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MICHIGAN TITLE EXAMINATIONS AND THE 1954 REVENUE CODE'S NEW GENERAL LIEN PROVISIONS

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TITLE examiners, and more particularly their clients, have long suffered from a controversy—limited almost exclusively to Michigan—involving the *methods* by which the United States Treasury Department could perfect general federal tax liens. The December 1952 issue of the *Michigan Law Review* carried an article by the present writer pointing up the irreconcilable difference which has existed for a quarter of a century between the type of record notice which the Treasury was willing to provide prospective bona fide purchasers et al., and the quite different and more demanding type which the Michigan Legislature insisted upon if the local offices of record in each county were to be available to the federal authorities.[1] Whereas the Treasury has sought in many cases to file *blanket* notices, asserting a lien upon *all* of the property (undescribed) of a named taxpayer, the Michigan Legislature has been equally adamant in insisting—with reference to liens asserted against land—that offices of record shall be available to the federal authorities only if the notice contains a precise description of the land in question.[2]

The matter of the practicing attorney's dilemma in dealing with the above conflict was fully covered in the earlier article and will be discussed here only insofar as it is necessary in giving functionalized meaning to two significant events of the past year—the last being the recent adoption of a new lien provision in the Internal Revenue Code of 1954.

A Story Re-told: History of the Conflict

Third party protection against federal tax liens appeared for the first time almost concurrently with the adoption of the modern income tax in 1913.[3] From then until 1942, Congress provided that such a lien would not be valid "as against any mortgagee, pledgee, purchaser or judgment creditor until notice thereof has been filed by the collector"[4] in one of two ways. It was first to be filed "[*i*]*n accordance with*

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1 51 MICH. L. REV. 183 (1952).
2 Mich. Comp. Laws (1948) §211.521; Mich. Stat. Ann. (1950) §7.751.
3 Act of March 4, 1913, c. 166, 37 Stat. L. 1016.
4 I.R.C. (1939), §3672, as last amended by the Revenue Act of 1939, §401.

the law of the State or Territory in which the property . . . is situated, whenever the State or Territory has by law provided for the filing of such notice."[5] Where, however, such filing had not been provided for by local law, the lien was to be filed "in the office of the clerk of the United States district court for the judicial district in which the property subject to the lien is situated."[6]

Well over forty states responded to this federal legislation by permitting the collectors to file in local offices of record a notice which descriptively contained nothing more than the name of the taxpayer, his address, and the amount of taxes owing.[7] Michigan then stood almost alone when in 1925 it added to the necessary authorization the special condition referred to above, namely, the requirement that the notice include a precise description of any land against which a lien was to be asserted.[8]

That the collectors' (now district directors') offices were required prior to 1942 to conform to this added condition if their liens were to withstand attack from third parties was clear enough. The federal statute itself then required a filing "in accordance with" local law, and permitted an alternative filing with the clerk of the federal district court only where the state had failed, as Michigan had not, to authorize use of local filing systems.[9]

However, the Treasury's dissatisfaction with this additional requirement led it in 1942 to induce Congress to delete from the federal statute that part of the statutory language which specifically authorized a state to spell out the added description requirement.[10] One of the congressional committees emphasized that the amendment in question was intended to authorize the state "only to *designate* the local office for filing."[11]

At this point the Register of Deeds of Wayne County resisted an attempt by the collector to file a blanket notice asserting a lien upon all of a named taxpayer's property. And that county officer's position was sustained by the Court of Appeals for the Sixth Circuit in *Youngblood v. United States*,[12] the court expressing the view that by the 1942

[5] Ibid. Italics added.

[6] Ibid.

[7] These statutes are cited in the earlier article by the writer, 51 MICH. L. REV. 183 at 185, notes 10 through 13 (1952).

[8] Mich. Comp. Laws (1948) §211.521; Mich. Stat. Ann. (1950) §7.751.

