

Senate Bill No. 720

CHAPTER 69

An act to amend Section 19221 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 5, 1995. Filed with
Secretary of State July 6, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 720, Committee on Revenue and Taxation. Taxation: tax lien: bankruptcy proceeding.

Existing law provides that any unpaid personal income or bank and corporation tax liability that is due and payable shall become a perfected and enforceable state tax lien, as specified.

This bill would provide that, during any period in which under federal law an automatic stay of certain actions operates in a bankruptcy proceeding, any state tax lien that would otherwise attach to property shall not take effect, unless the tax is a debt of the debtor that will not be discharged in the bankruptcy proceeding and the property or its proceeds are transferred out of the bankruptcy estate to, or otherwise revested in, the debtor.

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

SECTION 1. Section 19221 of the Revenue and Taxation Code is amended to read:

19221. (a) If any taxpayer or person fails to pay any liability imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001) at the time that it becomes due and payable, the amount thereof, (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. This lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts of any liability disclosed on a return filed on or before the date payment is due (with regard to any extension of time to pay), the date the amount is established on the records of the Franchise Tax Board, except that in no case will it be prior to the day after the payment due date;

(2) For amounts of any liability disclosed on a return filed after the date payment is due (with regard to any extension of time to pay),

the date the amount is established on the records of the Franchise Tax Board;

(3) For amounts of any liability determined under Section 19081 or 19082 (pertaining to jeopardy assessments), the date the notice of the Franchise Tax Board's finding is mailed or issued;

(4) For all other amounts of liability, the date the assessment is final.

(c) Notwithstanding subdivision (a), during any period that Section 362 of Title 11 of the United States Code applies, any tax lien that would otherwise attach to property by reason of subdivision (a) shall not take effect, unless the tax is a debt of the debtor that will not be discharged in the bankruptcy proceeding and the property or its proceeds are transferred out of the bankruptcy estate to, or otherwise revested in, the debtor.

