6-33/300.00 State of California Tax Collections and Tax Liens

• 6-33/310.00 Unemployment Insurance Contributions

The Legislature therefore declares that in its considered judgment the public good and the general welfare of the citizens of the State require the enactment of this measure under the police power of the State, for the compulsory setting aside of funds to be used for a system of unemployment insurance providing benefits for persons unemployed through no fault of their own, and to reduce involuntary unemployment and the suffering caused thereby to a minimum. (UIC 100) The program is managed by the Employment Development Department (EDD).

• • 6-33/310.10 State Tax Lien

If any employing unit or other person fails to pay any amount imposed under this division at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs, shall be a perfected and enforceable state tax lien. (UIC 1703)

• • 6-33/310.20 Priority of Lien

EDD has a priority where there has been a levy upon property of an absconding, concealed or absent employer even though he may be solvent. (UIC 1701(d)) It appears to have been a legislative intention to give the state priority over an attachment or execution levied in such cases. EDD does not have priority under any other circumstances over a prior attachment or execution, or a lien recorded or perfected prior to an EDD recorded lien. (UIC 1702, People v. Biscailuz 95 CA2d 635)

• • 6-33/310.30 Notices of Levy

If an employer is delinquent in the payment of any contributions, EDD may collect on property under a State Tax Lien by serving, personally or by first-class mail, a Notice of Levy on third-parties having in their possession or under their control the property belonging to the employer. The third-party has five days from the service of the Notice of Levy to turn the property over to EDD. (UIC 1755)

• • 6-33/310.40 Summary Judgments

If any employing unit is delinquent in the payment of any contributions, penalties or interest, EDD may file in the office of the Clerk of the Superior Court of Sacramento County, or with the clerk of the superior court of the county in which the employer has its principal place of business, a certificate specifying the amount of the contributions, interest and penalty due and the name and last known address of the employer liable therefor. The clerk of the court immediately upon the filing of the certificate shall enter a judgment for the State of California against the employer in the amount set forth in the certificate. (UIC 1815)

• • 6-33/310.50 Execution

Execution shall issue upon such a judgment upon request of the director in the same manner as execution may issue upon other judgments and sales shall be held under such execution as prescribed in the Code of Civil Procedure. In all proceedings under this section the director or his authorized agents may act on behalf of the state. (UIC 1816)

• • 6-33/310.60 Civil Action

In addition to any other procedures, EDD may file a regular civil action to collect delinquent contributions. (UIC 1852) EDD may obtain and collect on the judgment as in any other money judgment. The Sheriff's Department would have authority to act as levying officer as with other civil judgments. In such cases, refer to 6-20/000.00 WRIT OF EXECUTION (MONEY JUDGMENT) and/or 6-27/000.00 EXECUTION SALE.

• • 6-33/310.70 Warrants for Collection

EDD may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state. The warrant shall be directed to any sheriff, marshal, member of the California State Police Division, or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. (UIC 1785) EDD is not exempt from the standard fee for service and must be provided in advance of the service. (UIC 1786, GC 6100, 26720, CCP 685.100) All Sheriff's Department's fees, commissions and expenses for such services may be added to the amount to satisfy the same as if levied under a writ of execution. (UIC 1787)

• • 6-33/310.80 Preferred Labor Claims

Claims of the state for delinquent contributions are "subordinate" to preferred labor claims. (UIC 1701, CCP 1204(a)(1), 1206(a))

• 6-33/320.00 Income Taxes

• • 6-33/320.10 Tax Lien

If any taxpayer or person fails to pay any (Income Tax) liability imposed at the time that it becomes due and payable, the amount, (including any interest, additional amount, addition to tax, or penalty, together with any costs that may accrue in addition thereto) shall thereupon be a perfected and enforceable state tax lien. (RTC 19221(a))