[9] United States v. Maniaci, (D.C. Mich. 1939) 36 F. Supp. 293.

[10] Revenue Act of 1942, §505.

[11] S. Rep. No. 1631, 77th Cong., 2d sess., 248 (1942).

[12] (6th Cir. 1944) 141 F. (2d) 912.

amendment Congress had not intended to test its constitutional power to force a state to accept for filing a notice which did not comply with the niceties of local law. But then the court unnecessarily went on to imply that the reasonableness of the state's requirements served also to deprive the collector of the right to file *blanket* notices, though unacceptable to the state, with the clerk of the federal district court.

This latter seemingly unwarranted implication was ignored after the *Youngblood* decision by the collector and by his successor, the district director. For several years now, every general federal tax lien has been filed—often in *blanket* form—with the clerk of the appropriate federal court. To complicate matters further, the director has continued to offer duplicate notices to the local registers of deeds in Michigan and, with the exception of one or two counties, these offerings have been accepted even though they clearly fail to satisfy that requirement of the Michigan statute calling for a precise description of any land against which a lien is to be asserted.

The earlier article by this writer expressed three major conclusions as of December 1952:

(1) *Blanket* notices on file in the offices of the various registers of deeds did not constitute constructive notice, though those offices did perform an unofficial service to prospective purchasers in accepting such offerings. The effectiveness of this "unofficial" service depended, of course, upon cooperation from abstract companies in reflecting such notices in their abstracts (some did; others did not).

(2) The blanket notices on file with the federal district court clerks probably did, on the other hand, constitute constructive notice with reference to all property *within that judicial district.* It was only because of this conclusion that acceptance of duplicate notices by local registers was characterized above as an unofficial service to lawyers. Only in the event of such acceptance by the county office would there be any chance that a lien, covered by a valid blanket notice on file in the federal court clerk's office, might be reflected in an abstract. As every lawyer knows, most abstract companies in Michigan indicate in their certificate that no check has been made of matters on file in the federal courts.

(3) Finally, it was proposed that the Michigan Legislature delete the added condition calling for a description of land against which a lien was to be asserted, for lack of federal cooperation meant that our legislature was probably not then accomplishing, and probably could

not in the future accomplish, its basic aim. Indeed, the local provision requiring a description had apparently served only to validate blanket notices covering the *whole* of a judicial district, and knowledge of these was normally acquired by prospective purchasers only in the indirect and unofficial way described above.

New Developments

A. *An Opinion by the Attorney General*

The new developments which have added to the title examiner's problem include first an opinion in September 1953, addressed by the Attorney General of Michigan to the officials in Berrien County, concluding that *blanket* notices covering federal tax liens "are not entitled to recordation."[13] Consequently, in any county which might follow the lead of Berrien County, title examiners who desired to furnish any protection at all to their clients with reference to liens under the old Internal Revenue Code were able to do so only by requiring local abstract companies to take on the more burdensome and expensive task of searching the files of the clerk of the appropriate federal district court.

One might think at first blush that the attorney general's opinion, rendered at this late stage, would have little practical significance, for it simply cited and confirmed the logic of the previously discussed *Youngblood* case. But in a practical context, the opinion could have rather unusual import. Almost all offices of record had ignored the *Youngblood* decision—indeed, many had not even known of it—and had continued to accept the blanket notices offered by the district director. It is not quite so likely, however, that they will long ignore a circulated opinion of the attorney general. This disturbing possibility has now been further complicated by a more recent development at the federal level—a matter discussed immediately below.

B. *The Impact of the Revenue Code of 1954*

Introductory note: the law. The more complicated of the new developments stems from the inclusion of two new sections in the Internal Revenue Code of 1954. The first of these, section 6323(b), concerns substance; the second, section 7851(a)(6), involves the matter of datelines. The former provides that "if the notice filed" in an office desig-

[13] Mich. Atty. Gen. Op. No. 1709 (1953).

nated by the state "is in such form as would be valid if filed with the clerk of the United States district court, . . . such notice shall be valid notwithstanding any law of the State or Territory regarding the form or content of a notice of lien."

