

EMPLOYMENT SECURITY COMMISSION OF NORTH CAROLINA
RALEIGH, NORTH CAROLINA

INTERPRETATION NO. 122 – SUPPLEMENT NO. I

TO: R. F. Martin, Director
FROM: R. B. Billings, Attorney
RE: Priority of Federal Liens

We have received a memorandum dated July 27, 1954, written by the Supervisor of Field Representatives inquiring concerning priority of federal liens. The question is specifically asked as to whether a federal lien docketed in one county assumes priority over a judgment of the Commission which is docketed in another county where the real or personal property of the judgment creditor is actually located.

We must first keep in mind that the time of docketing these judgments and liens generally controls the order of priority with respect to such liens as they relate to real property. The federal assessments become liens against both real and personal property when docketed in conformity with General Statutes of North Carolina, Section 44-65, which provides that “notices of liens for Internal Revenue Taxes payable to the United States ***may be filed in the Office of the Register of Deeds of the county ***within which the property subject to such lien is situated.”

Both the federal assessments and the judgments of the Commission must be docketed in the county within which real estate is situated in order to become a lien upon such real estate. As to personal property, the federal assessment becomes a lien upon all personal property of the taxpayer once the notice of assessment has been filed in the Office of the Register of Deeds within the county in which the personal property is located. No levy in order to secure priority under the federal liens is necessary; however, it is necessary in order for the Commission to obtain a lien upon personal property of the judgment creditor to issue an execution and levy on the specific personal property involved. It is our opinion that if a federal assessment is filed and the notice given under General Statutes, Section 44-65, referred to above, this assessment becomes a lien on all personal property and real estate located and situated within the county in which the notice is registered.

It is our further opinion that if personal property is located in a county and the Federal Government files a notice of assessment as required by the North Carolina law within such county and personal property is thereafter removed from the county by the taxpayer, the federal lien would still be attached to such personal property.

Summarizing, it may be stated that both federal liens and liens arising under judgments docketed by the Commission, insofar as liens on real estate are concerned, are created against the real estate at the time the assessment notice is filed by the Collector of Internal Revenue within the county in which the real estate is located and at the time when the judgment of the Commission is docketed in the county in which the real estate is located. This is not true with respect to personal property insofar as judgments of the Commission are concerned. A levy must be made as stated hereinbefore in order to perfect a lien under the judgments docketed by the Commission. No levy, however, is necessary in order to create the federal lien on personal property, and the filing of the notice in the county within which the personal property is located creates the lien upon all such personal property of the debtor.

Adopted as an official Interpretation of the Commission on August 17, 1954.