. Tickets can be purchased online. The link to purchase is at the bottom of this update.



Federal (General) Tax Lien Requirements and Limitation Periods

In 2022 the Inflation Reduction Act was passed, significantly increasing the IRS's budget over the next ten years to improve IRS service and support, technology, and its ability to enforce its existing tax laws. Many theorize that these improvements will lead to increased audits and more sophisticated efforts to collect unpaid taxes, such as levying bank accounts, garnishing salary, and placing more liens on taxpayer real estate holdings.

<https://trac.syr.edu/reports/706/>

Once a taxpayer is assessed their annual tax liability and then fails to pay the amount due, the IRS is authorized to place a lien against a taxpayer's real estate. **A Federal (General) Tax Lien arises when a Notice of Federal Tax Lien is filed in the Land Records where the taxpayer's property is located. The lien is valid for 10 years from the date of the assessment of taxes and may be renewed by the IRS for an additional 10 years by filing a Notice of Extension before the original lien expires.**

The IRS has provided several detailed publications that are very informative for practitioners who encounter Federal (General) Tax Liens in the Land Records. They include:

- The IRS Collection Process: <https://www.irs.gov/pub/irs-pdf/p594.pdf>

- How to Apply for a Certificate of Discharge: <https://www.irs.gov/pub/irs-pdf/p783.pdf>
- How to Apply for a Certificate of Subordination: <https://www.irs.gov/pub/irs-pdf/p784.pdf>
- Instructions for Requesting a Certificate of Release: <https://www.irs.gov/pub/irs-pdf/p1450.pdf>

It is important to emphasize that Federal Tax Liens are valid against after-acquired property. This means that if the lien is recorded against a person who does not own an interest in real estate at the time the lien is recorded, it will attach by operation of law to any interest acquired after the lien was recorded, for the effective term of the lien. A title examination must be broad enough so that it isn't limited to a search of only the time period a record owner held title to property. Further, the name of the client or clients who are purchasing the property need to be searched for liens that would attach upon acquisition of the property.



Mezzanine Financing and Available Stewart Title Products

Unlike a traditional mortgage loan, which is secured by a mortgage on real property, a mezzanine loan is often secured by a pledge of the ownership interests in the property owner (i.e. membership/partnership/stock interests). In a typical transaction involving mortgage and mezzanine financing, mortgage financing might be for 75% or less of the land value, and an additional 10-15% of mezzanine financing. Many commercial transactions have a mezzanine loan component.

Mortgagee title insurance is not directly available to a mezzanine lender because the mezzanine borrower does not have a direct insurable interest in the real property. Mezzanine lenders generally have two options available to them. They can require a Mezzanine Endorsement (ALTA 16-06) be added to the Owner's Policy and/or obtain a Uniform Commercial Code (UCC) insurance policy. (More on this product below.)

The Mezzanine Endorsement provides several benefits which include giving the mezzanine lender a right to any claim payable to the mortgage borrower under the Owner's Policy up to the amount of the outstanding balance of the mezzanine loan before any payment is made to the borrower. The endorsement also provides non-imputation coverage and insures the continuation of the coverage should the mezzanine lender decide to foreclose.

There are several underwriting requirements to issue the mezzanine endorsement which include the execution of a Non-Imputation Affidavit by the insured named in Schedule A of the Owner's Policy and the insured's signature on the endorsement to evidence consent.

In addition to requiring a Mezzanine Endorsement be added to the Owner's Policy, the Mezzanine Lender can achieve the protection they are accustomed to receiving (which is a mortgagee loan policy) by obtaining a UCC insurance policy. This policy insures the lender's attachment, perfection and first priority security interest in the pledged collateral. Stewart Title also offers additional coverage for certificated security interests to protect the lender under Article 8 of the UCC. The UCC policy insurer performs specific due diligence

to underwrite the policy. Generally, the policy provider reviews: (1) the proposed mezzanine loan documents, (2) the organizational documents of the mezzanine borrower and mortgage borrower, and (3) copies of all certificates representing the mezzanine collateral. For additional requirements, please contact a Stewart underwriter.

To learn more about the Mezzanine Endorsement which can be issued with a title policy and/or Stewart's UCC Policy, which can be issued through Stewart's UCC division, please contact your Stewart underwriter.



Last Chance to Purchase Tickets - A Night at Women's Lunch Place on June 8th

Stewart is proud to, once again, be one of the sponsors for REBA's Women's Networking Group fundraising event for the Women's Lunch Place on June 8, 2023. The Women's Lunch Place (WLP) is a safe, welcoming day shelter community providing nutritious food and individualized services for women who are experiencing homelessness and poverty. To purchase tickets to the event and for more details follow this link:

<https://womenslunchplace.org/reba>

We hope to see you there!



[Meet Our Team | Stewart Connecticut](#)

[Meet Our Team | Stewart Maine](#)

[Meet Our Team | Stewart Massachusetts](#)

[Meet Our Team | Stewart New Hampshire](#)

[Meet Our Team | Stewart Rhode Island](#)

[Meet Our Team | Stewart Vermont](#)



1-800-STEWART
www.stewart.com

® 2023 Stewart. All rights reserved.

This email was sent to your address because your email preferences are set to receive our updates.

[unsubscribe](#)