In explaining this provision, the report of the House Ways and Means Committee states:

> "Subsection (b) is designed to eliminate any question as to the validity of the lien as against mortgagees, pledgees, purchasers and judgment creditors, where notice thereof *is filed* in the office designated by the law of the appropriate State or Territory, even though the notice does not comply with other requirements of the law of the State or Territory as to the form or content of the notice. For example, the omission from the notice of lien of a description of the property subject to the lien would not affect the validity thereof, even though the law of the State or Territory requires that the notice of lien contain a description of the property subject to the lien. Subsection (b) of this section is declaratory of the existing procedure and in accordance with the long continued practice of the Treasury Department."[14]

Enumeration of the possible interpretations. One thoroughly familiar with all of the ramifications of what we might label "The Michigan Story" will recognize that the draftsman of this particular amendment failed to carry out one of the most basic purposes of the new code, namely, "to speak clearly."

There were two possible ways in which Congress could have attempted to secure a favorable resolution from its point of view of the problem which had arisen in Michigan. Unfortunately, however, the draftsman left the direction of his main line of attack a little uncertain.

One of the possible interpretations rests on the assumption that the validation, called for by the amendment, of a "notice filed" refers to a notice offered *and accepted* for filing.[15] But standing alone, this in-

[14] H. Rep. No. 1337, 83d Cong., 2d sess., A406 (1954). Italics added.

[15] A number of jurisdictions even hold that although the official accepts an instrument, subsequent purchasers will be bound only by what the records thereafter actually show, and a mistake in processing by the official, e.g., placing the document in the wrong book, will not be charged against prospective purchasers of the property. The theory is that the person who offered the instrument for filing is in a better position to see that proper recording is carried out. Admittedly, however, there is a conflict on this point, for some jurisdictions have concluded that the word "filed" has been satisfied in the foregoing circumstances. See 5 TIFFANY, REAL PROPERTY, 3d ed., §1273, p. 32 (1939). Nevertheless, even in the latter type of jurisdiction, it is one thing to say that an instrument "is filed" though the official who accepts it thereafter makes a mistake in processing it, and quite another to say that an instrument is filed by the mere physical act of depositing it in the

terpretation would meet only one of the two problems which have developed in this state. Recall in this latter connection the fact that at least one register of deeds will not accept blanket notices. Even more important is the further fact that the Court of Appeals for the Sixth Circuit, and more recently the Attorney General of Michigan, ruled that registers of deeds *should not* accept such instruments, *at least in the absence of any statutory attempt by Congress to require our local offices of record to accept such notices.*[16] As previously indicated, absent any such attempt by Congress, these rulings will have the important practical consequence that the one county is now likely, in time, to be joined by others as they become aware, particularly, of the attorney general's ruling. Accordingly, if the new amendment is to provide the federal government with a completely favorable resolution of the problem in Michigan, it must also be interpreted so as to reflect at least one of two other possibilities.

The first of these is that Congress also contemplated a constitutional test of power by making a frontal assault, intending to prescribe that every register of deeds *must* accept blanket notices, at least he must if his state, like Michigan, has gone so far as to permit federal use of its offices of record in the case of other locally specified types of federal notices. The possibility just described would have been aimed at one of the specific holdings of the *Youngblood* case, which, as previously mentioned, was to the effect that Congress had not intended under the old code to test its power in this regard.

A second possibility is that Congress intended only to negate certain dictum contained in the *Youngblood* decision. It will be recalled that the court there had unnecessarily, and perhaps erroneously, implied that a federal officer was not authorized under the old code to validate *blanket* notices by filing them with the clerk of the federal district court if the state had authorized local filing—and this was said to be so even though the only local filing permitted, as in Michigan, was of those notices which contained an accurate description of any land against which a lien was asserted.

right office. For a recent case to the effect that the instrument must at least be received by the official custodian or his agent so that there will be a fair chance of proper recording, see In re Wagner's Estate, 182 Ore. 340, 187 P. (2d) 669 (1947).

