

State of California

Unsecured Property Tax Collection Procedural Manual

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California State Controller's Office

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INTRODUCTION

The *Unsecured Property Tax Collection Procedural Manual* is produced by the State Controller's Office, Local Government Programs and Services Division, Property Tax Standards Unit. This manual provides comprehensive instructions and recommendations on the collection techniques available to county tax collectors.

Chapters I-IV provides a general overview of the unsecured collection process and outlines several preliminary collection procedures and techniques to be conducted prior to more complex secondary collection efforts. Unless otherwise indicated, all statutory references cited are from the Revenue and Taxation Code.

The State Controller's Office forms referred to within this manual are samples that contain all of the required information pursuant to statute. The county tax collector's office may use the sample forms or they may create their own forms. Forms should contain all information required by statute.

NOTICE: This publication is provided as a general resource for California's county tax collectors. Processes and forms are recommended to assist the counties in performing their duties under the law. This publication is written primarily for use by county tax collectors and does not constitute legal advice. This publication has been reviewed by The Committee on County Tax Collecting Procedures and members of the California Association of County Treasurers and Tax Collectors.

Chapter I: Unsecured Tax Collection Overview

Section 1.1: Unsecured Property Tax Overview

1.1.1 General Definition

Unsecured property tax is an ad-valorem (value based) property tax that is the liability of the person or entity assessed. The assessment of unsecured property taxes against an individual constitutes a personal lien against the owner of record, not a lien against the property. The tax is assessed to the owner of record as of the January 1 lien date and is the responsibility of the owner of record regardless of any sale or transfer of the property.

Unsecured property tax is applied to personal property that is tangible or moveable and is not attached to real estate. Taxable personal property consists of but is not limited to; personal business property such as furniture, fixtures, machinery and equipment, and luxury items such as boats, jet skis, and planes. The Assessor is responsible for making the distinction between secured property and unsecured property ([§134\(a\)](#)).

Improvements to land are also considered unsecured property when they are not permanently attached to the land or they are made to land owned by another person or entity. For example, if a restaurant owner leases space in a building and renovates the space for his or her business by adding restrooms and a kitchen, unsecured property taxes would be due on the increased value of the building as a result of the added restrooms and kitchen.

Other types of unsecured property include:

- Mobile homes;
- Floating homes;
- Vessels;
- Most [possessory interests](#), except when a homeowner's exemption applies;
- Mining claims;
- Racehorses;
- Aircraft; and
- Rubber-tired equipment.

1.1.2 Timeline

This timeline outlines pertinent dates for unsecured property tax collection procedural manual and applies to annual tax bills. It is not applicable to corrected or escape tax bills.

| | |
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| Jan 1 | Lien is established (§2192) |
| Jan 1 | Assessor assesses value of unsecured property and taxes become due (§401) |
| Jan 1 | Unsecured property taxes on racehorses become due and payable (§5761) |
| Jan 2 | First day to file affidavit for documented vessel (on or before February 15) (§255 , §275.5) |
| Jan 15 | Annual statement (inventory) of airplanes including owner names and addresses from public and private airports due (§5366) |
| Jan 31 | First bi-annual report of mobile home addresses licensed to the Department of Housing Community and Development due to the auditor (next report due July 31) (Hea. & Saf. Code §18077.5). Report also goes to the State Controller's Office (§5841) |
| Jan 31 | Timber Tax due for the October 1 – December 31 period (§38401) |
| Feb 15 | Unsecured property taxes on racehorses are delinquent at 5:00PM (§5762) |
| Apr 1 | Last day to file <i>Business Property Statement</i> (§441(b)) |
| Apr 30 | Timber Tax due for the January 1 – March 31 period (§38401) |
| May 7 | Last day to file <i>Business Property Statement</i> before penalties apply (§441(b) , §463) |
| May 31 | Last day to amend timely filed <i>Business Property Statement</i> for errors/omissions (§441(i)) |
| Jul 1 | Assessor provides assessment information to county auditor as soon as roll is completed (§616 , §617) |
| Jul 31 | Deadline for tax collector to mail unsecured property tax bills no later than 30 days prior to August 31 (§2910.1) |
| Jul 31 | Timber Tax due for April 1 – June 30 period (§38401) |
| Aug 31 | Unpaid unsecured property taxes become delinquent and are subject to a 10% penalty (§2922(a)(b)) |
| Aug 31 | Last day to seize and sell 3-year delinquent unsecured property taxes (§2963) |
| Sep 17 | Mail notice to assessee of intent to submit tax delinquency to the Department of Motor Vehicles (DMV) (optional notice) |
| Sep 30 | Mail 30 day reminder notices to notify assessee that interest will start to accrue (If using FTB intercept) |
| Oct 1 | Mail Franchise Tax Board (FTB) <i>Pre-Intercept Notice</i> (Form 2288) (If using DMV Tax-Delinquent vessel program) |
| Oct 1 | Mail Notice of Lien to assessee (optional notice). See State Controller's Office sample form, <i>Notice of Lien</i> (SCO 2-32) |
| Oct 1 | Notice to DMV to withhold boat tags in order for notification of the withheld boat tags to appear on the registration notice |
| Oct 31 | Unpaid delinquent unsecured property taxes subject to additional penalty of 1.5% per month until paid (§2922(d)) |
| Oct 31 | Timber Tax due for July 1– September 30 period (§38401) |
| Nov 1 | Additional penalty begins accruing on delinquent unsecured property taxes of 1.5% per month until paid (§2922(d)) |
| Nov 15 | Record Certificate of Lien (Lien can be recorded any time but it is recommended that it be done by November 15) (§2191.3) |
| Dec 1 | Submit "Annual" Debtors to FTB (optional notice) |

Section 1.2: Billing and Payment Overview

1.2.1 General Information

The assessed value of property, which is used to calculate the amount of tax on the property, is determined by the assessor.

Part of the assessor's valuation process for property requires every business entity to file a *Business Property Statement* (BPS) ([BOE 571L](#)) with the assessor's office no later than May 7 of each year ([§441\(b\)](#)). The statement is used to estimate the value of the personal property of the business.

Once the assessment data is compiled and completed by the assessor, the auditor calculates the taxes due for each unsecured property item of a given fiscal year (July 1 to June 30) and transmits the information to the tax collector.

The tax collector uses the calculations from the auditor to generate tax bills. The tax bills must be mailed or electronically submitted no later than 30 days prior to the delinquent date, August 31 ([§2910.1](#)). The tax collector should mail all bills as soon as possible after receiving the assessment roll information from the auditor. If the tax amount of a specific item of property is too low to justify the collection of the unsecured property taxes due, then the tax collector can decide not to send a bill for that item of property ([§2910.1](#)).

It is important that the tax collector include all of the legally required items on the tax bill. See State Controller's Office sample form, *Tax Bill Checklist* ([SCO 2-01](#)) for an example of a tax bill and all the items that are required as outlined in [§2611.6](#).

Any individual who owns a taxable asset on January 1 of any given year is responsible for taxes that arise during the course of that year and should receive an unsecured property tax bill ([§405](#)). The sale of the property, disposal of the property, or removal of the property from the county after the lien date does not relieve the tax obligation.

NOTE: The failure to receive a tax bill does not relieve the owner of record of the obligation to pay the tax. The tax collector may, at his or her discretion, waive the penalties if the assessee convinces the tax collector that he or she did not receive a tax bill ([§2910.1](#)).

1.2.2 Unsecured Property Tax Payments

Unsecured property tax payments are delinquent after 5:00 pm or close of business, whichever is later, on August 31 ([§2922](#)). These payments can be recorded either of the following ways ([§2913](#)):

- The tax collector may record the payment on the unsecured roll opposite the tax that is being paid; or
- The payment may be recorded on a machine-prepared list or recorded electronically. The tax collector can choose which method to use.

With approval from the board of supervisors, the tax collector may accept a partial payment of unsecured property taxes. The application of these partial payments must first be applied to penalties, interest, and costs. Then the remaining balance can be applied to the unsecured property taxes due ([§2927.6](#)). Proportional payments may apply if the assessee has a recorded undivided interest in the property.

Section 1.3: General Collection Procedures

1.3.1 Property on the Secured Roll Subject to Unsecured Collection

Certain property is placed on the secured roll for tax collection. However, if the taxes due on that property become delinquent, then they become subject to unsecured collection provisions ([§760](#)).

The property taxes due on manufactured, mobile, and floating homes are entered on the secured roll, but when delinquent may be transferred to the unsecured roll and become subject to procedures applicable to unsecured collection techniques ([§2189.7](#), [§5830](#)). If the taxes on the property are not a lien on real property, meaning that the property is not permanently attached to a foundation or to the ground, and they go unpaid at the time set for the declaration of default for delinquent taxes, the taxes, including any penalties and interest due, should be transferred from the secured roll to the unsecured roll and may be collected in the same manner as other delinquent taxes on the unsecured roll ([§2921.5](#)).

There are less common types of secured taxes subject to unsecured collection. These taxes include:

- Supplemental assessments after a change in ownership;
- Structural improvements on leased land and other leasehold interests;
- Personal property assessed by the California Department of Tax and Fee Administration (formerly the Board of Equalization [BOE]);
- Possessory interest in tax exempt property/public lands ([§2190](#));
- Leasehold estates for gas, petroleum, or other hydrocarbon substances ([§2189.5](#)); and
- Escape assessments discovered after the real property has transferred ownership.

NOTE: Real property taxes prior to foreclosure by the Small Business Administration should not be transferred to the unsecured roll ([Garcia v. County of Santa Clara, 87 Cal. App. 3d 319 \(1978\)](#)).

Section 1.4: After Taxes Become Delinquent (September – October 31)

1.4.1 Background

Unsecured property taxes are due on the lien date ([§2901](#)). Unsecured property tax bills should be mailed by July 31 and payments are delinquent after 5:00 pm or close of business, whichever is later, on August 31. However, any unsecured tax bill mailed after July 31 becomes delinquent and subject to penalty on the last day of the month following the month the bill was mailed. When the last day of a month falls on Saturday, Sunday, or a legal holiday, any penalty to which the tax becomes subject on that date shall not attach if the tax collector receives payment in full by 5:00 p.m., or the close of business, whichever is later, on the next business day.

Delinquent unsecured property taxes are subject to a 10% penalty. An additional 1.5% penalty is assessed on the first of every month afterwards, beginning November 1. In addition to these penalties, the tax collector may collect actual costs of collection incurred up to the point that the delinquency is paid ([§2922](#)).

The tax collector must prepare the delinquent roll or abstract list annually ([§2927.2](#)). The auditor must then certify that the roll contains complete and accurate statements of all essential information necessary to the collection of any unpaid taxes on unsecured property recorded therein ([§2927.3](#)). Once the auditor certifies the roll is complete and accurate, the delinquent roll, abstract list, or a copy certified by the tax collector, is *prima facie* (accepted as correct) evidence of the following:

- The property assessed;
- The delinquency;
- The amount of the delinquency;
- The amount of taxes due and unpaid; and
- That there has been compliance with all forms of law relating to assessment, equalization, and levy of taxes ([§2927.5](#)).

Once a property is considered delinquent, the assessee should be notified of the delinquency status and any other impending actions being considered that may affect the amount of taxes due on the property. Notifying the assessee is a mandatory step in every collection action. The notification process is designed to satisfy the due process elements pre-empting the government seizure of property. In addition, providing notice can reinforce the alert of impending seizure and motivate the assessee to pay prior to having to take any collection action.

NOTE: There may be instances in which the tax collector will need to collect taxes prior to delinquency due to the status of the assessee or property ([§2953-2953.1](#)). See [Unsecured Property Tax Collection Procedural Manual, Chapter II: Seizure and Sale](#) for more information.

1.4.2 Notice of Delinquent Taxes

Providing notice of the delinquency status and any other impending actions being considered that may affect the amount of taxes due on the assessee's property can reinforce the alert of impending seizure and motivate the assessee to pay.

Step 1: On September 1, review the tax payment status for all unsecured property.

Step 2: Confirm the delinquency of any properties.

Step 3: Assemble the records for properties with delinquent taxes.

Step 4: It is suggested that a notice be prepared for each assessee. See [County Tax Collectors' Reference Manual, Chapter 2000: Unsecured Tax Collection, Section 2300](#) and State Controller's Office sample form, *Notice of Delinquent Taxes* ([SCO 2-30](#)).

The suggested format for the notice should contain all of the following information:

- Date;
- Assessee's name and address;
- Delinquency tax year;
- Tax bill number;
- Tax collector's contact information;
- Base tax owed;
- Initial 10% penalty calculation amount;
- Collection fee;
- Total taxes due;
- Payment information;
- Information about when a lien may be filed for non-payment of taxes;
- Information about how a lien will affect any credit or real property transaction; and
- Information that a lien will remain in effect for 10 years with two 10-year renewal opportunities after that.

