

Book VII.  
Title LXXIII.

Concerning the privileges of the fisc.  
(De privilegio fisci.)

Bas. 9.9 et seq.

Headnote.

See also as to the rights of the fisc C. 8.14 and C. 10.1 and subsequent titles. The fisc had an implied lien on the property of the debtor, not only for taxes due, but also for debts due under a contract between the debtor and the fisc. This is illustrated by various laws herein and by laws under C. 8.14.

7.73.1. Emperor Antoninus to Eutropia.

If the property of your husband was seized on account of arrears in his account as chief centurion (primipili), the property which you can clearly show to be yours, will be separated and restored to you.<sup>1</sup>

7.73.2. The same to Valeriana.

Although judgment was rendered in your favor against your former husband for the return of your dowry, still if he made a contract with the fisc before his property became obligated for the dowry, the right of the fisc is superior to yours. But if he began to be obligated to the fisc subsequent to your lien on his property, its priority of right (over you) ceases.

Promulgated October 19 (213).

Note.

Before Justinian, the lien or mortgage which was prior in time was prior in right. But except perhaps for taxes (C. 4.46.1), and except, perhaps, for debts due from a primipilar (quartermaster), as mentioned in C. 12.62.3, the wife's lien for a dowry was made superior to other liens by Justinian. C. 8.17.12 and note.

7.73.3. The same to Juliana.

If you did not have the right of the fisc transferred to you, when you paid it money on behalf of your husband, and you received no lien on his house or other property, you have a personal action against him, but no preference over the fisc, which recently as you say farmed the collection of customs' duties out to him, since under such contract all the property which he has or which he had at the time when he became lessee is subject to a lien of the fisc. But with the fisc kept harmless from loss, you are not forbidden to sue your husband for the money which you paid for him to the fisc.<sup>2</sup>

Promulgated December 30 (213).

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<sup>1</sup> [Blume] See C. 9.49.9.

<sup>2</sup> [Blume] See note C. 8.18.1.

7.73.4. The same to Quintus.

If, as you yourself state, a debtor who owned a farm sold it (to you) before he owed anything to the fisc, my procurator will order that you shall not be disturbed. For although he became its debtor subsequently, the property which had passed out of his hands, could not become subject to any lien of the fisc on that account.

Promulgated June 29 (215).

7.73.5. Emperor Alexander to Magna.

If a creditor is compelled to pay money which he has received from a debtor, over to the fisc for some lawful reason, it is owing without interest, because no interest was contracted, and what is taken away, under a special privilege, is property which belongs to the fisc.

Promulgated May 18 (225).

Note.

Interest was not payable except under contract, as noted in various places in this Code. See headnote to C. 8.37.

7.73.6. Emperor Gordian to Severiana.

Since you state that your father was a debtor of the fisc, and thereafter, upon your marriage, gave you the property in question, you perceive that the procurator could, in enforcing the right of the fisc, nullify the gift by reason of its lien.

Promulgated July 7 (240).

7.73.7. Emperors Valerian and Gallien and Caesar Valerian to Diodorus.

If the proper judge assigned and transferred the right of the fisc to you when you, on behalf of the debtor, paid it the money due from the latter, the property which you hold by reason of that fact cannot be disturbed by those creditors whose rights were inferior to that of the fisc.<sup>3</sup>

Promulgated May 18 (259).

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<sup>3</sup> [Blume] See 18 Cujacius, Obs. c. 40; and note C. 8.18.1.