[16] The writer does not mean to imply by this italicized statement that the attorney general would necessarily rule otherwise even if Congress did attempt by statute *to force* registers of deeds to accept such filings.

The primary questions of statutory construction might be summarized then as follows. Did the Congress intend by the new amendment:

(1) To validate blanket notices which are *in fact* accepted for filing by local registers of deeds even though such action by the latter official is contrary to what was assumed to be a valid local law;

(2) To require in effect that every register of deeds in this state must accept such blanket notices, the theory perhaps being that a state like Michigan which authorizes use of a local office with reference to other specified types of notices must allow the authorization to stand without the specified conditions, the latter being considered constitutionally ineffective; and/or

(3) To authorize district directors to file blanket notices with the clerk of the federal district court in any instance where a state will not permit a register of deeds to accept such.

Most likely construction of the statute. The most likely construction of the statute would result in a finding favorable to the federal government with reference to the first and third of the three foregoing questions, the same being accompanied by a holding, in the case of the second question, that the Congress had not demonstrated any clear-cut intention here to test its constitutional power *to force* registers of deeds in Michigan to accept blanket notices.

Some might wonder about the suggestion of a resolution favorable to the federal government with reference to the first question, thinking that a court might be constrained to feel that it was unbecoming of the federal government to attempt, and thus unlikely that it did intend, to validate blanket notices which a register of deeds *has permitted* to be filed if such action on his part was contrary to his duty under what was assumed to be a valid local law. Actually, however, this construction conforms as closely as any other to the literal language of the statute and, so construed, the provision is not at all unbecoming in the constitutional sense. There can be little doubt that Congress has the power to prescribe what shall be a sufficient notice to validate a *federal* tax lien. Indeed, the Supreme Court has already said that Congress as a matter of power could, and once did, prescribe that such liens would be valid as against a bona fide purchaser though no notice whatever was provided.[17] Recording, a fairly "late comer" in our legal

[17] United States v. Snyder, 149 U.S. 210, 13 S.Ct. 846 (1893).

order, is not predicated on any constitutional notion of due process. As a purely theoretical matter, and apart from any problem of retroactivity, the Congress has the competence to validate federal tax lien notices which have *in fact* been accepted for filing in any given place.

A serious constitutional question and a conflict between state and federal power would arise only if one finds, in answer to the second of the three statutory-construction possibilities, that Congress in effect attempted here *to require* registers of deeds in this state to accept *blanket* notices, the same being contrary to state law.

While there is some doubt as to whether or not the Congress possesses such power,[18] it is even more doubtful that a court would find that it intended to flex its muscles in this manner on the occasion of the adoption of the Revenue Code of 1954.

In this latter connection, it should be noted first that Congress left unchanged that provision in the code which recognizes that a state need not furnish a registry for the benefit of the federal tax authorities, and where the local registry is not made available, federal

[18] On the constitutional issue, the most proximate case is Federal Land Bank v. Crosland, 261 U.S. 374, 43 S.Ct. 385 (1923), upholding the right of a state to charge the federal government a reasonable filing fee to meet the expense of the registry system, but denying the right of the state to impose an added license tax of 15¢ for each $100 of the indebtedness.

