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STATE OF CALIFORNIA

**STATE BOARD OF EQUALIZATION**

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*Controller, Sacramento*

June 12, 1996

REDACTED TEXT

E. L. Sorensen, Jr.  
*Executive Director*

Re: Revenue and Taxation Code Section 7097

Dear REDACTED TEXT:

Gary Jugum has requested that I respond to your memorandum to him dated May 6, 1996 concerning the application of Revenue and Taxation Code section 7097.

In your letter, you state that Revenue and Taxation Code section 7097 provides that at least 30 days prior to the filing or recording of a lien, the Board shall mail preliminary notice to the taxpayer that a lien could be filed. You ask, in the situation where the Board files a nominee lien against real property held in the name of a third party, does the third party have a right to a 30 day preliminary notice that a lien could be filed against their property?

Revenue and Taxation Code section 7097 provides that:

“ . . . the notice shall specify the statutory authority of the board for filing or recording the lien, indicate the earliest date on which the lien may be filed or recorded, and state the remedies available to the taxpayer to prevent the filing or recording of the lien. In the event tax liens are filed for the same liability in multiple counties, only one preliminary notice shall be sent.”

When the Board files a Notice of State Tax Lien for the delinquent taxes owed by a taxpayer, with the exceptions provided in Government Code section 7170(b) and (c), the 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 . . . .”  
(Government Code section 7170(a).)

The intent of the Legislature in enacting Revenue and Taxation Code section 7097 was to provide the taxpayer with 30 days notice prior to the filing of the lien so that the taxpayer could take steps to reduce or eliminate the potential consequences of the filing of the lien.

When the Board records a nominee lien against real property, the lien attaches only to the real property transferred. The lien does not attach to other real or personal property owned by the third party and the nominee lien does not indicate that the third party is delinquent in any taxes required to be paid. Since Revenue and Taxation Code section 7097 only requires that the Board mail the preliminary notice "to the taxpayer" and not a third party grantee, it is our opinion that there is no legal requirement that the Board give prior notice to a third party grantee before a nominee lien is recorded against real property previously transferred to him or her by the taxpayer.

Very truly yours,

Thomas J. Cooke  
Tax Counsel

TJC/cmm