• • 6-33/320.30 Summary Judgment

If any amount due or any amount that may be collected by the FTB as though it were a tax, is not paid, the FTB may file in the Office of the Clerk of the Court of Sacramento County, or any other county, a certificate specifying the amount due, the name and last known address of the taxpayer liable for the amount due, and the fact that the FTB has complied with all provisions of the law in the computation and levy of the amount due, and a request that judgment be entered against the taxpayer in the amount set forth in the certificate. (RTC 19201) The clerk of the court immediately upon the filing of the certificate shall enter a judgment for the people of the State of California against the taxpayer in the amount set forth in the certificate. (RTC 19202)

• • 6-33/320.40 Execution

Execution shall issue upon the judgment upon request of the Franchise Tax Board in the same manner as execution may issue upon other judgments, and sales shall be held under the execution as prescribed in the Code of Civil Procedure. (RTC 19205)

• • 6-33/320.60 Warrants for Collection

The Franchise Tax Board or its authorized representative may issue a warrant for the collection of any tax, interest, or penalty and for the enforcement of any lien. (RTC 19231) The warrant shall be levied and sale made pursuant to it in the same manner and with the same force and effect as a levy of and sale pursuant to a writ of execution. (RTC 19232) The Sheriff's Department's fee for service and expenses shall be paid in advance by the FTB. (RTC 19233) However, no levy may be issued on any property or right to property to be sold in accordance with the Code of Civil Procedure until a thorough investigation of the status of the property has been completed by the Franchise Tax Board. (RTC 19236(a)(1))

• 6-33/330.00 Sales Taxes

The State Board of Equalization has authority to collect delinquent state sales taxes similar to that provided for in the collection of state income taxes and unemployment insurance contributions. In addition, authorize the State Board of Equalization to seize and sell any property of the delinquent taxpayer not exempt from execution.

• • 6-33/330.10 Tax Lien

If any person is delinquent in the payment of the amount required, the State Board of Equalization may, not later than three years after the payment became delinquent, or within 10 years after the last recording of an abstract, be a perfected and enforceable state tax lien. (RTC 6702(a))

• • 6-33/330.20 Priority of Lien

No preference is given over prior attachments or executions except as to personal property where the taxpayer is an "absconding, concealed, or absent person. (REV 6756; Durkin v. Durkin 133 CA 2d 283) Preferred labor claims are expressly given priority. (REV 6756(d))

• • 6-33/330.30 Notice of Levy

If any third-party possesses or controls credit or personal property belonging to a retailer or other person liable for the delinquent amount, the SBE may collect on property under a State Tax Lien by serving, personally or by first-class mail, a Notice of Levy on third-parties having in their possession or under their control the property belonging to the retailer or delinquent person. (RTC 6703(a))

• • 6-33/330.40 Lawsuit for Tax

If any person is delinquent in the payment of the amount required, and a state tax lien is in force, the SBE may bring an action in the courts of this state, of any other state, or of the United States in the name of the people of the State of California to collect the amount delinquent together with penalties and interest. (RTC 6711)

• • 6-33/330.50 Summary Judgment

If any person is delinquent in the payment of the amount required, the SBE may file in the Office of the Clerk of the Court of Sacramento County, or any other county, a certificate specifying the amount due, the name and last known address of the taxpayer liable for the amount due, and the fact that the SBE has complied with all provisions of the law in the computation and levy of the amount due, and a request that judgment be entered against the taxpayer in the amount set forth in the certificate. (RTC 6736) The clerk of the court immediately upon the filing of the certificate shall enter a judgment for the people of the State of California against the taxpayer in the amount set forth in the certificate. (RTC 6737)

• • 6-33/330.60 Execution

Execution shall issue upon the judgment upon request of the board in the same manner as execution may issue upon other judgments, and sales shall be held under such execution as prescribed in the Code of Civil Procedure. (RTC 6739)

• • 6-33/330.70 Warrants for Collection

The SBE may issue a warrant for the collection of any tax, interest, or penalty and for the enforcement of any lien. The warrant shall be levied and sale made pursuant to it in the same manner and with the same force and effect as a levy of and sale pursuant to a writ of execution. (RTC 6776) The Sheriff's Department's fee for service and expenses shall be paid in advance by the SBE. RTC 6777