The constitutional issue here might well turn on the question of whether the condition requiring a description bears a reasonable relation to the overall function of the state's registry system. Argument that it does would be based at least in part on the fact that the state requires as much from all of its own private residents. In this connection, the court in the *Youngblood* case had the following to say: "We adhere to the view, plainly indicated in our approval of the opinion of District Judge Raymond in the Maniaci case, supra, that there is nothing unreasonable in the requirement of the Michigan statute that a lien notice shall contain a description of the property upon which the lien is claimed, in order to enable such lien to affect the rights of third parties; and that confusion commonly resulting from indices of the names of persons is avoided and reasonable certainty attained by identifying the land upon which the lien is claimed. We still think the District Judge correctly stated: 'Such an interpretation in no wise affects the lien as against any interest the delinquent taxpayer may retain in the property, places no unreasonable burden upon the Commissioner, involves no unusual delegation of powers to state legislatures, and is appropriate to remedy the injustice the amendatory legislation [Sec. 3746 of the Compiled Laws of Michigan of 1929] was designed to meet.'" Youngblood v. United States, (6th Cir. 1944) 141 F. (2d) 912 at 914.

A charge that the state is engaged in unreasonable discrimination might be predicated on the fact that most of Michigan's own tax liens are valid without any recording whatever.

Other cases which might be considered in connection with the constitutional issue are Case v. Bowles, 327 U.S. 92, 66 S.Ct. 438 (1946); Johnson v. Maryland, 254 U.S. 51, 41 S.Ct. 16 (1920); Mondou v. N.Y., New Haven & Hartford Railroad Co., 223 U.S. 1, 32 S.Ct. 169 (1912); Ex parte Siebold, 100 U.S. 371, 25 L. Ed. 717 (1879); Kentucky v. Dennison, 24 How. (65 U.S.) 66 (1860); Prigg v. Pennsylvania, 16 Pet. (41 U.S.) 539 (1842); Commonwealth v. Closson, 229 Mass. 329, 118 N.E. 653 (1918); United States v. Flegenheimer, (D.C. N.J. 1935) 14 F. Supp. 584.

district directors are still expressly authorized to file their notices with the clerk of the appropriate federal district court.[19] One might raise a serious question as to whether a Congress which continued the life-span of the provision just described would actually at the same time mean to assert that a state which establishes a conditional authorization must allow that authorization to stand without the recited conditions.

A second and more persuasive reason for believing that a court will not here find any constitutional effort on the part of Congress to deny the right of a state to place a condition on the use of its registry system is attributable to the absence of *precise* language—in a code which was supposed to speak clearly—pointing in the direction of such an exertion of power. It is one thing to say as a purely federal matter that a filed notice "shall be valid [as against bona fide purchasers, etc.] notwithstanding any law of the State or Territory regarding the form or content of a notice of lien"[20] and quite another to say, which Congress did not, that a state which expresses a willingness to accept certain specified valid federal notices *must* accept every type of notice which the federal government characterizes as valid. Even if the Court felt a little pressed on this issue, one would, nevertheless, expect it to invoke the rule which sidelines a questionable construction that raises a serious constitutional issue in favor of an equally attractive alternative construction which avoids that issue. The invocation of that rule would seem to be particularly compelling here, for there is a sensible alternative construction, and the Court might well take account of the fact that the draftsman of this section did, after all, have before him the decision of the *Youngblood* case, wherein the court had expressly said, with reference to the old code, that it would not assume an attempt on the part of Congress to test its questionable power in this regard in the absence of precise language to that effect.

Finally, as a purely practical matter, it is unlikely that the draftsman would have seriously considered projecting the solution at this constitutional level if only because a decision favorable to the federal government on that plane would still fall short of guaranteeing that registers of deeds in this state would actually be required to accept such notices. The Treasury could still be defeated on this score should the Michigan Supreme Court find that the whole of the local authorization itself should fall if the condition requiring a description fell.

[19] I.R.C. (1954), §6323(a)(1) and (2).
[20] I.R.C. (1954), §6323(b).

