

**COMMITTEE ON WAYS AND MEANS  
SUBCOMMITTEE ON OVERSIGHT  
HEARING WITH IRS COMMISSIONER KOSKINEN**

**Wednesday, February 5, 2014**

**QUESTIONS FOR THE RECORD**

**Rep. Sam Johnson:**

Isn't it also true that the government can sue Americans who don't pay the individual mandate tax? Yes or no?

**Internal Revenue Service Response:**

Section 5000A(g)(2)(B)(i) specifically prohibits the IRS from filing a notice of a lien when a taxpayer has failed to pay the shared responsibility payment. The filing of a notice of federal tax lien is not, however, a prerequisite to filing suit under section 7403. Section 7403 authorizes the United States to enforce a federal tax lien with respect to a taxpayer's delinquent liability, or to subject any property, right, title, or interest in property of the delinquent taxpayer to the payment of a liability, by initiating a civil action against the taxpayer in the appropriate United States District Court. Thus, although section 5000A prohibits the IRs from filing notice of a lien, section 5000A is silent as to whether the IRs may use the litigation remedy in section 7403 to collect the shared responsibility payment from a taxpayer who has failed to pay.

This is a complicated are of the law, and the IRs has not yet decided the appropriateness of suing a taxpayer who has failed to pay the shared responsibility payment. The expense and time involved in prosecuting a suit and the amount of the unpaid liability are two of the factors the government considers when evaluating whether to institute a suit under section 7403.