

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-202298

DATE: August 30, 1982

MATTER OF: Internal Revenue Service--Reimbursement
for Federal Tax Lien Fees and for Printing
of Special Personal Checks

DIGEST:

1. No officer or employee of the Government can create a valid claim in his favor by paying obligations of the United States from his personal funds, which he is neither legally required nor authorized to pay. Employee reimbursement will not be authorized for such voluntary payments of Government obligations from personal funds. The only recognized exception to this voluntary creditor rule is where the personal expenditures were in the Government's interest and arose under urgent and unforeseen circumstances. See 60 Comp. Gen. 379 (1981) and B-195002, May 27, 1980.
2. An employee of the Internal Revenue Service (IRS), Southwest Region, as part of his official duties, is required to pay recording fees associated with filing and releasing Federal tax liens against the property of delinquent taxpayers. Although these fees are undoubtedly obligations of the Government, the employee expended \$236 of his personal funds on Federal tax lien fees. However, since formal IRS policy authorized payment of such fees with an employee's personal funds and contemplates that the employee will be reimbursed from agency appropriations, payment of these fees with personal funds did not render the employee a voluntary creditor. Accordingly, employee's claim for Federal tax lien fees may be properly certified for payment.
3. An employee of the IRS, Southwest Region, as part of his official duties, is required to pay recording fees associated with filing and releasing Federal tax liens against the property

of delinquent taxpayers. Although alternative payment procedures were authorized, the employee effected payment by use of personal checks drawn on a special personal bank account for which he incurred \$35.13 in check printing charges. IRS neither authorized nor approved reimbursement of its employees for expenses incurred for the printing of checks. Moreover, the evidence of record is that IRS would not have approved such expenses if the employee had sought advance agency approval, and does not demonstrate either urgent or unforeseen circumstances. Consequently, the employee acted as a volunteer. Under the voluntary creditor rule his claim for printing of these personal checks may not be properly certified for payment.

Ms. Elizabeth A. Allen, an authorized certifying officer with the Internal Revenue Service (IRS), Department of the Treasury, has requested an advance decision on whether she may properly certify for payment a \$271.13 voucher submitted by Mr. Gary L. Collins on Standard Form 1164, Claim for Reimbursement for Expenditures on Official Business. Mr. Collins, an employee of IRS, Southwest Region, seeks reimbursement of \$236 for payment of fees associated with the recording of Federal tax liens and releases thereof, plus \$35.13 for the printing of checks for a special personal Tax Lien Account he had established at a local bank, presumably to facilitate his work and to segregate these monies from his private account.

For the reasons discussed below, we conclude that Mr. Collins may be reimbursed \$236 for the Federal tax lien and release fees paid. However, he may not be reimbursed from appropriated funds for the \$35.13 expended for the printing of the checks or for other charges that may be associated with this special bank account. Therefore, only \$236 of the voucher may properly be certified for payment.

According to the certifying officer's submission, Mr. Collins routinely files vouchers for reimbursement of lien recording fees and has not previously claimed the costs of printing of these special personal checks. Some appreciation of the process by which tax liens are filed is helpful in evaluating his claim. Basically, a Federal tax lien is filed against a taxpayer's property after a

tax assessment has been made, payment has been demanded, and the taxpayer has neglected or refused to pay a liability for Federal taxes. See 26 U.S.C. § 6321 (1976). It establishes a Federal Government interest in the taxpayer's assets until the delinquent taxes are paid. The liens are filed with appropriate state, county or parish recording offices, and recording fees may be charged by the state and local governments for this service. IRS states that periodic billing arrangements for these recording fees have been made where permitted by state statutes and where accepted by local county or parish officials. However, some states, counties or parishes do not permit billing and require payment of recording fees at the time the lien is filed. In these instances, payment must be effected at the time of filing, either in cash or by an acceptable financial instrument. Mr. Collins chose to effect payment by use of checks drawn on his special personal Tax Lien Account. He seeks reimbursement from IRS for the amount of fees paid associated with recording and release of Federal tax liens as well as for the cost of the checks associated with his special account.

The central issue is whether Mr. Collins by his actions volunteered to become a creditor of the United States. Our decisions have long held that no officer or employee of the Government can create a valid claim in his favor by paying obligations of the United States from his personal funds, which he is neither legally required nor authorized to pay. B-195002, May 27, 1980; B-129004, September 6, 1956. See also, 60 Comp. Gen. 379 (1981); 33 Comp. Gen. 20 (1953) and B-184982, October 13, 1976. "Voluntary payments of Government obligations from personal funds must be very strongly discouraged, and the general rule remains that reimbursement will not be authorized." 60 Comp. Gen. 379, 381 (1981); B-186474, June 15, 1976. We have recognized an exception only in the case where the personal expenditures were in the Government's interest and arose under urgent and unforeseen circumstances. Id.

