

STATE TAX LIEN

INTRODUCTION

The Employment Development Department (EDD) is authorized to file with the office of the Secretary of State and record with any county recorder, a Notice of State Tax Lien specifying the amount of contributions, interest, and penalties and costs due the Department.

California Unemployment Insurance Code Section 1703 provides:

- (a) If any employer or other person fails to pay any amount due this Department at the time that it becomes due and payable, that amount (including penalty, interest and costs), shall be a perfected and enforceable tax lien.
- (b) For the purposes of this section, amounts are "due and payable" on the following dates:
 - (1) For amounts disclosed on a return received by the Department or for penalties, the date of the notice to the taxpayer of the amount due.
 - (2) For any amount reestablished under the provisions of Section 1875, the date of a written notice of rescission.
 - (3) For all other amounts, the date the assessment is final.

NOTICE OF STATE TAX LIEN

The recording of a Notice of State Tax Lien must take place within 10 years of the date the lien arose. The recorded lien is valid for 10 years and may be extended in 10 year increments. The Department's lien is enforceable for all obligations which exist against the owner of the property.

EFFECT OF A STATE TAX LIEN

The Department's tax lien is a perfected and enforceable State Tax Lien on all property and rights to property, whether real or personal, tangible or intangible, including all subsequent acquired property and rights to property belonging to the taxpayer.

Prior to the actual recording of a Notice of State Tax Lien, the following statement appears on the Employer Account Statement (DE 2176): "Our previous notice to you for payment has created a perfected and enforceable State Tax Lien under the provisions of Section 1703. Failure to pay these delinquent liabilities immediately will cause a Notice of State Tax Lien to be recorded against you pursuant to Government Code Section 7171. A Notice of State Tax Lien constitutes public notice to your creditors and will encumber your real and/or personal property." The taxpayer should immediately pay the liability in full to avoid the recording of a Notice of State Tax Lien. If the liability cannot be paid in full, immediately contact the Department at the phone number indicated on the notice. **In all instances of an approved payment plan, EDD will record a Notice of State Tax Lien to protect the Department's interest.** A copy of the Notice of State Tax Lien is mailed to the taxpayer's address as it appears on the Department's records.

The Notice of State Tax Lien states that the amount of the unpaid tax is a lien on all real and personal property and the rights to such property, including all subsequently-acquired property and rights to property belonging to the taxpayer.

A recorded Notice of State Tax Lien is a matter of public record, and the employer's credit rating and credit reports may be adversely affected by a State Tax Lien. The EDD does not directly provide credit reporting agencies with State Tax Lien information. This information is acquired from the counties.

Lien amounts are not adjusted after the lien is filed and/or recorded. An amended lien will not be issued when payments are made to reduce the liability.

HOW TO IDENTIFY EDD TAX LIENS

Other taxing agencies such as the Internal Revenue Service, Board of Equalization and Franchise Tax Board, also impose and file tax liens. EDD tax liens can be identified as follows:

The letter "K" followed by five digits. For example, K12345

The letter "M" followed by six digits. For example, M123456

The letter "W" followed by nine digits. For example, W931123456

ESCROW INSTRUCTIONS

Generally, State Tax Liens must be paid in full, with certified funds (cash, cashier's check, or money order), prior to the transfer of title of any real property. A demand for payment and the release of paid EDD liens should be requested in writing by mailing or faxing the request to:

Employment Development Department
P.O. Box 826203, MIC 92 G
Sacramento, CA 94230-6203
FAX Number: (916) 464-2711

Please include the name, address, and phone number of the institution requesting the demand, the employer account number, lien certificate number, and whether the demand should be mailed and/or faxed.

RELEASE OF LIEN

A Release of Lien is mailed to the County Recorder's office and the Secretary of State within 40 days after the liability, including penalty and interest, has been paid in full. The Release of Lien is not mailed directly to the taxpayer. A copy of the Release of Lien may be obtained from the County Recorder's office. A Status of Lien Release letter will be sent to the taxpayer if requested.

The cost of recording the Release of Lien is the responsibility of the taxpayer and is collected by the Department in the same manner as the law provides for collection of the tax.

FOR FURTHER INFORMATION

Employers who have questions regarding a State Tax Lien should contact our Employment Tax Call Center at 1-888-745-3886 or visit their local Employment Tax Office (ETO). For the location of the nearest ETO, look in the "State Government" section of the White Pages in the local telephone directory, under "Employment Development Department."

Equal Opportunity Employer/Program. Auxiliary services and assistance available to persons with disabilities.