Step 5: Send the notice to the assessee by mail.

Step 6: Update all files for which full payment has been received.

Section 1.5: Certificate of Tax Lien

1.5.1 Preparing to Lien the Property

Once the delinquent roll or abstract list is prepared, the tax collector should begin the initial collection process. Among the various options available, it is recommended that the tax collector consider recording a *Certificate of Tax Lien for Unsecured Property Taxes*, against the assessee before other actions are initiated. See State Controller's Office sample form, *Certificate of Tax Lien for Unsecured Property Taxes* ([SCO 2-02](#)).

However, as a precursor to that filing, it is also recommended that the tax collector mail a *Notice of Intent to Lien* to the assessee. See State Controller's Office sample form, *Notice of Intent to Lien* ([SCO 2-31](#)). The recommended schedule for mailing such a notice is 10 days prior to the intended filing.

Although a Notice of Intent to Lien is not required, sending a notice of this type in the recommended time frame is an efficient, cost-effective way to motivate payment. The notice provides the assessee important information as to how a lien might affect his or her credit and business transactions, and gives him or her an opportunity to make payment and avoid such consequences.

1.5.2 Notice of Intent to Lien

It is recommended that the Notice of Intent to Lien be processed during September.

Step 1: Determine all unpaid unsecured property taxes.

Step 2: Prepare a Notice of Intent to Lien. See State Controller's Office sample form, *Notice of Intent to Lien* ([SCO 2-31](#)).

It is recommended that the *Notice of Intent to Lien* contain the following:

- Date;
- Tax year;
- Account number;
- Tax bill number;
- Date and time remedy may be made prior to action taken;
- Tax collector's contact information;
- Information describing that the filing of a lien is impending;
- That the lien is a public record;
- That the lien will affect any credit or real property transaction; and
- That the lien will remain in effect for 10 years with two 10 year renewal opportunities.

Step 3: Mail the notice to the assessee of record. The tax collector may choose to send the notice by registered or certified mail as a means to obtain proof of receipt, but using registered or certified mail is not required by law.

Step 4: If full payment is received, update files. If no payment is received, proceed to [Chapter I, Section 1.5.3, The Certificate of Lien for Unsecured Property Taxes \(October-November\)](#).

1.5.3 The Certificate of Lien for Unsecured Property Taxes (October – November)

On November 1, or 10 days after the *Notice of Intent to Lien* is sent, it is recommended that the tax collector prepare and record the *Certificate of Lien for Unsecured Property Taxes*. See State Controller's Office sample form, *Certificate of Lien for Unsecured Property Taxes* ([SCO 2-02](#)). It is important that all sections of the form are completed ([§2191.3](#)).

NOTE: The recording of the Certificate of Lien is the strongest unsecured collection mechanism available to the tax collector, and should be considered in all cases of delinquent unsecured property taxes.

The tax collector files a Certificate of Lien with the County Recorder's Office; there is no fee associated with filing. Upon recording the Certificate of Lien, the county recorder has 30 days to send notice of the recording to the assessee's last known address. The notice must contain all information stated in the Certificate of Lien and include the following statement ([§2191.3\(b\)](#)):

“THIS IS TO NOTIFY YOU THAT A TAX LIEN HAS BEEN FILED WITH RESPECT TO UNSECURED PROPERTY.”

The lien applies to any real or personal property in the assessee's name when the lien is filed or any real or personal property acquired in the assessee's name while the lien is in effect. It remains in effect for 10 years and has the force, effect, and priority of a judgment lien. The lien can be renewed twice, for a total of 30 years. However, the lien must be renewed before each 10-year period elapses ([§2191.4](#)).

NOTE: The lien for unsecured taxes is against the assessee. An assessee can be any person owning, claiming, possessing, or controlling the property on the lien date ([§405](#), [§2186](#)). Enforcement is against property owned by the assessee ([§2191.3](#)).

1.5.4 Preparing the Certificate of Lien

Step 1: Confirm that the delinquent roll or abstract list has been prepared.

Step 2: On November 1, or 10 days after the *Notice of Intent to Lien* is sent, prepare and record the Certificate of Lien.

Step 3: Determine all unpaid unsecured property taxes and prepare a Certificate of Lien for each. See State Controller's Office sample form, *Certificate of Lien for Unsecured Property Taxes* ([SCO 2-02](#)). A Certificate of Lien must contain all of the following information ([§2191.3\(b\)](#)):

- Assessee's name;
- Assessee's last known address;
- Last four digits of the assessee's Social Security number, if known;
- The amount due; and
- A statement that the county has complied with all the provisions of computation and levy of the tax, penalty, and interest.

1.5.5 Filing a Certificate of Lien with the Recorder's Office

Step 1: File and record a Certificate of Lien with the County Recorder's Office. The following must be included:

- A completed lien form for each property; and
- The tax collector or designee's signature.

Step 2: File and record the document with the County Recorder's Office ([§2191.3\(b\)](#)).

NOTE: The recorder shall send a copy to the assessee within 30 days ([§2191.3\(b\)](#)).

Step 3: Request a certified copy of the recorded document at the time you are recording the document (optional).

NOTE: Obtaining a certified copy of the document allows you to have an official copy for any other purposes. Otherwise, it can take six to eight weeks to receive the original document.

1.5.6 Notice to Assessee that a Lien has been filed

Although most tax collectors are not required to send a notice to the assessee that the Certificate of Lien has been recorded, a notice of this fashion may resonate with some assesses and motivate them to make a payment. See State Controller's Office sample form, *Notice of Lien* ([SCO 2-32](#)). If you choose to initiate this option, include all of the following:

- Date;
- Assessee's name and address;
- Delinquency tax year;
- Tax bill number;
- Date lien was recorded;
- Certificate lien number;
- Tax collector's contact information;
- Base tax owed;
- Initial 10% penalty calculation amount;
- Monthly 1.5% penalty calculation amount;
- Collection fee;
- Release fee;

- Total taxes due;
- Statement that a lien was filed;
- Penalty and interest schedule;
- Information that the lien is a public record;
- Information that the lien will affect any credit or real property transaction; and
- Information that the lien will remain in effect for 10 years with two 10-year renewal opportunities.

Section 1.6: Determining Course of Enforcement Action

1.6.1 General Information

The tax collector is charged with collecting delinquent unsecured taxes ([§2903](#)). In doing so, all available resources and actions within the constraints of the law must be considered.

Collection action must be initiated in order to collect delinquent unsecured property taxes. The type and timing of the action necessary will depend upon many variables, including the dollar amount of the bill, whether the assessee can be located, whether the assessee owns real estate or other assets, the assessee's ability to pay, future collectability of the bill, and the assessee's prior payment record. For specific collection techniques, refer to Chapters II through IV of the *Unsecured Property Tax Collection Procedural Manual*.

[Chapter II: Seizure and Sale](#)

- [Section 2.1, Collection Actions](#)
- [Section 2.4, Seizure of Property](#)

[Chapter III: Special Property Types](#)

- [Section 3.1, Aircraft](#)
- [Section 3.2, Vessels](#)
- [Section 3.3, Mining Claims](#)
- [Section 3.4, Racehorses](#)
- [Section 3.5, Rubber/Steel-Wheeled Equipment](#)

[Chapter IV: Other Collections](#)

- [Section 4.1, Bulk Sales \(Bulk Transfers\)](#)
- [Section 4.2, ABC Liquor License Transfers](#)
- [Section 4.3, Interagency Intercept Collections Program](#)
- [Section 4.4, Bank Account Levy](#)
- [Section 4.5, Till Tap/Keeper's Levy](#)

Section 1.7: Forms

| | |
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| <i>Tax Bill Checklist</i> | <u>SCO 2-01</u> |
| <i>Certificate of Lien for Unsecured Property Taxes</i> | <u>SCO 2-02</u> |
| <i>Notice of Delinquent Taxes</i> | <u>SCO 2-30</u> |
| <i>Notice of Intent to Lien</i> | <u>SCO 2-31</u> |
| <i>Notice of Lien</i> | <u>SCO 2-32</u> |

Chapter II: Seizure and Sale

Section 2.1: Collection Action – Prior to Tax Delinquency (January 1 – August 31)

2.1.1 Background

While nearly all types of unsecured property may be seized and sold as a means to collect delinquent taxes, physically seizing property effectively removes control of assets from the delinquent assessee, making this method of collection enforcement the strongest payment motivation. The county tax collector can collect taxes due on unsecured property by seizing and selling the property at a public auction ([§2951](#)).

2.1.2 Key Considerations

Immediately after the taxes on unsecured property become delinquent, it is recommended that a *Certificate of Lien* be filed with the county recorder. The filing of a *Certificate of Lien* for delinquent taxes constitutes a lien on all personal and real property belonging to the assessee at the time of seizure and any property acquired thereafter. See State Controller’s Office Sample Form, *Certificate of Lien* ([SCO 2-02](#)).

NOTE: The *Certificate of Lien* is not valid for personal property against a bona fide purchaser without the purchaser’s specific knowledge of the lien. A “bona fide purchaser” refers to an innocent party who purchases property in good faith, without notice of any adverse claim, defect in title, or right of third parties

Assessee’s are entitled to an administrative hearing prior to the sale of their seized property. The format of an administrative hearing can be relatively informal ([T.M. Cobb Co. v. County of Los Angeles, 128 Cal. Rptr. 655; 16 Cal. 3d 606](#)). See [Chapter II, Section 2.5: Sale of Seized Property](#) for further explanation.

The seizure and sale process:

- Has a 3-year statute of limitations ([§2963](#));
- Is significantly faster than enforcement through a writ of execution;
- Avoids the necessity of posting costs with the sheriff or marshal where such posting is required;
- Avoids judicial deductions and litigation over possible defenses that would otherwise be permitted by executions of judgments; and,
- Requires no prior judgment or lien.

2.1.3 Jeopardy Seizure

The tax collector may initiate seizure actions before taxes become delinquent based on the assessee's tax payment history, business type, or other conditions. Seizure of property prior to delinquency is known as a "jeopardy seizure." Jeopardy seizure is the seizing of property prior to taxes becoming delinquent (on unsecured property) when the tax collector believes that there is "a great probability that the taxes will not be collectible or paid after the delinquency date" ([§2953](#)).

At any time prior to the August 31 delinquency deadline, and under specific conditions, the tax collector may determine that the assessee may not pay taxes or that the taxes will not be easily collectible later in the process.

Once the tax collector has evidence of conditions that early collection action is necessary, he or she may initiate the seizure and sale process at any time. The tax collector must also file a written declaration regarding the seizure and sale with the clerk of the board of supervisors and provide a copy of that declaration to the assessee.

Conditions for jeopardy seizure may include ([§2953](#)):

- Unstable or tenuous financial condition;
- Property can be easily moved or hidden;
- Previous delinquent unsecured taxes and/or,
- Other suitable reasons.

2.1.4 Determining Jeopardy Seizure Eligibility

Step 1: Determine whether the property is ([§2953.1](#)):

- Currently offered for sale under the provisions of the Commercial Code [§6101 – 6111](#);
- Scheduled for a public auction; and/or,
- Seized for a prior year's delinquent taxes.

Step 2: If the property does not meet any of the conditions in Step 1, proceed to [Chapter II, Section 2.1.5: Preparing a Declaration of Intent to Seize Property](#). If the property meets any of the conditions in Step 1, the tax collector need not file a declaration pursuant to [§2953](#) and can proceed to [Chapter II, Section 2.3: Preparing for Seizure of Property](#).

2.1.5 Preparing a Declaration of Intent to Seize Property

Step 1: Prepare a written declaration listing the conditions and rationale demanding a pre-tax delinquency seizure. Ensure that the declaration includes a "with penalty of perjury" statement. See the State Controller's Office sample form, *Declaration of Intent to Seize Property* ([SCO 2-05](#)) for an example of such declaration.

Step 2: The tax collector or designated deputy signs the declaration.

Step 3: Make a copy of the declaration for the tax collector's records.

NOTE: If a jeopardy seizure is executed, a copy of the declaration must be provided to the assessee at the time of seizure ([§2953](#)).

Step 4: File the original declaration with the clerk of the board of supervisors.

Step 5: Initiate seizure of property. Proceed to [Chapter II, Section 2.4.2: Seizing the Bank Account](#).

NOTE: An administrative hearing may be required when seizing property. Proceed to [Chapter II, Section 2.5.1: Preliminary Actions – Scheduling and Noticing](#) for more information.

2.1.6 Jeopardy Seizure Protest

After executing a jeopardy seizure of unsecured property, pursuant to [§2953](#), the assessee may file a protest against the seizure and request a hearing to dispute the merits of the action ([§2954](#)).

