



STATE BOARD OF EQUALIZATION

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October 15, 1993

BURTON W. OLIVER  
*Executive Director*

Mr. L--- M---  
The M--- Company  
XXXX East --- Avenue  
---, CA XXXXX

Dear Mr. M---:

Re: Release and Re-Recording of State Tax Lien  
SR --- XX-XXXXXX

Gordon Adelman has requested that I respond to your letter to him dated September 7, 1993.

In your letter, you ask -

1. Is it legal to re-record a lien previously released or abated for the same time period?
2. If the answer is yes, what is the statute of limitations in re-recording a lien and does that lien require the same lien number to be valid?

California Revenue and Taxation Code section 6757 provides that if any person fails to pay any amount imposed under the California Sales and Use Tax Law at the time that it becomes due and payable, the amount thereof shall thereupon be a perfected and enforceable state tax lien.

California Government Code section 7172 provides that a state tax lien continues in effect for 10 years from the date of its creation unless it is sooner released or otherwise discharged, and is extinguished 10 years from the date of its creation unless a Notice of State Tax Lien is recorded with a County Recorder's office where real property is located, or filed with the California Secretary of State's office. When a Notice of State Tax Lien is recorded or filed, the lien continues in effect for 10 years from the date of filing or recording and the lien can be

extended for an additional 10 years if a new Notice of State Tax Lien is filed or recorded prior to the expiration of the 10-year period from the last filing or recording.

It is our opinion that the statutory state tax lien provided by Revenue and Taxation Code section 6757 continues for a minimum 10-year period unless all tax, interest and penalties have been paid prior to the expiration of that period, or the statutory lien has been released by court order.

It is also our opinion that any number of Notices of State Tax Lien may be filed or recorded and then "released" in that 10-year period and the statutory state tax lien is unaffected. If prior to the expiration of the initial 10-year period, a Notice of State Tax Lien has either been recorded in a County Recorder's office or has been filed in the California Secretary of State's office and that Notice has not been "released", the statutory lien is extended for an additional 10-year period from the date of filing or recordation of that Notice pursuant to the terms of Government Code section 7172.

A subsequent Notice of State Tax Lien filed or recorded may have a different lien number from the previously filed or recorded Notice of State Tax Lien.

In your letter, you have cited Revenue and Taxation Code section 6736 et sec. These sections permit the Board to obtain a court judgment for a tax liability. Once a judgment has been obtained, a judgment lien may be imposed on a taxpayer's property. The time limitations affecting judgment liens are not relevant in your particular case as no court judgment has been obtained for the tax liability of the M--- Company.

Very truly yours,

THOMAS COOKE  
Tax Counsel

TJC:plh