



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS**

Draft

Date Introduced:	01/28/02	Bill No:	AB 1845
Tax:	Sales and Use Special Taxes Property Taxes	Author:	Correa
Board Position:		Related Bills:	

BILL SUMMARY

This bill would provide that liens filed to enforce a victim’s restitution fine or order take priority over state tax liens.

ANALYSIS

Current Law

Under the various tax and fee laws administered by the Board, generally, if any tax, fee, interest, penalty, or other amount required to be paid is not paid when due, the Board may within 10 years after the amount is due file in the office of the County Clerk of any county, a certificate specifying the amount required to be paid, the name and address of the person liable, and a request that a judgment be entered against the person.

The law requires the county clerk immediately upon the filing of the certificate to enter a judgment for the people of the State of California against the person in the amount required to be paid. An abstract of the judgment or a copy of the judgment may then be filed for record with the county recorder of any county.

Article 1, Section 28(b) of the California Constitution provides, “It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to restitution from the persons convicted of the crimes for losses they suffer.”

Penal Code Sections 1202.4 and 1214 give crime victims the right to restitution orders and, under those orders, the status of judgment creditors against the criminals who have caused the victims’ economic losses.

Under Section 7170 of the Government Code, a state tax lien attaches to all property and rights to property, whether real or personal, tangible or intangible, including all after-acquired property and rights to property, belonging to the taxpayer and located in this state, with specified exceptions. Section 7170.5 provides that between competing state tax liens, or between a state tax lien and a federal lien, the lien that first comes into existence has priority. Therefore, under the law, if a victim has a restitution order

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against a taxpayer, and a state tax lien has already been filed, the state tax lien has priority over the restitution order.

Proposed Law

This bill would amend Section 7170.5 of the Government Code to provide that liens filed to enforce a victim’s restitution fine or order take priority over any liens filed by the state, regardless of when the lien was filed or comes into existence.

The bill would become effective January 1, 2003.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by Crime Victims United of California, an organization that uses education and political action to enhance public safety, promote crime-prevention measures, and strengthen the rights of crime victims. Its purpose is to eliminate the inequity in the law that enables the state to collect delinquent taxes before a victim who personally suffered economic loss from that same taxpayer can collect under his or her formal restitution order.
2. **This issue is being considered by the Interagency Tax Collection Committee.** Quarterly, the “Interagency Tax Collection Committee,” headed by the office of the Attorney General, meets to discuss common tax collection problems and concerns. The committee includes representatives from the Board of Equalization, the Franchise Tax Board, the Internal Revenue Service and the Employment Development Department. One of the matters the committee is currently considering is a tax lien treaty regarding tax lien priorities. This committee may provide a forum for the full exchange of ideas the Attorney General’s office hopes to generate.
3. **Bill should not have a significant impact on the Board.** We don’t anticipate a significant number of taxpayers in the Board’s database upon which the Board would have placed a lien on his or her property for delinquent revenues from which a victim would be seeking restitution. It is therefore expected that enactment of this measure would not materially affect the Board’s collection efforts through the use of liens.

COST ESTIMATE

Absorbable costs would be incurred in advising Board staff and revising internal manuals.

REVENUE ESTIMATE

It is anticipated that enactment of this measure would not materially impact the state’s revenues or collection efforts with regard to Board-administered fees and taxes.

Analysis prepared by:	Sheila T. Sarem	445-6579	03/15/02
Contact:	Margaret S. Shedd	322-2376	
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