Step 1: Determine whether the assessee has filed a protest. Either of the following documents provided by the assessee would suffice for protest ([§2954\(a\)](#)):

- A petition for a writ of prohibition; or,
- A petition for writ of mandate.

NOTE: Either petition must be filed in superior court and allege the following ([§2954\(a\)\(1-3\)](#)):

- No grounds exist for the seizure;
- The tax collector's declaration is untrue or inaccurate; and,
- Sufficient funds will be present to pay taxes prior to the regular delinquency deadline.

Step 2: If the assessee has filed a protest that meets the criteria in Step 1, proceed to [Chapter II, Section 2.1.7: Obtaining a Bond from the Assessee](#). If the assessee has not filed a protest or the protest provided does not meet the criteria in Step 1, proceed to [Chapter II, Section 2.5: Sale of Seized Property](#).

2.1.7 Obtaining a Bond from the Assessee

After determining that the assessee has filed a protest:

Step 1: Respond to the assessee's protest by mailing a request that the assessee file a bond with the tax collector's office, in person, as well as provide proof of such filing to the court. The bond amount must be sufficient to pay the taxes and all fees and charges covering the seizure action ([§2954 \(b\)](#)).

Step 2: Upon receipt of the bond, release all seized property to the assessee ([§2954 \(b\)](#)).

2.1.8 Results of Seizure Protest Hearing

If the assessee prevails ([§2955](#)):

- The county must pay all costs, including attorney's fees; and
- The tax collector must bear the costs of the seizure and any other related costs.

If the assessee does not prevail ([§2955](#)):

- The assessee is liable for all the taxes, penalties, and interest; and
- The assessee is responsible for any other costs incurred by the county as a result of the protest.

Regardless of the outcome, the tax collection issue is settled. No further action is necessary.

If, after the date the taxes become delinquent, the taxes are not paid in full and it becomes necessary for the tax collector to seize the assessee's property or to commence an action against the assessee for recovery of the taxes and delinquent penalties, the assessee shall reimburse the county and the tax collector for all costs incurred as a result of the seizure ([§2955](#)).

Section 2.2: Preliminary Actions after Taxes Become Delinquent (September 1 – October 31)

2.2.1 Background

Informing the assessee is a mandatory step in every collection action, including seizure and sale. The notification process is designed to satisfy the due process elements pre-empting the government seizure of property. Providing notices also reinforces the impending seizure and can motivate the assessee to pay.

NOTE: Any unsecured tax bill mailed after July 31 becomes delinquent and subject to penalty on the last day of the month following the month the bill was mailed.

2.2.2 Tax Delinquency Review

Step 1: On September 1, review the tax payment status for all unsecured property.

Step 2: Identify properties that are delinquent. Any property that has unpaid property taxes due for a given year is delinquent as of August 31 of that given year.

Step 3: If the tax collector plans to provide delinquency notices, which may or may not include the filing of a *Certificate of Lien for Unsecured Property Taxes (Certificate of Lien)*, prior to any seizure action, then proceed to [Chapter I, Section 1.4.2, Notice of Delinquent Taxes](#).

For any other course of action, proceed to [Chapter II, Section 2.3: Preparing for Seizure of Property](#).

Section 2.3: Preparing for Seizure of Property

2.3.1 Pre-Seizure Review

Anything that is not considered real property may be seized. Examples of real property that may **not** be seized are ([§105](#)):

- Land, including timber and minerals;
- Anything permanently affixed to the land (improvements), such as;
 - Planted trees and vines;
 - Buildings;
 - Fences, and;
- Anything things permanently attached to buildings, such as;
 - Light fixtures;
 - Plumbing;
 - Heating fixtures;
 - Any other such items that would be personal property if not attached;
- Rights to any of the above.

Common property types that may be seized include, but are not limited to:

- Airplanes;
- Bank accounts;
- Boats/vessels;
- Farm equipment;
- Fixtures;
- Leased equipment;
- Machinery;
- Manufactured/mobile homes;
- Office furniture;
- Oil/gas leasehold estates;
- Third party payments; and
- Certain possessory interests;
 - Vending machines within buildings;
 - Concessions within fairgrounds.

2.3.2 Pre-Seizure Considerations

Confirm that the property scheduled for seizure is being seized to collect delinquent taxes that are outstanding for 3 years or less. Property cannot be seized and sold for the collection of any taxes that are delinquent for more than 3 years ([§2963](#)).

If the seizure of property is being reinforced by the filing of a *Certificate of Lien*, confirm that the certificate has been recorded against the assessee of the tax delinquent property.

Filing a *Certificate of Lien* is not required, but is recommended. If the tax collector elects to file a *Certificate of Lien* and cannot confirm that one has already been recorded, then proceed to [Chapter I, Section 1.5.4: Preparing the Certificate of Lien](#).

If a *Certificate of Lien* has been recorded or the tax collector has chosen not to file one, proceed to [Chapter II, Section 2.4: Seizure of Property](#).

Section 2.4: Seizure of Property

2.4.1 Prior to Seizure

Before initiating the process of physically seizing a business or tangible property item, it may be prudent—in terms of staff time, resources, and potential public altercations—to consider seizing bank accounts prior to seizing other tangible personal property.

- If the tax collector chooses to attempt seizure of bank account(s), proceed to [Chapter II, Section 2.4.2: Seizing the Bank Account](#).
- If not, proceed to [Chapter II, Section 2.4.3: Preparing to Seize Tangible Personal Property](#).

Determine whether full payment on the property has been received by the tax collector's office.

- If payment was received, cease any further collection action.
- If payment was not received, determine whether the assessee has initiated any bankruptcy action.

Bankruptcy filing status can be determined via the following:

- Public Access to Court Electronic Records (PACER): <https://www.pacer.gov>.
- Voice Case Information System (VCIS): (866) 222-8029.
- Most bankruptcy records can be viewed at no charge using the public access terminals in each [Bankruptcy Court divisional office](#).

If the assessee is in bankruptcy, a corporate officer, a trustee of a trust, and/or enrolled in a four-pay payment plan, cease all collection activity, follow the tax collector's office procedures pertaining to bankruptcies, and consult with county counsel.

If the assessee is not in bankruptcy, proceed to [Chapter II, Section 2.4.2: Seizing the Bank Account](#).

2.4.2 Seizing the Bank Account

Step 1: Determine the location/address of the assessee's unsecured property and his or her residential address.

NOTE: Researching the tax collector's database to locate an assessee's prior payment of taxes using a bank account number may be helpful in obtaining current bank account numbers.

Step 2: Consider using locater options to find the addresses.

Statewide property ownership locator resources:

- DataQuick;
- Parcel Quest; and,
- Real Quest.

Individual assessee locator resources:

- InfoQuest;
- Accurint;
- Experian;
- Court records; and,
- DMV records (best for ownership records and lienholder information of vessels and boats).

Step 3: Research all banks and credit unions within the vicinity of the assessee addresses determined in Step 2.

Step 4: Complete a seizure notice for each bank or credit union where you've determined the assessee may have an account. See the State Controller's Office sample form, *Seizure Notice for Taxes* ([SCO 2-27](#)).

NOTE: Confirm with the banks and credit unions that the named assessee or the business name is a signatory on the account and confirm any bank fees for processing the seizure.

Step 5: Deliver by hand or send out by registered or certified mail ([§36](#)) the seizure notices to the bank and credit unions identified.

Step 6: The banks and credit unions will respond indicating either:

- No account(s) exist;
- The account has been inactivated;
- There are no funds to seize; or,
- Active and funded account(s) exist, and it will be frozen.

Step 7: Confirm that the amount of funds in the bank account(s) cover the taxes due. If the funds do not cover the taxes due, continue to Step 8 and complete the bank account seizure, and also consider seizing tangible personal property owned by the assessee sufficient to cover the remaining taxes due. Proceed to [Chapter II, Section 2.4.3: Preparing to Seize Tangible Personal Property](#) after completing the procedures in this section for additional seizure options.

NOTE: The bank is required to complete the notification requirements in 10 business days or less. In the notification process, the bank sends a notice to inform the assessee that his or her assets have been frozen. Once the 10 business days have passed, the bank will release funds to the tax collector. The bank may charge fees for any internal seizure processing.

Step 8: Confirm receipt of funds from the bank. If the funds have been seized pursuant to [§2953](#) (jeopardy seizure), proceed to [Chapter II, Section 2.1.6: Jeopardy Seizure Protest](#).

NOTE: Retain the mailing receipt notices from the bank and assessee in the seizure file folder.

Step 9: Apply the funds toward the taxes due, or record and hold the funds and offer the assessee an administrative hearing.

If the funds are applied toward the taxes due, the procedure is ended. If the assessee is offered an administrative hearing, proceed to [Chapter II, 2.5.1 Preliminary Action: Scheduling and Noticing](#).

NOTE: An administrative hearing for seizure/levy against bank accounts or related monetary instruments for delinquent taxes is not required.

2.4.3 Preparing to Seize Tangible Personal Property

If the seizure of bank accounts does not yield the full amount of taxes due, it may be necessary to seize other tangible personal property. Doing so will require that several tasks be performed prior to the actual seizure.

As with most collection efforts involving the seizure of tangible personal property, owners of such property may initiate actions (e.g. selling, damaging, or concealing the property) just prior to the seizure or sale that can affect the seizure or sale of property.

2.4.4 Pre-Seizure Resources and Documentation

If the property is being seized pursuant to [§2953](#) (Jeopardy Seizure), a notice of intent to seize must be provided to the assessee of the property at the time of the seizure. See State Controller's Office sample form, *Declaration of Intent to Seize Property* ([SCO 2-05](#)). Proceed to [Chapter II, Section 2.1.5: Preparing a Declaration of Intent to Seize Property](#). If the property is being seized and the taxes are currently delinquent, it is not necessary to provide any seizure-intent documentation.

Step 1: Develop a list of items that may be helpful for seizing property. Helpful items may include:

- Painters tape for securing notices to premises or seized items;
- Receipt book;
- Heavy duty chain and coated lock;
- Camera to document seized items and their condition when seized;
- Tie-downs to secure planes or other movable property;
- Clear sheet labels or laminated labels (to prevent ink or color stains on items where notices are attached);
- Bolt cutters; and,
- Key blocks.

Step 2: Develop a contact list of support staff, including but not limited to:

- The tax collector staff (minimum of two people for witnesses);
- The sheriff or other law enforcement official; and,
- A locksmith.

Step 3: Develop a file for the sale. See the State Controller's Office sample form, *Record of Seizure and Sale* ([SCO 2-06](#)).

2.4.5 Seizing Tangible Property

Step 1: Check the tax records to confirm that the property has not been sold or transferred from the current assessee owing tax on the property.

Step 2: Determine whether any of the following applies to the property slated for seizure:

- The property is money from sales transactions. If so, proceed to [Chapter IV, Section 4.5: Till Tap/Keeper's Levy](#).
- The property is personal property not associated with a business or situated at a corresponding business location. If so, review [Chapter II, Section 2.4.6: Additional Recommended Seizure Procedures](#) for additional elements to consider in the seizure.
- The property has a third-party payment arrangement. If so, review [Chapter II, Section 2.4.6: Additional Recommended Seizure Procedures](#) for additional elements to consider in the seizure.
- The property is a vehicle or vessel. If so, review [Chapter II, Section 2.4.6: Additional Recommended Seizure Procedures](#) for additional elements to consider in the seizure.

2.4.6 Additional Recommended Seizure Procedures

If an establishment or business is in operation when property is to be seized, consider allowing the business to continue to operate, with merchandise and money available for operation. If the assessee does not pay the taxes and fees shortly after a business seizure, the keeper should remove all cash not necessary to operate the business. The cash removed serves as partial payment of taxes.

If the business operation has a third-party payment arrangement (such as leased equipment), consider:

- Having the third-party (e.g. the lessee or renter) act as the keeper; and,
- Directing the third party to make the lease payment to the tax collector instead of the lessor.

NOTE: This may include trust deed payments in which the property was sold before the tax bill was issued.

- Research the chain of title in the County Recorder's Office. The document after the deed of transfer may disclose evidence that the new owner is paying the former owner on a second or other deed of trust.

- Direct the new owner to make the payment to the tax collector instead of to the old owner.

If the property being seized is a vehicle, vessel, or airplane, consider doing the following:

- Contact local law enforcement officials before securing the property as a means to prevent any potential altercations should the owner of the property be present.
- Take photos to document the condition of the property prior to any action.
- Have vehicles towed, if necessary, by a professional towing service and secure the vehicle in an impound yard or storage building.

Step 1: Determine whether or not law enforcement should be present. Law enforcement presence is recommended if the seizure is to take place in a high-profile or highly public area.

