

Assembly Bill No. 1530

Passed the Assembly August 30, 2010

Chief Clerk of the Assembly

Passed the Senate August 24, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 19533 of, and to add Section 19722 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1530, Skinner. Tax administration: Franchise Tax Board: collection: restitution orders and other amounts.

Under existing law, income taxes and related taxes are collected by the Franchise Tax Board.

This bill would authorize the Franchise Tax Board to collect restitution orders or any other amounts imposed by a court of competent jurisdiction for criminal offenses upon a person or entity that are due and payable to the Franchise Tax Board in any manner provided by law for the collection of delinquent income tax liability, as provided. This bill would authorize the Franchise Tax Board to retain specified amounts for costs of investigation incurred by the Franchise Tax Board.

Existing law establishes a priority for application of amounts collected, in the event that a debtor has more than one debt being collected by the Franchise Tax Board and the amount collected is insufficient to satisfy the total amount owing.

This bill would add to this priority for application of amounts collected, the amounts authorized to be collected by the Franchise Tax Board described above.

The people of the State of California do enact as follows:

SECTION 1. Section 19533 of the Revenue and Taxation Code is amended to read:

19533. In the event the debtor has more than one debt being collected by the Franchise Tax Board and the amount collected by the Franchise Tax Board is insufficient to satisfy the total amount owing, the amount collected shall be applied in the following priority:

(a) Payment of any delinquencies transferred for collection under Article 5 (commencing with Section 19270) of Chapter 5.

(b) Payment of any taxes, additions to tax, penalties, interest, fees, or other amounts due and payable under Part 7.5 (commencing with Section 13201), Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part, and amounts authorized to be collected under Section 19722.

(c) Payment of delinquent wages collected pursuant to the Labor Code.

(d) Payment of delinquencies collected under Section 10878.

(e) Payment of any amounts due that are referred for collection under Article 5.5 (commencing with Section 19280) of Chapter 5.

(f) Payment of any amounts that are referred for collection pursuant to Section 62.9 of the Labor Code.

(g) Payment of delinquent penalties collected for the Department of Industrial Relations pursuant to the Labor Code.

(h) Payment of delinquent fees collected for the Department of Industrial Relations pursuant to the Labor Code.

(i) Payment of delinquencies referred by the Student Aid Commission.

(j) Notwithstanding the payment priority established by this section, voluntary payments designated by the taxpayer as payment for a personal income tax liability or as a payment on amounts authorized to be collected under Section 19722, shall not be applied pursuant to this priority, but shall instead be applied as designated.

SEC. 2. Section 19722 is added to the Revenue and Taxation Code, to read:

19722. (a) (1) Restitution orders or any other amounts imposed by a court of competent jurisdiction for criminal offenses upon a person or any other entity that are due and payable to the Franchise Tax Board may be collected by the Franchise Tax Board in any manner provided by law for collection of a delinquent income tax liability, including, but not limited to, issuance of an order and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding orders for taxes.

(2) Amounts imposed by a court of competent jurisdiction as an order of restitution for criminal offenses shall be treated as final and due and payable to the State of California on the date that amount is established on the records of the Franchise Tax Board.

(b) Part 10 (commencing with Section 17001), this part, Part 10.7 (commencing with Section 21001), and Part 11 (commencing with Section 23001) shall apply to amounts collected under this section in the same manner and with the same force and effect and to the full extent as if the language of those laws had been incorporated in full into this section, except to the extent that any provision is either inconsistent with this section or is not relevant to this section.

(c) Notwithstanding Chapter 6 (commencing with Section 19301), no refund or credit may be allowed for any amounts paid or payments applied under this section.

(d) Amounts authorized to be collected pursuant to this section shall accrue interest at the greater of the rate applicable to the amounts being collected or the rate provided under Section 19521 from and after the date the amounts are established on the records of the Franchise Tax Board.

(e) Amounts authorized to be collected pursuant to this section are not subject to Section 19255.

(f) Notwithstanding Section 19204 or Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code, any portion of the amounts authorized to be collected under this section that remain unsatisfied may be collected by the recording of a Notice of State Tax Lien. The Franchise Tax Board may record or extend a recorded Notice of State Tax Lien at any time until the amount due, including any accrued interest, is paid in full.

(g) The Franchise Tax Board may retain those amounts ordered to be paid by a court of competent jurisdiction by a person or any other entity for the costs of investigation incurred by the Franchise Tax Board.

(h) This section shall apply on and after January 1, 2011, to amounts authorized to be collected pursuant to this section that are due and payable to the Franchise Tax Board before, on, or after January 1, 2011.

Approved _____, 2010

Governor