

Spouse's debt results in lien pre-divorce.



THINKSTOCK IMAGE

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Q: Can I notify the recorder of deeds office to let them know that my ex-husband wants to quitclaim a deed on our house to me? He owes a substantial amount of money to the IRS.

There is an IRS lien on the home, and I want to protect my interest in the property. What happens if he forges my signature? Would I be liable for the debt to the IRS? Would the recorder's office clerk get suspicious by how this all looks and notify me, as no one in their right mind would want a house with an IRS lien on it? I am disabled and trying to figure out how to protect myself.

A: If you and your ex-husband own the home, the best thing for you to do is to leave the title to the home as it currently is. If the debt to the IRS is only your ex-husband's, the lien of the IRS affects your ex-husband's share of the home. When and if the home is ever sold, the IRS lien would have to get satisfied from the proceeds of the sale. If his tax lien is more than half the value of the home at the time of the sale, you

may have to get a letter from the IRS with their agreement to release the lien on the home pending receipt of one half of the proceeds that come from the sale of the home.

There are a few other variables that we might have to consider. If the IRS lien is on you and your ex-husband, it won't matter what you do to the title to the home. The IRS lien will take precedence over the current owners or subsequent owners. If your ex-husband thinks that transferring his interest in the home to you is going to help, it probably won't. But it certainly won't look good to the IRS if they find out that you were trying to avoid paying a debt to the IRS.

The IRS probably won't take it personally if your ex-husband transfers his ownership interest in the home to you. He won't be better off. The IRS can still go after the home -- or at least his interest in the home. However, if the IRS knows that you are party to a plan to hide assets from the IRS, you too could get into trouble. If he does it without your consent and against your wishes and you have some sort of a paper trail

to show the IRS, you probably will come out no worse off than if he had done nothing.

At some point the IRS may want to enforce the lien on the home. But if the lien is only against your husband and not against you, the IRS may keep the lien on the home for as long as it takes until you decide to sell the home or refinance a loan or take out a new loan on the home. In the meantime, you should know that recorder of deeds or other governmental officials that are charged with filing or registering documents do not review documents for authenticity or validity. Some offices now provide services that will notify you in case a quitclaim deed is filed on your property, and if the office that has jurisdiction over your property has that service, you may want to sign up for it just in case.

Many of those offices now have documents online, and you can go online to see if any documents have been recorded or filed against the property. You may need to have the property tax parcel or index number for your home handy to input into the system. You can see if there is a document recorded,

then take action if there is. Frequently, there is little a homeowner can do to prevent people from forging signatures. It is a crime to do that. If a document is recorded that is a forgery, you may have to take action with the office that took in the document to see what action you might have to take to undo the recording. However, you might have to seek legal recourse to do that.

What we are saying is that you need to keep vigilant; get more information on the lien and how it affects your ex-husband, you and the property, and keep an eye on what gets recorded against the property. We might suggest that you talk to the attorney that helped you through your divorce and see if there is anything in the divorce decree that might help you given your particular situation.

If the divorce decree gave title of the home to you and the divorce predated the lien of the IRS, you might actually want your husband to give you his interest in the home and go to the IRS with the divorce decree to see if they will release the lien on the home given the timing of the divorce.