BOARD OF TAX APPEALS
STATE OF LOUISIANA

THAO NGUYEN

VERSUS **DOCKET NO. 14413D**

SECRETARY,
DEPARTMENT OF REVENUE
STATE OF LOUISIANA

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JUDGMENT WITH REASONS

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On July 1st, 2026, this matter came before the Board for hearing on the Exception of Prematurity filed by the Secretary of the Department of Revenue, State of Louisiana ("Department"). Presiding at the hearing were Chairman Francis J. "Jay" Lobrano, Vice-Chair Judge Lisa Woodruff-White (Ret.), and Michael G. Gaffney. Present before the Board were Matthew Treuting, attorney for Thao Nguyen ("Taxpayer") and Miranda Scroggins, attorney for the Department. At the conclusion of the hearing, the Board took the matter under advisement. In accordance with the attached Written Reasons, the Board now rules as follows:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Department's Exception of Prematurity be and is hereby OVERRULED.

JUDGMENT RENDERED AND SIGNED AT BATON ROUGE, LOUISIANA, THIS 3rd DAY OF SEPTEMBER, 2026.

CHAIRMAN FRANCIS J. "JAY" LOBRANO
LOUISIANA BOARD OF TAX APPEALS

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WRITTEN REASONS

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Background

The Taxpayer alleges that the Department garnished her Capital One bank account on June 17, 2025. In her Petition, she seeks relief from an otherwise final assessment under La. R.S. 47:1565(C)(2)(b). Her Petition was filed within thirty days of her receipt of a notice of levy from Capital One ("Levy Notice"), which stated:

> **Important info about a legal court order concerning your account(s)**
>
> Dear THAO THU NGUYEN,
>
> On June 17, 2025, Capital One received a legal order instructing us to take **$69,786.28** from your bank account(s) and turn it over to **Louisiana Department of Revenue**. The legal order was issued in **LA**. Please note that the legal order may require us, in certain circumstances, to collect additional amounts deposited in your bank account(s) after the date of this letter.

Please read this letter carefully and consider consulting a lawyer or seeking free legal assistance from a source such as a legal aid society. Capital One cannot provide legal advice to you. Capital One will comply with this legal document and any related orders as required by applicable law.

What's a garnishment?

A garnishment (also known in some states as a levy) is a legal order that allows a creditor to remove money from your bank account(s) to satisfy a debt you owe. In other words, if you owe money to a creditor, the creditor can obtain a court order directing your bank to take money out of your account(s) and turn it over to the creditor to pay off your debt. The bank is legally obligated to comply with the terms of the court order.

Who's collecting against my account?

The creditor who is seeking to collect money from your account(s) with the **Levy** is **Louisiana Department of Revenue**. This may be someone to whom you owe money directly or an agency that was hired to collect money on someone else's behalf. If you wish to contact the Louisiana Department of Revenue, you may do so using the following contact information:

- **Contact Name** Louisiana Department of Revenue

- **Creditor Name (who is owed money)** Louisiana Department of Revenue

- **Contact's Phone Number** (855) 307-3893

- **Docket Number/Case Number** 1593293-001

- **Type of Court Order** Levy[1]

The Taxpayer claims that the Levy Notice relates to a Notice of Assessment and Notice of Right to Appeal to the Louisiana Board of Tax Appeals for Sales and New Orleans Exhibition Hall Authority Tax in the amount of $70,212.09 for the Tax Periods January 31, 2015, through March 31, 2016, issued by the Department on April 3, 2025 ("Assessment"). A copy of the Assessment accompanied the Taxpayer's Petition, and another copy of the Assessment was introduced by the Department as an exhibit at the hearing. The Assessment, which is addressed to the Taxpayer, lists

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1 July 1, 2026 Exception Hearing Taxpayer Exhibit A [emphasis in original].

V Restaurant Group LLC ("VRG") under "Company Name." The Taxpayer avers that she ceased to be a responsible officer of VRG in October 2014.[2]

On September 8, 2025, the Department filed the Exception of Prematurity presently under consideration. In the Exception, the Department asserts that it has not issued any "notice related to a seizure, levy, garnishment, offset, or other collection action, whether occurred or intended" to the Taxpayer. The Department's position is that La. R.S. 47:1565(C)(2)(b), discussed below, requires that a notice of collection action be issued by the Department. The Taxpayer maintains that her receipt of the Levy Notice from Capital One constituted receipt of a notice of seizure, levy, garnishment, offset, or other collection action as described in La. R.S. 47:1565(C)(2)(b).

Discussion

La. R.S. 47:1565(C)(2)(b) provides:

> A person may petition the Board of Tax Appeals within thirty days of receipt of a notice related to a seizure, levy, garnishment, offset, or other collection action, whether occurred or intended, related to an assessment that qualifies for relief pursuant to [La. R.S. 47:1565(C)(1)].[3]

The exception of prematurity is a dilatory exception provided for in La. C.C.P. art. 926(A)(1). The function of the dilatory exception of prematurity is to delay, rather than defeat, the action. *See* La. C.C.P. art. 923. The exception of prematurity tests whether a purported cause of action was ripe for judicial determination when the Petition was filed. *Williamson v. Hospital Serv. Dist. No. 1 of Jefferson*, 2004-0451, p. 4 (La. 12/1/04), 888 So.2d 782, 785. A petition is premature when filed before the right to appeal accrued. *See Jefferson Door Co., Inc. v. Cragmar Const., L.L.C.*, p. 3 (La. App. 4 Cir. 1/25/12), 81 So.3d 1001, 1004. The party filing the exception bears the burden of proving that the Petition was filed prematurely. *Williams v. Wood*, 2019-

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2 The Board makes no comment on the merits of Taxpayer's substantive allegations.