Step 2: If necessary, contact a locksmith and law enforcement official and schedule them to arrive approximately ten minutes prior to the scheduled time of the seizure of the business.

Step 3: Gather and bring the following items to the seizure:

- Seizure file (tax bill documents, etc.);
- Receipt book;
- Seizure notices for posting;
- Receptacle to receive and store payments, if collected; and
- Camera.

Step 4: Once all parties are present, proceed into the business.

Step 5: Ask to speak to the owner (assessee) whose name appears on the tax bill.

NOTE: Employees may inquire about the nature of the request. Refrain from divulging details. Inform them that the issue is related to a personal matter concerning the assessee.

Step 6: Once the assessee is present:

- Provide them with a *Declaration of Intent to Seize Proper*. (See State Controller's Office sample form, *Declaration of Intent to Seize Property* form ([SCO 2.05](#));
- State that registered or certified mail has been sent informing them of the impending seizure;
- State the amount of taxes and penalties owed; and,
- Explain that taxes will be collected immediately, and if payment cannot be made the business must be seized. Explain that seizure entails evacuation of all people on the premises and either changing the locks, key blocking, or chaining the doors if the entrance is a double door.

NOTE: If the assessee agrees to make payment but states that he or she needs some time, the recommended allowance is 60 to 90 minutes. The time afforded is at the discretion of the tax collector.

NOTE: During the seizure, do not accept any gifts, food, drink, or service from the business or engage in any other conversation not pertinent to the seizure.

Step 7: Determine whether or not full payment was made.

- If the assessee made a full payment, provide a receipt and inform the assessee that the business will not be seized; or
- If payment was not or could not be made, explain to the owner that:
 - The assessee and the employees, if any, must vacate the premises;
 - A locksmith will change the locks; and,
 - The assessee may make payment any time prior to the sale and at that point, will be given the keys for the new locks.

Step 8: Authorize the locksmith to change the locks on all entrances and exits.

Step 9: Post seizure notices at all entrances and exits.

Step 10: Make a record of all property seized ([§2952](#)). See the State Controller’s Office sample form, *Record of Seizure and Sale* ([SCO 2-06](#)).

NOTE: Photos or video recording may be used as a substitute for a written inventory.

Step 11: If it is necessary to safeguard seized property, place it in the custody of a third party. The third party must hold the property until relieved from that duty. Proceed to [Chapter II, Section 2.4.7: Keeper Procedures](#).

2.4.7 Keeper Procedures

Seized property may need to be safeguarded if it cannot be secured within the business premises. A third party may be contracted to take custody of the property. Such a third party is referred to as a “keeper.” The following describes the procedures and pertinent information concerning a keeper.

Step 1: Contract with a keeper.

Step 2: Complete the State Controller’s Office sample form, *Appointment of Keeper* ([SCO 2-07](#)) and incorporate it into the seizure file.

Fee Schedule for various keeper duties:

- \$135—Opening a safe-deposit box pursuant to Code of Civil Procedure [§488.460](#) and [§700.150](#), and Government Code [§26723](#).
- \$140 for every 8-hour period, not to exceed more than \$300 per keeper during any 24 hour period—For keeping and caring for property under a writ of attachment, execution, possession, or sale pursuant to Government Code [§26726](#).
- \$40 per day—Additional fee for maintaining custody of the property for each day that custody is maintained after the first day Government Code [§26726](#).

Section 2.5: Sale of Seized Property

2.5.1 Preliminary Action: Scheduling and Noticing

Before property is sold, assessee's must be offered an administrative hearing. However, when the property seized is a bank account, an administrative hearing may be offered to the assessee as a courtesy but it is not required. The hearing may be conducted by the tax collector's office, officers from other county departments, or any other third party the tax collector deems appropriate.

NOTE: It is unconstitutional to sell seized property (material) without affording the owner an administrative hearing ([T.M. Cobb Co. v. County of Los Angeles, 128 Cal. Rptr. 655; 16 Cal. 3d 606](#)).

The purpose and scope of the administrative hearing determines whether:

- The taxes were validly levied against the assessee;
- The taxes are still unpaid;
- The assessee has an interest in the seized property; and/or,
- There is a valid reason as to why the property should not be sold for taxes due.

NOTE: Issues pertaining to over-valuation of the assessment on which the taxes have been levied are not within the scope of the hearing.

Step 1: Determine whether full payment on the property has recently been received.

- If so, cease any further collection action; or,
- If not, proceed to Step 2.

Step 2: Determine whether the assessee has initiated any bankruptcy action.

- If the assessee has filed bankruptcy proceedings, cease all collection action and seek guidance from county counsel; or,
- If the assessee is not in bankruptcy, proceed to Step 3.

Step 3: Notify the assessee that he or she has a right to an administrative hearing prior to the sale of the seized property. See the State Controller's Office sample form, *Request for an Administrative Hearing* ([SCO 2-33](#)).

NOTE: Give the assessee a deadline by which to exercise his or her right to request a hearing. 10 days from receipt of notice is the recommended deadline.

- If the assessee responds and requests a hearing within the deadline, proceed to Step 4; or,
- If the assessee does not respond within the prescribed deadline or waives his or her right to a hearing, proceed to [Chapter II, Section 2.5.2: Notice of Sale](#).

Step 4: Send an *Administrative Hearing Notice* to the assessee. See the State Controller's Office sample form, *Administrative Hearing Notice* ([SCO 2-34](#)). The notice should contain the date and location of the hearing, and should be sent within 10 days of receipt of the hearing request letter from the assessee.

Step 5: Conduct the hearing. The law does not provide for any formal content or format requirements, so the particulars of the hearing format may be set by the tax collector, if not already set forth by county ordinance. Following are some recommendations for conducting hearings:

- Arrange a private meeting room;
- Ensure that at least two staff members are present to serve as moderators/witnesses;
- Announce to the assessee that the hearing will be electronically recorded;
- Provide written documents outlining the details of the seizure actions, including:
 - Collection procedures and notices provided prior to seizure;
 - Code sections authorizing the seizure action;
 - Code sections providing for an administrative hearing;
 - Outline of seizure actions taken and intended sale proceedings;
 - Amount of taxes due, with calculations; and
 - Any other pertinent information; and
- Inform the assessee that the tax collector will render a determination of the proceedings. Advise the assessee that he or she will be notified by letter and the time frame by which he or she should expect to receive the information.

Step 6: Within five business days of the conclusion of the hearing, send a letter to the assessee describing the determination.

- If payment was arranged and completed following the meeting, cease all sale actions and release the property to the assessee.
- If payment is still outstanding or disputed, proceed to the next section, [Chapter II, Section 2.5.2: Notice of Sale](#).

2.5.2 Notice of Sale

Step 1: Prepare a notice for the sale of the seized property and circulate. See the State Controller's Office sample form, *Notice of Sale for Unsecured Property Taxes* ([Figure 9.9](#)). Circulation includes:

- A posting of the *Notice of Sale*. It is recommended that the posted notice include a "DO NOT REMOVE" statement.
- (Optional) A published Notice of Sale.

Step 2: Post the Notice of Sale on the property premises. Be sure to post on all entryways with a secure adhesive.

NOTE: The notices should be posted on glass, where possible, to avoid any paint or other texture damage.

Step 3: If you have reason to believe the assessee will not redeem the property, then you may elect to expand the notice opportunity by publishing a notice of sale at least one week prior to the date of sale ([§2957](#)). Be sure to post the Notice of Sale in three public places ([§2957](#)).

Whether posting or publishing, include the following in the notice:

- The date and time of the sale ([§2957](#));
- The location of the sale ([§2957](#)); and,
- That the property may be redeemed by the owner up to just prior to being sold at auction ([§2959](#)).

NOTE: In [Gentillalli v. San Diego County \(1966\), 240 Cal. App. 2d 456](#), the court ruled that the owner had the right to redeem property up to the point just prior to the time of payment for the property sold.

Step 4: Calculate the amount of proceeds necessary to cover the taxes, penalties, and all actual costs incurred by the county ([§2922\(e\)](#)). This includes, but is not limited to ([§2958](#)):

- Advertising;
- Mileage and keeper's fees; and,
- A fee not exceeding \$15 for each seizure.

Step 5: Inventory the property items and determine how they might be offered. Each item may be offered as a separate article, one or more article combined, or all of the items may be offered as a collective article.

Step 6: Set the opening bids for the items such that they will sell and that the amounts collected will have a strong likelihood of covering the taxes due.

NOTE: It is not required to have seized assets appraised or to obtain a minimum bid for each item. However, in cases in which the property is encumbered, it may be appropriate to establish a minimum bid.

2.5.3 Conducting the Sale

Step 1: The sale must be conducted in a public auction format and held at the time and location described in the *Notice of Sale*.

Step 2: Read a sale preamble covering the various elements of the sale prior to opening the items for bid. See the State Controller's Office sample form, *Unsecured Property Tax Sale Preamble* ([SCO 2-36](#)).

Step 3: Announce the following:

- The sale shall be by public auction ([§2958](#));
- The sale will terminate upon acceptance of the highest bid;

- The property may be redeemed by the owner any time prior to sale of the property—the sale of property defined as the bid price being paid and the property being delivered with the bill of sale ([§2959](#)); and,
- Acceptable forms of payment.

Step 4: Announce the property up for bid, the opening bid amount, and the bidding increments.

Step 5: Each bid shall be confirmed with the bidding audience and an offer made to raise it.

NOTE: Opening and subsequent bids are only "received," whereas the final bid is "accepted."

Step 6: Announce the last and highest bid as the winner.

Step 7: The property is sold when the final bid is accepted by the auctioneer and the payment has been completed ([§2959](#)).

NOTE: At any time prior to sale of property, including prior to actual payment by the winning bidder, the assessee may produce funds to redeem the property and the auction/sale will be terminated ([§2959](#)).

Step 8: Prior to the termination of the sale, payment must be completed by the winning bidder(s). To ensure valid funds, it is recommended that only forms of payment that can be verified as indicated in the Notice of Sale be accepted.

NOTE: If payment is accepted by personal check, it is recommended that the bill of sale not be executed and delivered until the check has cleared the bank.

Step 9: Provide the winning bidder with a bill of sale. See the State Controller's Office sample form, *Bill of Sale* ([SCO 2-08](#)).

Step 10: The sale terminates upon completion of payment and title vests with the purchaser ([§2960](#)).

2.5.4 Post-Sale Actions

Step 1: If any unsold property remains, the assessee should be notified in order to safeguard or reclaim the property.

NOTE: The unsold portion of any seized property may be left at the place of sale at the risk of the owner ([§2962](#)).

Step 2: As a best practice, deposit the sale proceeds in the following manner:

- The portion representing taxes and penalties should be apportioned like other receipts on the unsecured roll.
- The portion of the costs representing keeper's fees should be credited to a trust fund, against which warrants may be drawn for paying keepers.

- The balance of the costs specified in [§2958](#) should be deposited into a county fund.

Step 3: Contact the county assessor and supply all of the updated assessee information related to the property sold.

Step 4: Process the excess proceeds accordingly:

- Proceeds of the sale in excess of taxes, penalties, and costs should be credited to the property owner. Until claimed, the excess shall be deposited in the county treasury, subject to the order of the owner or his successor in interest ([§2961](#)).
- As a best practice, send a notice to claim excess proceeds to owner(s) of record prior to the seizure and sale. See the State Controller's Office sample form, *Notice of Right to Claim Excess Proceeds From the Sale of Tax Defaulted Property (Parties of Interest)* ([Figure 9.8](#)) ([§3701](#)).
- If not claimed within three years after the date of sale, unclaimed excess proceeds revert to the county ([§2961](#)).

After the post-sale actions have been executed, the process is complete and no further action is required.

Section 2.6: Sample Forms

The following is a list of SCO sample forms relevant to the preparation and execution of the seizure and sale processes as detailed in this manual.

Certificate of Lien.....[SCO 2-02](#)

Declaration of Intent to Seize Property.....[SCO 2-05](#)

Record of Seizure and Sale.....[SCO 2-06](#)

Appointment of Keeper.....[SCO 2-07](#)

Bill of Sale.....[SCO 2-08](#)

Seizure Notice for Taxes.....[SCO 2-27](#)

Request for Administrative Hearing.....[SCO 2-33](#)

Administrative Hearing Notice.....[SCO 2-34](#)

Notice of Public Auction of Seized Property.....[SCO 2-35](#)

Unsecured Property Tax Sale Preamble.....[SCO 2-36](#)

Notice of Right to Claim Excess Proceeds (Parties of Interest).....[Figure 9.8](#)

Notice of Sale for Unsecured Property Taxes.....[Figure 9.9](#)

Chapter III: Special Property Types

Section 3.1: Aircraft

3.1.1 Background

Aircraft is defined as, “Any contrivance used or designed for the navigation of or for flight in the air which has been flown at least once, other than a parachute or similar emergency device”([§5303\(a\)](#)).