Two considerations are important here. As before noted, Congress continued to recognize in the new code that a state need not furnish a registry system to the federal tax authorities. Acting on this premise, the local court might then strike down the basic authorization in the Michigan statutes (a purely local issue) on the theory that the condition requiring a description, though admittedly inserted into the basic authorization by an amendment, was, nevertheless, clearly constitutional when enacted. Since its validity would be rendered open to question here only as a result of an interpretation of a subsequent event, namely, federal legislation enacted twenty-five years after the local amendment, the court might well conclude that the whole should fall if the part does. This is the last of the reasons why one might well doubt that Congress would be found to have intended to launch a frontal assault *against the state,* as distinguished from prospective purchasers, etc., on the occasion when it adopted the new provision.

If one accepts the suggestions heretofore made with reference to the first and the second possible constructions of the statute, he must also accept the third, which was to the effect that the district director was authorized to file blanket notices with the clerk of the federal court in any instance where a state will not permit a register of deeds to accept such. The only alternative would be to charge the draftsman with having been unaware of the fact that at least one register of deeds will not permit blanket notices to be filed—and that others were likely to follow suit eventually. And if he was aware of this fact, surely he would not have stopped short of solving this problem in the new code, particularly in view of the fact that it was the most easily accomplished of the problems which he faced. However, since the statutory words, "such notice," now clearly include *blanket* notices,[21] it would seem that section 6323(a)(2) would now, in accordance with our third suggested construction, clearly permit the district director to validate those blanket notices applicable to dissenting Berrien County by filing them with the federal court.[22] Indeed the section referred to permits such filing "whenever the State or Territory has not *by law* designated an office within the State or Territory for the filing of *such notice.*" (Italics added.) This language even seems to be broad enough to permit the district director *to choose* to validate *all* blanket notices

[21] This is the obvious effect of the language contained in the extract quoted from the report of the House Ways and Means Committee, p. 397 supra.

[22] This writer contended in his earlier article on the subject in 51 MICH. L. REV. 183 (1952) that validation was accomplished by such a filing even under the old code.

which pertain to *any* part of Michigan by filing them with the clerk of the appropriate federal district court, and this is so even with reference to notices which pertain to taxpayers residing in, or land located in, a county where the register of deeds is willing, contrary to local law, to accept such notices. This follows from the fact that Michigan has not "by law" designated an office authorized to receive blanket notices. In fact, what is probably nothing more than careless drafting leaves considerable room for an argument, admittedly not conclusive, to the effect that *two valid* blanket notices could be filed with reference to the same tax claim against one taxpayer, one notice being filed with the county office where the register is willing to accept it, and one with the clerk of the appropriate federal district court.[23] In such event, the sweep of each notice would depend upon the place where it is filed. Those filed in a county office could cover only lands located within that county, whereas those filed with the federal court would cover lands within the whole judicial district. Under such circumstances, one could easily imagine the government relying upon the more sweeping notice if it proved advantageous. Since abstract companies generally check only those files in the county offices, a double filing could then, under the construction just suggested, constitute quite a trap for prospective purchasers, etc. The more frequently recurring situations in which this might be true are analyzed in this writer's earlier article to which reference has already been made.

Conclusion

Impact on title examiners of the foregoing developments with reference to blanket notices filed after December 31, 1954. From the foregoing discussion, it appears that the Federal Treasury has now clearly emerged victorious in its long-standing controversy with the Michigan Legislature. Unlike the situation under the old code, blanket notices

[23] Again the affirmative argument would emphasize that Michigan's failure "by law" to designate a place for filing blanket notices permits the district director, pursuant to federal law, to file such with the office of the clerk of the federal court. At the same time, the new amendment in §6323(b) would validate the duplicate notice which the register of deeds did in fact accept.

Opposing argument, to the effect that only the local filing would be valid in such case, would emphasize the underlying purpose of the original provision which first authorized the district director to resort to the office of the federal court clerk. Obviously, the purpose was to provide an alternative means of validation in the instance where, because of local law, this could not be accomplished by a local filing—a difficulty which would not be encountered today in view of the new federal amendment.

actually placed in the files of a register's office are now sufficient to validate federal tax liens. Secondly, the *probability* under the old law, that blanket notices filed with the federal court clerk accomplished a like purpose, has now been rendered much more certain under the new code. And finally, for the first time, it is even possible that duplicate notices filed in the two different offices would both be valid, though the territorial coverage of each would be different—the larger spreading over and beyond the smaller.

