

170.0210**Memorandum**

To: Collection Files

Date: March 27, 1984

From: Donald J. Hennessy

Subject: Priority of State Tax Liens

REDACTED TEXT, Counsel for the Department of Motor Vehicles, phoned me today and discussed at some length a current enforcement case which they believe will eventually be litigated. The case involves rather expensive vehicles on which registration fees were not paid. The vehicles were used in California but improperly registered in another state. DMV has enforced collection of the registration fees and use tax. A holder of a purchase money security interest has demanded refund of such amounts as violating its purchase money security interest. DMV is taking the position that under Vehicle Code Section 9802(c) use tax has priority over the purchase money security interest. She called to discuss her opinion that, under our own collection statutes for use tax, our liens would not have priority over a purchase money security interest.

I told her she was correct that our liens would not have priority and that I was surprised to find out that their lien priorities are greater than ours. While she suspects this contradiction was not deliberate, i.e., that the drafting of their statute by their staff was without knowledge of our priorities, she will recommend that DMV defend its priorities as reasonable given the different functions of the two agencies. I have not been able to check out the DMV statutes as both copies of the Vehicle Code are in use. But, this difference as to priorities as to use tax is rather strange.

DJH:rar

cc: Mr. Ron Dick – Have you encountered this?