3 Substitution added.

0894, p. 5 (La. App. 4 Cir. 3/25/20), 294 So.3d 581, 585 (citing *Watson v. Woldenberg Vill., Inc.*, 2016-0159, p. 4 (La. App. 4 Cir. 10/5/16), 203 So.3d 317, 321). La. C.C.P. art. 930 provides that evidence may be introduced to support or controvert the dilatory exception when the grounds do not appear from the petition.

It is undisputed that the Petition was filed within thirty days of receipt of the Levy Notice. It is equally undisputed that the Levy Notice was not issued by the Department. Rather, the actual dispute here is whether La. R.S. 47:1565(C)(2)(b) exclusively applies to notices issued by the Department. Therefore, the question presented is one of statutory interpretation.

The starting point in the interpretation of any statute is the language of the statute itself. *M.J. Farms, Ltd. v. Exxon Mobil Corp.*, 2007-2371, p. 13 (La. 7/1/08), 998 So.2d 16, *amended on reh'g* (Sept. 19, 2008). In the interpretation of the Revised Statutes, "[w]ords and phrases shall be read with their context and shall be construed according to the common and approved usage of the language." La. R.S. 1:3. "When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the legislature." La. C.C. art. 9; La. R.S. 1:4. However, "when the language of the law is susceptible of different meanings, it must be interpreted as having the meaning that best conforms to the purpose of the law." La. C.C. art. 10. Furthermore, "when the words of a law are ambiguous, their meaning must be sought by examining the context in which they occur and the text of the law as a whole." La. C.C. art. 12.

First, the Board notes that La. R.S. 47:1565(C)(2)(b) refers to **a** notice, not **the** notice. The statute also does not, on its face, state that any particular entity must be the one to issue said notice. In fact, the statute does not actually mention **issuance** of a notice at all. Rather, it mentions the "**receipt**" of a notice. Thus, the clear language of the statute does not support the Department's position.

Nor is the Department's position supported by the further application of the principles of statutory construction. "Laws are presumed to be passed with deliberation and with full knowledge of all existing ones on the same subject." *Theriot v. Midland Risk Ins. Co.*, 95-2895, p. 4 (La. 5/20/97), 694 So.2d 184, 186. Additionally, when the legislature specifically enumerates a series of things, the "omission of other items, which could have been easily included in the statute, is deemed intentional." *Id.*, 95-2895, p. 4, 694 So.2d at 187. The legislature could have specified a particular issuing entity in La. R.S. 47:1565(C)(2)(b), but it did not do so.

Second, it would be absurd to hold that the Petition is premature. Here, the allegations are that the funds in the Taxpayer's bank account have actually been seized. Yet, the Department maintains that it has issued no notice of seizure to the Taxpayer. The legislature could not have intended for the Department to bypass La. R.S. 47:1565(C)(2)(b) by simply seizing funds without notice.

Third, the Board's conclusion is bolstered by a review of the legislative history of La. R.S. 47:1565(C)(2)(b). This provision was enacted in 2024 Act 307. During testimony before the Senate Revenue and Fiscal Affairs Committee, former Local Tax Judge and Vice-Chair, now Justice Cade R. Cole stated that the provision was intended to provide a means of redress for clearly incorrect but final assessments after the taxpayer was notified of a collection action by the Department.[4] Justice Cole also testified that the circumstances leading up to such a collection action would generally entail the taxpayer's failure to respond to several notices from the Department. It is evident from Justice Cole's testimony that Act 307 was intended to provide relief even when a taxpayer was only roused to action after the Department seized their bank account, garnished their wages, put a lien on their car, or took some

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4 La. 2024 Reg. Session Senate Revenue and Fiscal Affairs Committee, Act 307, SB 191 (3/19/24), available at https://senate.la.gov/s_video/VideoArchivePlayer?v=senate/2024/03/031924RF.

other collection action. Such a collection action is exactly what precipitated the filing of the Petition in this case.

La. R.S. 47:1565(C)(2)(b) is intended to provide a final opportunity for a taxpayer to demonstrate that their property has been, or will be, seized because of a clear error of fact or law. Normally, a taxpayer has such an opportunity during the sixty days following the issuance of an assessment. A taxpayer who delays and later seeks relief under La. R.S. 47:1565(C)(2)(b) is held to a correspondingly higher evidentiary burden than if they had timely appealed from a notice of assessment. However, the Department's interpretation would foreclose even that last chance for a remedy by reading a technicality into the law that is simply not there.

Conclusion:

On its face, La. R.S. 47:1565(C)(2)(b) does not specify a notice issued by the Department. The law is clear and must be applied as written. Even if the Board were to continue searching for a different legislative intent, no such intent can be inferred by applying the principles of statutory construction. Finally, it would be absurd in this case to find that the Petition is premature when the actual seizure of the taxpayer's bank account is alleged to have already occurred. Dismissing the Petition on a technicality is not supported by the relevant legislative history, which shows an intent to provide taxpayers who are the victims of a clear error of law or fact with one last chance to avoid the seizure of their property. For these reasons, the Board finds that the Petition is not premature.

BATON ROUGE, LOUISIANA, THIS 3rd DAY OF SEPTEMBER, 2026.

FOR THE BOARD:

CHAIRMAN FRANCIS J. "JAY" LOBRANO
LOUISIANA BOARD OF TAX APPEALS