In this latter connection, title examiners should know that as of this date the district director continues to file such duplicate notices, one with the county office if that office will accept it, and the second with the appropriate federal court. Aside from the risk noted above to which this subjects the title examiner's client, he would have little about which to worry if he could be sure:

(1) That his local register of deeds will continue, contrary to state law, to accept blanket notices for filing; and

(2) That the federal government will continue to offer such notices to the local office in accordance with its prior practice. In this connection, as before stated, it appears now that the district director could choose in Michigan to file all of his blanket notices with, and only with, the clerk of the federal district court.

That these considerations are not just of academic interest stems from the previously noted fact that the certificates of most abstract companies indicate that the abstract does not cover matters on file with the federal court. Accordingly, protection of prospective purchasers, etc., depends equally upon continued violation of local law by registers of deeds and upon their being aided and abetted in this practice by the district director.

The further risk that an abstract company will not reflect those filings which the register of deeds did accept, and a few did not under the old code, is not now in an ultimate sense borne by the prospective purchaser. Since those filings which are accepted by the county officer now validate the federal lien, the abstract company is obviously under an obligation to reflect the notice of lien in its abstract, absent immunization through a protective clause.

Rather than have their clients run the two itemized risks above, to say nothing of the possible trap previously mentioned, title examiners in this state would still do well to band together in the property section of the State Bar Association in an effort to induce the Michigan Legislature to delete that part of the state's authorization which requires

an accurate description of any land against which a lien is asserted. The legislature might just as well recognize that the battle is over; it has been outflanked. Continuance of the local condition requiring descriptions can serve no useful purpose whatever. Its deletion, on the other hand, would assure that all registers of deeds would accept blanket notices, and it would at the same time force the district director to use *only* that local office rather than be in a position to decide for himself, as he now can, whether to continue the practice of filing in the local office.

A problem in retroactivity. The second relevant provision in the new code is contained in section 7851(a)(6)(B) and bears on the matter of datelines. According to it, the whole chapter bearing on collections, including the new lien provision, shall be applicable on and after January 1, 1955 "to all internal revenue taxes (whether imposed by this title or by the Internal Revenue Code of 1939). . . ."

This means that after the pivotal date, blanket notices which were placed on file, say in 1953, in the various county offices with reference to federal taxes of an earlier year now clearly constitute constructive notice with reference to those who become purchasers, etc., on or after January 1, 1955. It may also mean that blanket notices of the earlier period which the Wayne County Register of Deeds stamped "personal property only" would be validated in the context of the above example even with reference to land. It will even more likely mean in the latter instance and will certainly mean in those instances where the local office refused in an earlier period to accept such notices, that the blanket notices which the government did file in such cases with the appropriate federal district court clerk are now validated prospectively, as of January 1, 1955 and with reference to land *throughout the whole judicial district.*

These propositions will be valid, of course, only insofar as the blanket notices do not go back beyond the appropriate limitations dateline, a matter fully discussed in the earlier article by this writer.[24] With this limitation, however, it would now seem to be incumbent upon interested title examiners to require their abstract companies in such cases to check the files of the appropriate federal court clerk's office. Curative acts have been upheld far too many times for such a title examiner to rest on the assumption that this one will fail. Clients

[24] 51 MICH. L. REV. 183 at 198 (1952).

also have a right to expect more from their title examiners than would follow from a protective clause, placed in an opinion, designed only to immunize the title examiner who is unwilling or too lazy to see to it that the federal office is checked by the abstract company.

It would appear that we may pay a pretty stiff price in certain limited cases for the failure to recognize earlier, after forty-five or more other states had succumbed to the wishes of the Federal Treasury, that the Michigan Legislature was sure to lose this battle.