Can a Property Held in Trust Be Subject to Lien by the Government?

by Fraser Sherman, Demand Media

Putting property into a revocable living trust doesn't protect it from creditors. That includes when your creditor is the government. If you have a debt you can't pay, creditors can place a lien on trust property -- and if you owe the government, it can place a tax lien on trust assets. An irrevocable trust offers better protection, but it still isn't lien-proof.

Revocable Trust

When you place property in a revocable trust, you have the right to take it back out. As a result, the Internal Revenue Service and state income-tax collectors treat your assets the same whether they're in the trust or not. Putting a house in trust offers no protection against tax liens on the property. If you appoint someone else as trustee, though, the IRS can't attach a tax lien to your house for the trustee's debts.

Irrevocable Trust

An irrevocable trust is a bigger deal because it's very hard to take property back once you put it in the trust. Irrevocable trusts file their own tax returns, on Form 1041. If you don't pay next year's tax bill, the IRS can't usually go after the assets in your trust unless it proves you're pulling some sort of tax scam. If your trust earns any income, it has to pay income taxes. If it doesn't pay, the IRS might be able to lien the trust assets.

Property Tax

Putting real estate into a living trust or irrevocable trust doesn't affect the property taxes in any way, shape or form. The property tax bill has to be paid, whether your trust or you is the owner. If it isn't paid, the county can place a property-tax lien on the property, and any other property owned by the same taxpayer. If the lien isn't paid off, the county forecloses.

Spendthrift Trusts

A spendthrift or asset-protection trust is one set up to manage property for the beneficiary. If the beneficiary is a bad money manager, the trust keeps him on a strict budget and keeps the assets away from his creditors. It doesn't keep them away from the IRS, though; courts have ruled that if the beneficiary doesn't pay his taxes, the IRS can go after the trust assets. The same rule applies to beneficiaries of regular living or irrevocable trusts.