On the basis of these criteria we find that Mr. Collins may be reimbursed the \$236 paid for Federal tax lien filing and release fees. Undoubtedly, these fees were obligations of the Government, and Mr. Collins paid them on behalf of the United States. However, payment of these fees with personal funds did not render him a voluntary creditor of

the United States within the meaning of the prohibition. Payment of tax lien filing and release fees with personal funds was authorized, and employee reimbursement contemplated, by formal IRS policy. See, for example, sections 5425.1(5) and 5444(3) of Internal Revenue Manual (IRM) 5400, Federal Tax Liens; sections 520(1)(f) and 540(3) and (5) of IRM 1724, Imprest Funds Handbook; IRS Memorandum from the Assistant Commissioner (Resources Management), Payment of Liens Fees, dated July 25, 1979; and sections E.2.a, E.2.d, E.2.e and E.5.a of Southwest Regional Commissioner Memorandum 17-82, CR 54-1, Payment of Tax Lien Fees, dated September 27, 1979.

On the other hand, Mr. Collins may not be reimbursed for the \$35.13 expended for the printing of the checks for his special personal Tax Lien Account. This was not an expense IRS formally authorized its employees to incur. None of the formal IRS documents provided to us that were in force at the time Mr. Collins incurred this expense mention payment of lien fees by personal check or reimbursement for associated bank service or check printing charges. IRS did, however, specifically approve use of other financial instruments. IRS authorized employee use of money orders or cashier's checks to pay Federal tax lien fees, as well as employee reimbursement for the costs associated with each. See, for example, section 5425.1(3) of IRM 5400, Federal Tax Liens; section 520(2) of IRM 1724, Imprest Funds Handbook; IRS Memorandum from the Assistant Commissioner (Resources Management), Payment of Lien Fees, dated July 25, 1979; and section E.2 of Southwest Regional Commissioner Memorandum 17-82, CR 54-1, Payment of Tax Lien Fees, dated September 27, 1979.

It is in the first instance up to the agency involved to determine whether a particular expenditure is in the Government's interest. The evidence of record is that IRS would not have approved reimbursement to Mr. Collins of costs associated with his special personal Tax Lien Account, if he had sought agency approval before he incurred the costs. The certifying officer states, in part, in her supplemental submission:

"* * * Under current procedures, * * * Employees may incur expenses for money order/cashier's check used in paying liens, but may not be reimbursed for any other bank charges such as checking accounts or check printing charges." (Emphasis in original.)

In addition, this preexisting IRS policy has since been formalized in writing in a revised Southwest Regional Commissioner Memorandum 17-82, CR 54-1, Rev. 1, Payment of Tax Lien Fees, dated July 16, 1981, which specifically prohibits reimbursement for check printing charges. 1/ In any

1/ The revised Southwest Regional Commissioner Memorandum 17-82, supra, provides, in part:

"D. PROCEDURES FOR PAYMENT OF TAX LIEN FEES

"1. General

"Regardless of the method of payment used, receipts are required for all filing or release fees irrespective of the amount of such fee. Receipts are required for the money order/cashier's check used in paying fees. * * *

"a. Reimbursement may be made for the cost of money order/cashier's check used in making payment of lien fees.

"b. No reimbursement can be made for any other bank service or check printing charges.

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"3. Reimbursements to Employees for Payment of Tax Liens

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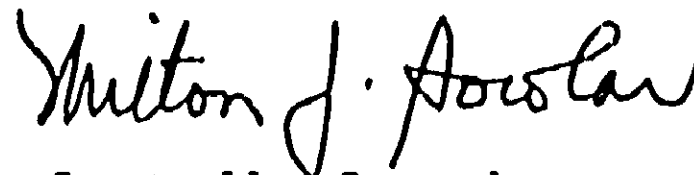
"c. Lien fees mailed to state and/or county/parish clerks should be paid by money order or cashier's check. While personal check may be used to pay lien fees, no reimbursement for any related bank charges can be made as indicated in section D.1.b. Lien fees handcarried to the state and/or county/parish recording offices may also be paid by money order/cashier's check or personal check if circumstances warrant the additional security."
(Emphasis in original.)

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event, the submission does not demonstrate that the check printing charges in question arose under urgent and unforeseen circumstances. Therefore, Mr. Collins does not satisfy the exception to the voluntary creditor rule. Consequently, when he paid these check printing charges from his personal funds, he did so as a volunteer and did not create any valid claim in his favor against the United States.

Accordingly, Mr. Collins' claim for \$236 for payment of fees associated with the recording of Federal tax liens and releases may be properly certified for payment. However, his claim for \$35.13 for the printing of the checks associated with his personal Tax Lien Account may not be properly certified for payment.

The voucher and supporting documents are returned for your action in accordance with this decision.



Acting Comptroller General
of the United States