Examples of aircraft include:

- Planes (commercial, civil, and experimental);
- Helicopters;
- Hot air balloons; and
- Dirigibles.

Aircraft **does not** include:

- Rockets or missiles;
- Aircraft operated exclusively by an air carrier or foreign air carrier ; or
- Air taxis (used by an air carrier that does not use aircraft having a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds in air transportation and that holds a certificate of public convenience and necessity or other economic authority issued by the United States Department of Transportation or its successor ([§1154 \(a\)](#)).

3.1.2 Taxing Aircraft

The assessor shall annually assess aircraft in his or her county to the person owning, claiming, possessing, or controlling it on the lien date. Notices of assessment and tax bills relating to jointly assessed property on the unsecured roll shall be mailed to both the lessee and lessor at their latest known address ([California Constitution, Article XIII, section 14, §405](#)).

An aircraft is not assessable or taxable until it has been flown once ([§5303](#)). However, aircraft that is not presently in flyable condition but still has an active registration with the Federal Aviation Administration (FAA) would be assessable. If the registration has been cancelled by registering the aircraft as scrapped or dismantled with the FAA, then the parts that were formerly an aircraft would be treated in the same manner as other personal property owned by the assessee and could be taxed.

If it is determined that the aircraft has been scrapped or dismantled, see taxing and collecting procedures found in the other unsecured property tax collection procedural manuals:

- Filing a lien, [Unsecured Property Tax Collection Procedural Manual, Chapter I: Unsecured Tax Collection Overview](#);
- Filing a summary judgment, [Unsecured Property Tax Collection Procedural Manual, Chapter I: Unsecured Tax Collection Overview](#); or
- Initiating seizure and Sale, [Unsecured Property Tax Collection Procedural Manual, Chapter II: Seizure and Sale](#).

The sale or disposal of an aircraft between the lien date and start of the fiscal year does not relieve an assessee of any tax liability ([§2910.1](#)). Owners who have sold their aircraft after the lien date are still liable for the taxes imposed for the ensuing fiscal year and the assessee may need to be reminded of this fact, which is an effective message on the first demand for payment at the time of delinquency. Generally, ownership on the lien date determines the taxability, situs, and assessee of the property.

3.1.3 Exemptions to Taxation

The following types of aircraft are exempt from personal property taxation:

- Aircraft owned by the United States, by any foreign government, or by a foreign consul or other official representative ([§5331](#));
- Aircraft owned by the State of California or by any county, city, district, political subdivision, public corporation, or authority of the State of California ([§5332](#));
- Aircraft considered business inventory ([§219](#));
- Any aircraft that is in California on the lien date solely for the purpose of being repaired, overhauled, modified, or serviced (does not apply to aircraft normally based in California, or operated intrastate or interstate in and into California ([§220](#)));
- Aircraft of historical significance if it meets the criteria in [§220.5](#); and
- Aircraft dedicated exclusively to religious, scientific, charitable purposes ([§214](#)).

3.1.4 Situs

It is necessary to determine if the aircraft has situs in the county. Situs is seldom a problem with property that remains in one location, as in the case of real property, but challenges may be encountered during the process of determining the situs of movable property such as personal property, particularly aircraft.

NOTE: If the aircraft does not have situs in the county, then unsecured tax collection measures may not be taken.

General aircraft, other than those subject to [§1150-§1155](#), have situs for taxation purposes at the airport in which they are habitually situated when not in flight. An aircraft that spends a substantial amount of ground time at each of two or more airports has its tax situs at the airport where it spends the greatest amount of ground time (California Code of Regulations [18 CA ADC §205. subsection \(b\)](#)).

The FAA maintains registration listings by owner that are updated monthly. By retaining each January 1 edition of the listing, plus the prior month's report, the tax collector may obtain ownership verification on the appropriate lien date, plus the current address information available from FAA files on any registered assessee. The FAA's master registration information can be found via the FAA's downloadable database at, <http://registry.faa.gov/aircraftinquiry>.

If an airport has a fixed-base operator, the operator may be able to provide pertinent situs information, including service records and information about aircraft tied down, hangared, or stored at the airport. Contact fixed-base operators within the county to determine what information they may be able to provide.

3.1.5 Locating the Aircraft

Annually, the assessor will request aircraft owners to file a statement setting forth information about the aircraft necessary to ascertain the value of the aircraft including but not limited to: the serial number, make, model, year of manufacture, and engine and maintenance information, including the total hours logged on the aircraft following the last major overhaul of the engine of the aircraft ([§5365](#)).

Upon the assessor's request, operators of public and private airports must provide a statement to the assessor with name and addresses of the aircraft owners, as well as the make, model, and registration number of all aircraft using the airport as a base 15 days following the lien date for each year ([§5366](#)).

Step 1: Check with the available tracking sites to locate the aircraft. Some sites allow individuals to register and receive notification when the aircraft has a flight plan nearby. This step is particularly useful when seizing aircraft. The following are tracking sites:

- <http://flightware.com>;
- <http://registry.faa.gov/aircraftinquiry/>; and
- <http://flightwise.com>.

Step 2: Check with the assessor as soon as possible after each delinquency date to see if the statements were filed and gather known aircraft information, including the following:

- Assessee's legal name and address or eligible registrant name and address ([14 Code of Federal Regulations part 47](#) (CFR));
- Description of aircraft, flight plans, weight, and other aircraft information from the assessor's office;
- The name of the aircraft operators, maintenance workers, manufacturer, and dealer;
- N-number (also known as the tail number);
- Serial number;
- Manufacturer name and year manufactured; and
- Certificate issue date.

NOTE: Ultralights, hang gliders, and power hang gliders are not assigned an FAA number and may be more challenging to discover and track.

If Step 1 and Step 2 do not yield adequate information, the tax collector may also:

- Review tax returns – Airport leases may require aircraft owners to file annual tax returns on their aircraft and to pay their taxes on time; and
- Conduct physical inspections of airport hangars, tie-downs and county airport authority records.

Step 3: Visit the FAA master registration program at, <http://registry.faa.gov/aircraftinquiry/>. This may assist in locating the aircraft and obtaining additional pertinent information on the aircraft, including the N-Number and the make/model of the aircraft.

3.1.6 Filing an Aircraft Lien or Judgment with the FAA

General Filing Requirements with the FAA

All FAA liens must comply with the state tax lien provisions of Government Code sections [7150-7191](#). The FAA will accept a certified copy of the recorded certificate of lien or a summary judgment as long as it meets minimum requirements ([Title 14, CFR, part 49.17\(c\)](#)).

Filing a lien may be an effective method for recovering unpaid taxes only when the owner is attempting to sell the aircraft. However, the lien “shall not be valid insofar as personal property is concerned as against a purchaser for value without actual knowledge of the lien” ([§3103](#)).

NOTE: The filing of a lien with the FAA may not guarantee that the lien will attach to the aircraft. The filing of a lien with the FAA provides notice of delinquent taxes against the owner’s aircraft when the notice is recorded with the Federal Aircraft Registry ([Title 14, CFR, Parts 47.1-47.71, Parts 49.1-49.63](#)).

Step 1: Determine all unpaid taxes and prepare a Certificate of Lien.

Confirm that the delinquent roll or the abstract list has been prepared. 10 days after the *Notice of FFA Lien Recorded* (See State Controller's Office sample form, *Notice of FFA Lien Recorded* ([SCO 2-20b](#))) has been sent, record a *Certificate of Lien* (See State Controller's Office sample form, *Certificate of Lien for Unsecured Property Taxes (Aircraft)* ([SCO 2-20a](#))).

The form must include the following information:

- The owner name(s) (exact match to the Federal Aviation Registry or the form will be rejected). Retrieve name and address of the registered owner from FAA Registry website at www.faa.gov/aircraft;
- The amount of the claim;
- A description of the aircraft including N-number (tail number), manufacturer name, model designation, and serial number;

- Dates on which labor, materials, or services were last furnished;
- Blue ink signature of the claimant showing signer's title as appropriate; and
- A check or money order for the recording fee of \$5 (for each aircraft affected by the claim) made payable to the Federal Aviation Administration ([14 CFR §49.15](#)).

NOTE: A *Notice of FAA Lien (Aircraft)* is not required but may assist in soliciting payment.

Step 2: Record the Certificate of Lien or judgment by mailing it to:

Federal Aviation Administration
Aircraft Registration Branch, AFS-750
P.O. Box 25504
Oklahoma City, OK 73125-0504

NOTE: If the tax collector needs to have the original lien or judgment returned, he or she must submit a certified true copy along with the original. A certified true copy must be permanently imprinted on paper. This copy must be legible and reproducible, and must be a complete copy (front and back) of the original, including all terms, signatures, and dates. The true copy must include an attached signed statement that the copy has been compared with the original and that it is a true copy. A document issued by a court of law should be certified as true by an officer of the court ([14 CFR §49.21](#)).

Once the lien or judgment is recorded, the FAA will return a *Notice of Recordation – Aircraft Security Conveyance*, ([FAA form 8050-41](#)) to the tax collector. The notice describes the aircraft, lists the parties and the date of the claim document, and includes the FAA recording number and date of recordation. The *Notice of Recordation – Aircraft Security Conveyance* may be used as a release of lien if the claimant signs it and returns it to the Aircraft Registration Branch.

Step 3: Prepare and mail a notice of delinquent taxes to the assessee. See State Controller's Office sample form, *Notice of Delinquent Taxes* ([SCO 2-30](#)).

If the assessee pays the delinquent taxes after receiving the notice, proceed to Step 5. If the assessee fails to pay, proceed to Step 4.

Step 4: Seize the aircraft(s) and sell at public auction (see [Unsecured Property Tax Collection Procedural Manual, Chapter II Seizure and Sale](#) for detailed steps). This step does not require either an FAA or general lien (This step is optional).

Step 5: Record a satisfaction of judgment if an unsecured property tax judgment was recorded previously with the county recorder ([§3107](#)). See State Controller's Office sample form, *Satisfaction of Judgment (FAA)* ([SCO 2-20](#)).

Step 6: Send either the completed *Satisfaction of Judgment* or the completed *Notice of Recordation – Aircraft Security Conveyance* ([FAA form 8050-41](#)), (if the claimant signs it) to:

Federal Aviation Administration
Aircraft Registration Branch, AFS-750
P.O. Box 25504
Oklahoma City, OK 73125-0504

NOTE: Another acceptable release of lien is a letter executed by the claimant, containing the same information as the [FAA form 8050-41](#), and a statement releasing all the claimant's rights and interests in the aircraft.

Section 3.2: Vessels

3.2.1 Background

Vessels are defined by as, "Every description of watercraft used or capable of being used as a means of transportation on water, but does not include aircraft" ([§130\(a\)](#)). For the purpose of unsecured property taxes, this includes sail-powered vessels over eight feet in length and motor-driven vessels, regardless of length (i.e. houseboats, boats, yachts, ships, barges, and hovercrafts), that are used in California and not documented by the United States Coast Guard.

Excluded from the definition of a "vessel" are ([§6273](#)):

- Seaplanes;
- Watercraft specifically designed to operate on a permanently fixed course guided by a mechanical device that restricts the watercraft's movement to a fixed course;
- Floating structures that are designed and built to be used as a permanent residential dwelling;
- Watercraft of a type designed to be propelled solely by oars or paddles; and
- Watercraft of eight feet or less in length of a type designed to be propelled by sail.

NOTE: Floating homes defined by [§229\(c\)](#), are not categorized as vessels for property tax purposes and should not be confused with houseboats ([§2189.7](#)). Although houseboats may be used as permanent places of abode, they are assessed in the same manner as all other vessels.

3.2.2 Taxing Vessels

The lien date for vessels is January 1 of each year ([§2192](#)). Vessels are assessable only if taxable on the January 1 lien date and the assessment must be made in a timely manner to be valid. An assessment must be made within 4 years of the assessment period in which the property escaped assessment or was under-assessed, as set forth by the statute of limitations.

The sale or disposal of a vessel between the lien date and start of the fiscal year does not relieve an assessee of their tax liability. Owners who have sold their vessels after the lien date are still liable for the taxes imposed during ownership for the ensuing fiscal year, and the assessee may need to be reminded of this fact. This is an effective message on the first demand for payment at the time of delinquency. Generally, ownership on the lien date determines the taxability, situs, and assessee of the property.

