

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:

ALAN VINCENT TUCKER,

Debtor.

ALAN VINCENT TUCKER,

Movant

v.

INTERNAL REVENUE SERVICE,

Respondent

:
: CASE NO. 07-64169-JB

:
: CHAPTER 13

:
: CONTESTED MATTER

ENTERED ON
AUG - 1 2007
DOCKET

ORDER

On June 7, 2007, debtor filed a motion to avoid lien of the Internal Revenue Service ("IRS"), citing 11 U.S.C. § 522 and claiming that the lien impairs debtor's claimed exemptions. (Docket #14). Debtor's motion must be denied because § 522(f) which permits lien avoidance in certain circumstances only applies to judicial liens or nonpossessory, nonpurchasemoney security interests. 11 U.S.C. § 522(f)(2005). Respondent's tax lien is neither a judicial lien or a nonpossessory, nonpurchase money security interest and may not be avoided under § 522(f). *In re Khoe*, 255 B.R. 581, 588 (E.D. Cal. 2000). Exempt property remains subject to properly filed tax liens. *In re Swafford*, 160 B.R. 246, 248 (Bankr. N.D.Ga. 1993). Accordingly, debtor's motion to avoid the IRS's lien is denied.

IT IS SO ORDERED, this 31st day of July, 2007.


JOYCE BIHARY
UNITED STATES BANKRUPTCY JUDGE

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