6-33/100.00 Tax Collections and Liens

When a tax debt is owed, California and federal law allows an automatically statutory lien that attaches to all real or personal property the taxpayer owns or has a right to. A Notice of (State or IRS) Lien is sent to the taxpayer. If the taxpayer does not respond to Notice, pay in full, or set up a payment plan, a Notice of (State or IRS) Tax Lien may be filed. This secures and protects the tax debt owed to the county, state, or Internal Revenue Service (IRS). A Notice of (State or IRS) Tax Lien does not actually create a lien, it merely informs others of a lien that already exists by statute. However, the date of the Notice filing is important for determining the priority against other creditors.

An IRS Notice of Federal Tax Lien is publicly filed with the state and county jurisdictions. A California Notice of State Tax Lien can be:

- Recorded with one or more county recorders (real property)
- Filed with the California Secretary of State (personal property)

• 6-33/110.00 Priority of Tax Liens and Writs of Attachment or Execution

A tax claim of the State of California, or a county, does not have a preference over specific liens, such as those of attachments, created in favor of third parties before the state or county commences proceedings to enforce its claim, unless the statute creating the tax shows legislative intent to give it priority. (People v. Biscailuz, 95 CA 2d 635; Home Owners' Loan Corporation v. Hansen, 38 CA 2d 748) No general rule as to priority of such taxes can be given. The question as to whether a particular tax has priority over an attachment or execution levy can be determined only from the specific legislative enactment authorizing the tax involved. The legislative intent to give priority to a tax lien need not be declared in express terms if the intent appears by reasonable inference. (Guinn v. McReynolds, 177 CA 230)