3.2.3 Exemptions to Taxation

- Wooden vessels of historical significance, and all personal property used in their operation, are exempt if the conditions outlined in [§230\(a\)](#) are satisfied;

- All cargo containers used for the transportation of cargo by vessels in ocean commerce ([§232](#));
- Freight and passenger vessels over 50 tons burden in California and engaged in the transportation of freight or passengers, ([Cal. Const., Art. XIII, §3\(l\), §209](#));
- Vessels of more than 50 tons burden or 100 tons displacement, including semisubmersible offshore vessels and any vessel parts and raw materials under contract of sale, during construction ([§209.5](#));
- Small pleasure crafts and noncommercial vessels with a market value of \$400 or less, except for lifeboats ([§228\(a\)](#));
- Business inventory vessels intended for sale or lease ([§129](#));
- Vessels that are the owner's place of abode qualify for a \$7,000 homeowners' exemption to personal property ([Cal. Const. Art. XIII, §3\(k\), §218\(a\)](#)); and
- Vessels dedicated exclusively to religious, scientific, or charitable purposes ([§214](#)).

3.2.4 Situs

A vessel's taxable situs is established on the January 1 lien date in the county in which it is located ([Cal. Const. Art. XIII §14, §404](#)).

NOTE: The Soldiers' and Sailors' Civil Relief Act of 1940 established an exemption to situs for a person on active duty in military service. A person on active duty in military service may declare situs of a vessel in his or her home state.

The situs of a vessel can be determined by:

- Where a vessel is documented, located, or taxed;
- Where a vessel is habitually moored;
- A vessel's use;
- The domicile of the owner; and or
- Contacting the DMV.

If a tax bill from another county is offered as evidence of situs change, the tax collector should request proof of bill payment to ensure that the tax bill from the other county has not been, or is not subsequently, cancelled.

If a vessel will be or has been moved to another county within California and the owner makes a written declaration of the fact, a copy of the declaration should be sent to the other county where the vessel will gain its situs.

3.2.5 Locating the Vessel

Vessels must be registered with either the Department of Motor Vehicles (DMV) or the United States Coast Guard, and the owner is required to pay a biannual registration fee in addition to taxes on the vessel. Documented vessels that are either five net tons or more, 30 feet or more in length and used in fishing activities or recreation on navigable waters of the U.S. or in exclusive economic zones, or those used in coast-wide trade are registered by and issued a

marine certificate by the United States Coast Guard and do not require DMV registration. Undocumented vessels are registered by the DMV and do not have a marine certificate issued by the United States Coast Guard. All vessels not documented by the United States Coast Guard must be registered with the DMV with the exception of the following:

- Vessels propelled solely by oars or paddles;
- Non-motorized sailboats that are eight feet or less in length;
- Non-motorized surfboards propelled by a sail and with a mast the operator must hold upright;
- A ship's lifeboat;
- Vessels currently and lawfully registered by another state that are principally used outside of California; and
- Vessels brought into California for racing purposes only.

Because vessels are moveable, the county where the DMV registers a vessel is typically the county where the vessel is located and assessed. The address indicated on the registration certificate is the mailing address of the registered owner. However, the registration certificate does not indicate where the vessel is habitually moored, which may be different from the owner's mailing address.

The following methods may be used to determine the location of vessels registered with the DMV:

- Contact the DMV (The DMV can provide owner's name, address, vessel type, coast class, and other pertinent information based on a vessel's registration number (CF number), which may help determine location and situs information);
- View harbor master reports at county marinas;
- Receive a referral from another county;
- Review property statements (Assessors use the property statement and vessel owner's report to obtain information on vessels. The vessel statement or owner's report requests a variety of information on the vessel; for example, type, size, vessel number, builder, model, length, engine type, year built, equipment, and cost. The vessel owner (assessee) must file the property statement, which must be signed under penalty of perjury. The property statement may be used by the assessor (or the tax collector) to determine the assessable value (and/or tax) of the property located in the county on the lien date); and
- Make field calls and canvas.

NOTE: Canvassing is a technique that involves physically viewing vessels at their place of docking. The assessor should conduct field canvassing near the lien date, note any vessels located at docks and in marinas that are not listed in their files, and investigate the status of such vessels. A field canvas is effective in conjunction with viewing the harbor master report.

3.2.6 Tax Delinquent Vessel Program and Procedures

The tax delinquent vessel program is administered by county tax collectors in cooperation with the DMV. The program is primarily focused on reducing the high rate of unpaid property taxes

attributable to unsecured boat assessments. The program itself does not provide collection enforcement, but it can motivate payment due to the burden it places on the assessee.

Within 30 days after the tax has become delinquent, the tax collector may give the assessee(s) written notice that in addition to standard county delinquent property tax procedures, the renewal of the Certificate of Number, and transfer of any title to or interest in that vessel, will be withheld by the DMV ([Veh. Code §9880](#)) until the delinquent taxes have been paid on that vessel. Pursuant to the DMV *Tax Delinquent Vessels User Handbook*, if the assessee does not respond within 30 days of receiving the notice, the tax collector may notify the DMV beginning on day 31 of the delinquency.

Note: If the county tax collector has given notice to the assessee, then the county tax collector shall also provide written notice to the DMV when the delinquency has been satisfied ([§3205\(c\)](#)).

3.2.7 Notice to the DMV

The DMV's *Tax Delinquent Vessels Users Handbook* provides detailed information on enrollment, processing, and the steps required to place and remove vessel registration withholding. Contact the DMV at (916) 657-5582, or by emailing cpdadu@dmv.ca.gov for the most recent handbook.

Tax collectors must first notify DMV of their intent to participate in the tax delinquent vessel program and determine which process of notification they will use:

- Paper form (hard copy);
- Batch (Secure File Transfer – SFT); or
- Direct electronic access (direct access update).

The DMV must receive the Notice of Intent to participate, as it is necessary to authorize the receipt of the tax delinquent vessel information from the tax collector and to mark the vessel record on the DMV database.

Once enrolled in the tax delinquent vessel program, the tax collector must ensure that requests for withholding of registration renewal are received by the DMV no later than October 15 of odd-numbered years. The DMV must allow up to 75 days for customers to pay fees prior to December 31. This means that holds can be placed on assessee's records up until October 15. However, the DMV mails its renewal notices during October, so if a notice is not received by September 1, the assessee will not be notified by the DMV of the hold on his or her renewal notices. The DMV will, however, still place the hold on the assessee's record.

NOTE: It is possible to transfer input to the DMV at any time during the year to achieve a stop on the vessel registration record to prevent renewal or transfer. However, the DMV will not include a statement until the next October renewal notice period.

After enrollment is complete, the tax collector may take the following steps:

Step 1: Within 30 days after the delinquency date, provide written notice to the owners of all property tax delinquent vessels. See State Controller's Office sample form, *Notification Letter to Assessee on Tax Delinquent Vessels* ([SCO 2-23](#)). This is an effective message to include on the first demand for payment at the time of delinquency.

Step 2: Provide written notice of the delinquency, by electronic transmission or otherwise, to the DMV for recordation ([Veh. Code §9880](#)). Use the DMV's *Tax Delinquent Vessels Users Handbook* for additional information on this process as well as the following contact information:

- **Direct Access/Update Application** – This form and direct access information can be obtained by contacting the DMV's Electronic Access Administration Unit at (916) 657-5582, or by emailing cpdadu@dmv.ca.gov.
- **Notification of Intent to Submit Tax Delinquent Vessel Data by Hardcopy Manual Abstracting (DMV form Boat 114 (1/90))** – This form can be obtained by calling the DMV's Vessel Section at (916) 657-6739. It should be submitted 30 days prior to implementation. Two additional forms are provided by DMV: form Boat 119, *Notice of Delinquent County Vessel Tax*, and form Boat 120, *Vessel Tax Disposition*, which informs the DMV of actions taken in the county, releasing the withholding of registration. Technical questions regarding the implementation of this program may be directed to the DMV's Vessel Section at (916) 657-6739.
- **Electronic Submissions by Secure File Transfer Application** – This form and information can be obtained by calling the DMV's Automation Development Unit at (916) 657-5582 or by emailing at cpdadu@dmv.ca.gov. It should be submitted 30 days prior to implementation.

NOTE: Do not request that the DMV withhold renewal of the certificate of number unless a written notice has been mailed to the assessee first.

3.2.8 Initiating a Hardcopy or Online DMV Stop

Step 1: Once the delinquency deadline has passed, the assessee has been notified, and 30 days have elapsed since the deadline, compile a list of vessels on which outstanding tax is due.

Step 2: The list should include:

- Vessel number;
- Tax bill or account number; and
- Owner's last name.

Step 3: Follow the instructions contained in the DMV's *Tax Delinquent Vessels Users Handbook* to initiate a stop.

If a payment is received as a result of a DMV stop, proceed to step 4, if a payment is not received proceed to step 5.

Step 4: Upon receipt of payment, complete the vessel release forms.

- Use the three-part DMV Boat 120 form published in the *DMV's Tax Delinquent Vessels Users Handbook* or transmit the form electronically depending on your initial enrollment request. Provide the original to the DMV and send the second portion of the form to the assessee, and retain the third portion of the form in the tax collector's file or provide it to the Assessor if it appears that any existing file data should be corrected.
- Once the DMV receives the receipt of release, it will remove the stop.
- Update all files associated with the vessel(s) delinquency.

Step 5: Consider the following alternative collection methods:

- Filing a lien, [*Unsecured Property Tax Collection Procedural Manual, Chapter I: Unsecured Tax Collection Overview*](#); or
- Initiating seizure and Sale, [*Unsecured Property Tax Collection Procedural Manual, Chapter II: Seizure and Sale*](#).

Section 3.3: Mining Claims/Mineral Rights

3.3.1 Background

The definition of real property includes, "All mines, minerals, and quarries in the land, and all rights and privileges appertaining thereto" ([§104\(b\)](#)). The term "land" is defined by The California Department of Tax and Fee Administration (formerly known as the Board of Equalization [BOE]) [Property Tax Rule 121](#) as "...the possession of, claim to, ownership of, or right to possession of land; mines, quarries, and unextracted mineral products."

"Mineral rights" and "mining rights" include the right to enter in or upon the land for the exploration, development, and production of minerals, including oil, gas, and other hydrocarbons ([§607.5](#)).

NOTE: Mining claims include mineral rights.

3.3.2 Taxing Mining Claims

Possessory interests means possession of, claim to, or right to the possession of land or improvements that is independent, durable, and exclusive of rights held by others in the property ([§107](#)). Therefore, the assessee may be taxed on a possessory interest, such as a mining claim, which may be separate from the landowner's interests or rights. Defaulted possessory interest taxes may be transferred, together with any penalty and costs, from the secured roll to the unsecured roll.

NOTE: See the [Unsecured Property Tax Collection Procedural Manual, Chapter IV: Special Property Types](#) for information on selling mining claims that remain on the secured roll via sealed bid.

Mining claims are assessed annually to the persons owning, claiming, possessing, or controlling the claim(s) on the lien date ([§405\(a\)](#)). Mining claims are a possessory interest and should be treated as such ([BOE Property Tax Rule 21](#)). The assessed value is based on the present worth of future maintenance payments made to the federal government and the sale price of the subject claim or comparable claims. There is no explicit stated term of possession for mining claims in federal law. Determining the present worth of the future payments requires that the assessor determine a reasonably anticipated term of possession for the claim. The value represents the right to explore, develop, and produce minerals from the claim. Reserves are not typically estimated for mining claims and therefore not the basis for the mineral right value. Once the base year value is enrolled it declines in value each year to reflect the remaining anticipated term of possession. When the anticipated term of possession runs out, the claim is revalued as if it changed ownership even though the claim may be held by the same person or persons. Only rights to explore, develop, and produce minerals are conveyed by the claim. All other rights are retained by the federal government.

3.3.3 Exemptions to Taxation

- Abandoned mining claims ([BOE Property Tax Annotation 590.0030](#));
- Mineral claims belonging to the state, county, or city ([§202\(a\)\(4\)](#)); and
- Mineral claims dedicated exclusively to religious, scientific, charitable purposes ([§214](#)).

3.3.4 Types of Mining Claims

There are three basic types of mining claims:

- Unpatented (unsecured) mining claims, which convey ownership of the minerals and give the owner the right to extract and develop mineral deposits while the U.S. Government maintains ownership of the land;
- Patented (secured) mining claims, where the title for the land has been passed to the claimant by the U.S. Government, along with the rights to all minerals; and
- Mineral rights ownership, typically below the surface of land that is owned by other private individuals.

California State lands are not subject to the same mining claims as federal lands are, but they may be prospected and leased for minerals other than oil and natural gas. A prospecting permit is required. Prospecting permits are valid for 2 years and can be extended for another 2 years. If a prospector discovers minerals, a preferential lease may be acquired; this lease is subject to the payment of royalties. Minerals on state lands may not be removed without such a lease.

Competitive bidding is necessary for state lands already known to contain commercially valuable deposits of minerals. The California State Lands Commission, Mineral Resources Management Division has jurisdiction over all miner operations on state lands.

Leases of state lands create taxable possessory interests. To determine active mineral operations in any county, the tax collector should contact the California State Lands Commission and the Mineral Resources Management Division for copies of all active permits on state lands. Contact the county planning commission for all use permits on private lands ([BOE Assessor's Handbook, Section 560, Assessment of Mining Properties](#)).

3.3.5 Recordation by the Claim Locator/Owner

Within 90 days after the posting of the locator's (assessee's) mining claim (lode mining claim, placer claim, tunnel right or location, or mill site claim or location), the locator must record in the county recorder's office a true copy of the notice of location, together with a statement by the locator of the boundary markings as required by PRC [§3900 et seq](#) ([Pub. Res. Code §3911](#)).

In addition, the owner of a mining claim must also record an affidavit "proof of labor" setting forth all labor, improvement, or maintenance fees paid on any mining claim ([Pub. Res. Code §3913\(b\)](#)).

The board of supervisors, may require, by resolution, that any person filing an affidavit pursuant to [Public Resources Code, section 3913](#) or a notice of intent to hold must show proof of payment of any unsecured tax levied against the mining claim, along with any delinquent unsecured taxes levied against the person filing the affidavit or notice of intent to hold, prior to the recordation ([Pub. Res. Code §3914](#)). The steps for filing an affidavit are as follows:

Step 1: If the recorder receives an affidavit for recording by mail and the affidavit does not contain the tax collector's certification that the taxes have been paid, then the recorder will forward it back to the tax collector;

Step 2: If applicable, the tax collector then certifies that the taxes have been paid on the face of the affidavit and returns the document to the county recorder for recording; or

Step 3: If the taxes have not been paid, the tax collector returns the affidavit unrecorded to the assessee and a delinquent taxes statement to the county recorder.

Section 3.4: Racehorses

The most effective method to motivate payment of taxes is to withhold county recordation of mining claims. However, if that technique fails, and the assessee still does not pay the delinquent taxes and no payment plan is arranged, the tax collector may consider the following alternative unsecured tax collection methods:

- Filing a lien, [Unsecured Property Tax Collection Procedural Manual, Chapter I: Unsecured Tax Collection Overview](#), or
- Initiating seizure and sale, [Unsecured Property Tax Collection Procedural Manual Chapter II: Seizure and Sale](#).

3.4.1 Background

“Racehorse” is defined as each live horse, including a stallion, mare, gelding, ridgeling, colt, filly, or foal, that is or will be eligible to participate in or produce foals that will be eligible to participate in a horseracing contest in California wherein pari-mutuel wagering is permitted under rules and regulations prescribed by the California Horse Racing Board. “Racehorse” does not include any horse over 3 years old, or 4 years old in the case of an Arabian horse, that has not participated in a horserace contest on which pari-mutuel wagering is permitted, or has not been used for breeding purposes in order to produce racehorses during the two previous calendar years ([§5703](#)).

NOTE: For additional definitions relating to horseracing, see [§5701 et seq.](#)

The California Legislature found that subjecting ownership of racehorses to the general property tax resulted in a significant lack of uniformity between counties in assessment practices and taxation of racehorses. This in turn resulted in inequities between racehorse owners. The taxation method enacted for racehorses was intended to establish a more equitable method of taxing racehorses and to provide incentives for owners to maintain their horses within the state to prevent loss of state revenue ([§5701](#)).

Therefore, the tax imposed is on the privilege of breeding, training, caring for, or racing a racehorse, domiciled in the state, and is in lieu of any property tax ([§5721](#)).

3.4.2 Situs

The tax situs of racehorses, subject to in-lieu taxation, is the home ranch of the owner or other place where the racehorses are quartered or domiciled and to which they normally return when not racing or in training at a racetrack. If the racehorses are not quartered at a home ranch or other location when not racing or in training to race, the situs is the horse owner’s residence. This determination is made annually at 12:01 a.m. on the lien date of January 1 of each year ([§5720.6](#)).

3.4.3 Annual Tax Basis

The basis used for assessing taxes against racehorses differs from that used for other types of unsecured property. The unsecured property taxes for the types of property previously outlined in this manual are determined based on the assessed value of the property. The amount of the unsecured property taxes on racehorses is determined by the horse's age and category and the amounts that are listed in [§5722](#).

3.4.4 Taxes and Penalties

Taxes Due

The tax is determined as of 12:01 am on January 1 of the calendar year for which it is imposed, and the tax is immediately due and payable to the tax collector of the county in which the racehorse is domiciled ([§5761](#)). The owner's declaration of domicile dictates the county of taxation. Temporary training or racing in another county does not affect the place of permanent domicile ([§5720.6](#)). Unlike other types of personal property, unpaid tax for racehorses is delinquent at 5 p.m. on February 15th of the calendar year for which the tax is imposed.

Penalties Due

If the tax is paid after 5 p.m. on February 15th, a delinquent penalty of 6% must be imposed. An additional penalty of 1% must also be imposed on the first day of the first calendar month, and every month thereafter, after the tax becomes delinquent, until the delinquent tax and penalties have been fully paid ([§5763](#)). If any person required by [§5782](#) to file a report fails to file by the time specified, a penalty equal to 10% of the tax and the penalties provided by [§5763](#) may be imposed ([§5767](#)).

Moreover, if any person required to file the report by [§5782](#) files any false or fraudulent report with intent to defeat or evade any tax due under this part, a penalty equal to 25% of the tax and the penalties provided by [§5763](#) may also be imposed ([§5767](#)).

3.4.5 Reporting Tax Due (by Racehorse Owner)

The racehorse owner (assessee) must file the report (annual property statement), which must be signed under penalty of perjury. The report is used by the tax collector to determine the tax on the racehorse(s) located in the county on the lien date.

Pursuant to the State Department of Tax and Fee Administration [Property Tax Rule 1045](#), Administration of the Annual Racehorse Tax, the owner of any racehorse(s) must file (either in person, via representative, or by mail) an *Annual Racehorse Return* ([BOE-571-J](#)) with the county assessor stating the total taxes and penalties due, if any ([Property Tax Rule 1045](#)). Forms are provided to the owner by the assessor's office ([§5782](#)).

The assessor shall maintain a record of those persons believed to be liable for the annual racehorse tax to whom the assessor has furnished copies of the forms. A copy of the record

must be delivered to the tax collector within 10 days of the date copies of the forms are furnished, so that the tax collector is made aware of the assesseees who are expected to file returns.

Property Statement Procedure

Following is a sample property statement checklist that may be used to process and verify information for completeness provided by the racehorse owner on his or her *Annual Racehorse Tax Return* ([BOE-571-J](#)).

- Log property statement as received.
- Check signature. If it is not an authorized signature per the Annual Racehorse Tax Return form ([BOE-571-J](#)) instructions, then the property statement is not valid.
- Verify that the situs of the property and its description is reported to the appropriate county.
- Check for any change of ownership to the property. Make any necessary changes (for example, to the unsecured account).
- Confirm that property is reported and described as required.
- If the statement is complete, the filing is valid.

NOTE: Some counties retain a copy of the statement prior to returning the original for signature. Check the signed statement for any changes to situs, mailing address, business name, or other pertinent information and make any necessary changes.

3.4.6 Jeopardy Determination

If it is determined that, in the tax collector's opinion, payment of the tax will be jeopardized by delay, then a computation should be made of the tax amount to be collected. The amount so determined shall be immediately due and payable. The tax due may be collected under such jeopardy determinations by any legal means, including the procedures established pursuant to [§2851 et seq.](#), [§2901 et seq.](#), [§3002 et seq.](#), [§3101 et seq.](#), and [§5764](#).

3.4.7 Statute of Limitation

The tax described in this part may be imposed at any time within 5 years after the tax would have otherwise become due ([§5766](#)), and the penalties shall date from the time described under [§5763](#).

3.4.8 Audits by the Assessor

The assessor may perform audits of the books and records of any racehorse owner who is subject to the tax imposed by this part to determine if the correct information has been reported and the proper amount of tax has been paid ([§5765](#)).

Upon discovery that a racehorse has escaped taxation, the assessor must determine whether the horse was subject to the annual racehorse tax or was exempt. If the horse is determined taxable, the assessor must either provide the audit work papers so that a determination of additional racehorse tax due can be calculated, or enroll an ad valorem assessment of escaped personal property.

Production of Business Records

Upon the request of the assessor, an owner of racehorse(s) subject to the tax imposed by this part will make available, at his/her principal place of business, principal location, principal address in California, or at any place mutually agreed upon by the assessor and the owner, a true copy of business records relevant to the number and type of racehorses located in any county of the state during any taxable period including the number of days spent in each county during that period. Records referred to in this section shall be retained by the owner for a period of 5 years from the date that any tax to which they relate becomes due ([§5768](#)).

3.4.9 Inter County Collection Reporting and Fund Transfers

The auditor of the county in which a racehorse owner's *Annual Racehorse Tax Return* ([BOE 571-J](#)) is filed must transfer any taxes paid that belong to another county as shown on the report. A copy of the report should be included with the transferred taxes paid so that the auditor of any county receiving transferred funds can allocate them in the manner provided for under [§5790](#). Funds are not required to be transferred to another county based on racehorse boarding records of the county reported by the racehorse owner via the *Annual Report of Boarded Racehorses* ([BOE-571-J1](#)).

3.4.10 Collection of Delinquent Taxes

If the assessee fails to pay the delinquent taxes or arrange a payment plan, the tax collector may consider the following alternative collection methods:

- Filing a lien, [Unsecured Property Tax Collection Procedural Manual, Chapter I: Unsecured Tax Collection Overview](#); or
- Initiating seizure and sale, [Unsecured Property Tax Collection Procedural Manual, Chapter II: Seizure and Sale](#).

Section 3.5: Rubber/Steel-Wheeled Equipment

3.5.1 General Information

In the absence of statutory direction, it is desirable to have standard procedure by which to implement the requirements of [§994\(b\)](#).

The recommended procedure outlined herein incorporates recommendations from the California Department of Motor Vehicles and the Committee on County Tax Collecting Procedures.

Although the major burden of implementing the procedure falls on the assessor and the auditor, the processes they follow are included in this manual so that the tax collector will have a general understanding of the measures taken to ensure that the proper tax deduction is made.

Determining Situs of Movable Property

Rubber-tired equipment must be assessed in the county where it has situs on the lien date ([§994\(b\)](#)). Property that is frequently moved, such as transportation equipment and construction equipment, is defined as 'movable property.' The situs of moveable property, leased equipment, and property in transit should be governed by the duration of its stay at any location ([BOE Prop. Tax Rules 203, 204, 205](#)).

NOTE: This chapter addresses many different types of movable vehicles in addition to rubber-tired equipment. See definitions below for the types of movable vehicles subject to assessment.

3.5.2 Definition

Vehicles subject to license by the Department of Motor Vehicles (DMV) for on-road use are not subject to property tax assessment. The license fee imposed is in lieu of all property taxes levied for state and local purposes. Vehicles exempt from DMV registration and license fees, however, are subject to assessment. They are considered "implements of husbandry" or "special vehicles," and are specifically exempted from DMV registration under [Vehicle Code sections 4009-4020](#).

Implements of husbandry include, but are not limited to, any tool, machine, equipment, appliance, device, or apparatus used in the conduct of agricultural operations, and any additional items defined by the [Vehicle Code sections 36005 et. seq.](#)

Special vehicles include steel-wheeled, track-laying, rubber-tired equipment, and other vehicles that are not subject to the license fees by the DMV. In addition, exempt from registration is "special construction equipment" ([Veh. Code §570](#)) and "special mobile equipment" ([Veh. Code §575](#)). Special construction equipment is ([Veh. Code §565](#)):

- (a) Any vehicle used primarily off the highways for construction purposes and which moves only occasionally over the highways and which because of the length,

height, width, or unladen weight may not move over the public highways unladen without the permit specified in [Vehicle Code, section 35780](#).

- (b) Any vehicle which is designed and used primarily either for grading of highways, paving of highways, earth moving, other construction work on highways, or for construction or maintenance work on railroad rights-of-way, and which is not designed or used primarily for the transportation of persons or property and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road and railroad construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track type tractors, crawler tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, water wagons, power shovels and draglines, speed swings, skip loaders, weed mowers, self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which either (1) are in excess of 96 inches in width or (2) which, because of their length, height or unladen weight, may not be moved on a public highway without the permit specified in [Vehicle Code, section 35780](#) and which are not operated laden except within the boundaries of the job construction site, and other similar types of construction equipment.

Special mobile equipment refers to a vehicle that is not self-propelled, not designed or used primarily for the transportation of persons or property, and only incidentally operated or moved over a highway, excepting implements of husbandry.

All of these vehicles are subject to assessment because they are exempt from license fees by the DMV, except by one-trip or special permit. Although identification plates may be found on these vehicles, the plates are not evidence that the vehicle is registered and/or the DMV license fee has been paid. Vehicles bearing these identification plates are exempt from registration and can be assessed and taxed as personal property.

NOTE: In some cases, the assessee of the property noted above may be allowed to deduct from the amount of property tax any fee paid (i.e., temporary licenses or special permits including a fee for property tax).

3.5.3 Property Taxation Procedure

Assessor's Duties

- When the assessor receives a business property statement on which the assessee has reported a vehicle that requires a permit (vehicle is oversize or overweight) to be moved or operated on public streets or highways, the assessor should mail an application to the assessee. See State Controller's Office sample form, *Instructions for Application for Deduction of Vehicle License Fees from Property Tax* ([SCO 2-19](#)).
- The assessee completes and signs the application form and files the application with the assessor.

NOTE: If the tax collector receives the Business Property Statement, he or she should forward it to the assessor.

3.5.4 Collection of Delinquent Taxes

If the assessee fails to pay the delinquent taxes, and no payment plan is arranged, then the tax collector may consider the following alternative unsecured tax collection methods:

- Filing a lien, [Unsecured Property Tax Collection Procedural Manual, Chapter I: Unsecured Tax Collection Overview](#); or
- Initiating seizure and sale, [Unsecured Property Tax Collection Procedural Manual, Chapter II: Seizure and Sale](#).

Section 3.6: Mobilehomes

3.6.1 General Information

The registration and transfer of title for mobilehomes is managed by the California Department of Community and Housing (HCD). According to the [Health and Safety Code, section 118116.1\(c\)](#), HCD is not to amend any permanent title record for any mobilehome, or its equivalent, for the purposes of changing ownership interest when it is the subject of a lien. HCD is also prohibited from issuing any duplicate, substitute, or new certificate of title, registration card, or a copy of a registration card for a mobilehome, or its equivalent, when it is the subject of a lien. As a result, assesses who purchase mobilehomes often don't receive all the legal documentation to become the rightful owner of their home, and in most cases, they are also unaware of back-taxes owed on the mobilehome.

3.6.2 Fee and Tax Waiver Program

Effective January 1, 2017 through December 31, 2019, manufactured home and mobilehome owners who have been unable to transfer title into their names due to delinquent taxes and fees that were incurred by prior owners are eligible to apply to transfer registrations of their homes with the HCD through the Fee and Tax Waiver Program. Applicants, if approved by the HCD, will be relieved of all outstanding charges assessed by the HCD and will only be required to pay a portion of the delinquent property taxes owed minus any penalties and interest. Upon approval, the HCD will issue the applicant a Conditional Transfer of Title which will indicate the date of sale as determined by the HCD.

3.6.3 Definitions

"Mobilehome" means:

- A "manufactured home," as substituted for "mobilehome" by Chapter 796, Statutes of 1991, effective January 1, 1992;
- A structure transportable under permit in one or more sections, equipped to contain no more than two dwelling units, designed to be used with or without a foundation system; or,
- A structure transportable under permit in one or more sections, designed to be used with a foundation system for any of the following purposes:
 - Three or more dwelling units;
 - A dormitory;
 - A residential hotel; or
 - Efficiency units.

Mobilehomes do not include recreational vehicles, commercial modular buildings, or factory-built housing, as defined in [Health and Safety Code, section 19971](#) ([Health & Saf. Code §18008-](#)

[§18211](#)). A mobilehome is defined as a trailer coach in excess of 102 inches in width, or in excess of 40 feet in overall length. ([Veh. Code §396](#)).

“Reasonably owed” means:

The delinquent taxes owed from the date of sale shown on the Conditional Transfer of Title, without penalties or interest, and not to exceed the amounts attributable to one year prior to January 1, 2017 ([§5832\(3\)\(f\)\(1\)](#)).

NOTE: All delinquent taxes, penalties, and interest that were incurred prior to the date of sale, remain on the tax roll and are the responsibility of the previous assessee(s) ([§5832\(3\)\(f\)\(3\)](#)).

3.6.4 Tax Collector Procedures

The following procedures are the necessary steps required of the tax collector to successfully complete the application process in the Fee and Tax Waiver Program ([§5832](#)).

Step 1: The applicant presents a Conditional Transfer of Title.

Once the application process is initiated, the applicant will receive a Conditional Transfer of Title from HCD. When the applicant presents the Conditional Transfer of title to the tax collector, this starts the tax collector’s procedures.

Step 2: Determine the applicant’s tax liability.

The Fee and Tax Waiver Program does not relieve any owner, other than the applicant, from tax liability. This includes any penalties and fees arising from nonpayment of taxes prior to the date of sale. The program also does not prohibit a tax collector from collecting any delinquent taxes, penalties or interest that accrued prior to the date of sale.

Step 3: Determine taxes to be cancelled from the roll.

All taxes, other than those “reasonably owed,” due from the date of sale as indicated on the Conditional Transfer of Title through the date the Tax Liability or Tax Clearance Certificate is issued are to be cancelled.

NOTE: If a mobilehome was transferred after January 1, 2017, the applicant will not be liable for any delinquent taxes, and all taxes from the date of sale to the date the Tax Liability or Tax Clearance Certificate is issued are to be cancelled.

Step 4: Collect the taxes “reasonably owed” and issue a Tax Liability or a Tax Clearance Certificate.

Upon payment of the taxes “reasonably owed,” the tax collector must issue the applicant a Tax Liability or Tax Clearance Certificate. This certificate must be approved by the State Controller’s Office, and we recommend using the State Controller’s Office sample forms, *Tax Liability Certificate* ([SCO 10-03](#)) or *Tax Clearance Certificate* ([SCO 10-01](#)).

It is important that the Tax Liability Certificate be made in triplicate. The original is given to the applicant, one copy is retained and kept on record, and the third copy is sent to the assessor. Inform the applicant that the transfer of title process is not complete until the Tax Liability Certificate, along with any other required documentation, is returned back to HCD.

Step 5: Notify the assessor of the change in ownership.

In addition to sending a copy of the Tax Liability or Tax Clearance Certificate, the tax collector must also inform the assessor that the applicant has been listed as the owner of record.

Step 6: List the applicant as the owner of record for all property tax purposes. HCD transfers title to the applicant.

The issuance of the Tax Liability or Tax Clearance Certificate has made the applicant the current owner of record. Starting the date listed on the certificate, the applicant assumes all tax liability moving forward. However, this does not become permanent until the applicant has returned the certificate to HCD for finalization.

Step 7: Review HCD bi-weekly report.

Because this process is heavily reliant on the applicant's compliance to the requirements, it is important to double-check the tax collector's list of issued Tax Liability or Tax Clearance Certificates with HCD's report to ensure the applicants are following through.

If an applicant does not complete the process by December 31, 2019, then ownership on the tax rolls must be restored to the original assessee.

NOTE: For additional information on mobilehomes, see the [Tax Collectors' Reference Manual, Chapter 10000: Mobilehomes](#) and the [Fee and Tax Waiver Program FAQ](#).

3.6.5 Example Payment Calculations

Purchase date: 1/1/2000 | **Certificate Issuance date:** 10/1/2018

Previous owner liability: all taxes prior to 1/1/2000

Applicant liability: 2016 calendar year (second installment of 15/16 fiscal year and first installment of 16/17 fiscal year) taxes

Applicant billing begins: 10/1/2018

Certificate type issued: Tax Liability Certificate

Purchase date: 9/1/2015 | **Certificate Issuance date:** 5/1/2019

Previous owner liability: all taxes prior to 9/1/2015

Applicant liability: 2016 calendar year (second installment of 15/16 fiscal year and first installment of 16/17 fiscal year) taxes

Applicant billing begins: 5/1/2019

Certificate type issued: Tax Liability Certificate

Purchase date: 9/1/2016 | **Certificate Issuance date:** 8/1/2018

Previous owner liability: all taxes prior to 9/1/2016

Applicant liability: 9/1/2016 - 12/31/2016 taxes

Applicant billing begins: 8/1/2018

Certificate type issued: Tax Liability Certificate

Purchase date: 2/1/2018 | **Certificate Issuance date:** 8/1/2018

Previous owner liability: all taxes prior to 2/1/2018

Applicant liability: none

Applicant billing begins: 8/1/2018

Certificate type issued: Tax Clearance Certificate

3.6.6 Contact Information

For any questions related to the Fee and Tax Waiver Program, contact: the Department of Housing and Community Development, www.hcd.ca.gov, (800) 952-8356. For any questions related to tax liability contact: the State Controller's Office, propertytax@sco.ca.gov.

Section 3.7: Sample Forms

| | |
|--|----------------------------------|
| <i>Application for Deduction of Vehicle License Fees from Property Tax</i> | <u>SCO 2-19</u> |
| <i>Satisfaction of Judgment (FAA)</i> | <u>SCO 2-20</u> |
| <i>Certificate of Lien for Unsecured Property Taxes (Aircraft)</i> | <u>SCO 2-20a</u> |
| <i>Notice of FAA Lien Recorded</i> | <u>SCO 2-20b</u> |
| <i>Notification Letter to Assessee on Tax Delinquent Vessels</i> | <u>SCO 2-23</u> |
| <i>Notice of Delinquent Taxes</i> | <u>SCO 2-30</u> |
| <i>Tax Clearance Certificate</i> | <u>SCO 10-01</u> |
| <i>Tax Liability Certificate</i> | <u>SCO 10-03</u> |

Chapter IV: Other Collections

Section 4.1: Bulk Sale (Bulk Transfer)

4.1.1 Background

The [California Commercial Code §6102\(a\)\(3\)\(i\)\(ii\)](#) defines a bulk sale (bulk transfer) as either of the following:

- In the case of a sale by auction or a sale or a series of sales conducted by a liquidator on the seller's behalf, a sale or series of sales not in the course of the seller's business of more than half of the seller's inventory and equipment, as measured by a value on the date of the bulk-sale agreement.
- In all other cases, a sale not in the ordinary course of the seller's business of more than half of the seller's inventory and equipment, as measured by a value on the date of the bulk sale agreement.

The phrase "ordinary course of the seller's business" is defined as a sale that fits with the usual or customary practices in the kind of business in which a seller is engaged or with the seller's own usual or customary practices ([Cal. Com. Code, §6102\(a\)\(13\)](#)).

The types of businesses that can be subject to a bulk sale are companies whose principal business consists of the sale of inventory from stock, including those businesses that manufacture what they sell ([Cal. Com. Code, §6103](#)). For example:

- Bars;
- Pharmacies;
- Gas Stations/Auto Repair Shops;
- Laundry Facilities; and
- Restaurants/Fast Food Franchises.

4.1.2 General Process

When a business plans to engage in a bulk sale, a *Bulk Sale Notice to Creditors* must be sent by certified or registered mail to the tax collector at least 12 business days prior to the time the transfer is consummated ([Cal. Com. Code, §6105\(b\)](#)). The party responsible for sending the *Bulk Sale Notice to Creditors* is predicated on how the transaction will be made, as follows:

- If the transfer (sale) will be made between private parties, then the notice must be sent by the transferee (buyer) of the goods ([Cal. Com. Code, §6104-§6105](#)).
- If the transfer will be made by auction, then notice must be sent by the auctioneer ([Cal. Com. Code §6108](#)).

Once the notice is received by the county tax collector, the taxes due are calculated, a bill is generated, and then sent to the transferee.

If a liquor license is associated with the business, the county tax collector may elect to initiate an ABC Liquor License Hold on the liquor transfer. See [Chapter IV, Section 4.2: ABC Liquor License Hold](#).

Once the taxes are paid, the county tax collector may issue a confirmation of payment to the sale facilitator (and a release of hold if a hold on the liquor license was made) and authorize the sale to officially move forward

4.1.3 Determine the Existence of a Bulk Sale (Bulk Transfer)

Prior to the consummation of a bulk sale, a notice informing the intention of the sale must be sent by certified or registered mail to the tax collector of the county in which the tangible property is located. ([Cal. Com. Code §6105](#)).

NOTE: If a business does not provide notice in the required format or medium, or fails to provide notice at all, proceed to Step 5.

The tax collector may become aware of the bulk sale in one or more of the following manners:

- Receipt of a *Bulk Sale Notice to Creditor*;
- Discovery of bulk sale notice in local publications or other sources;
- Recorded document filed with the county recorder's office; and
- Phone call from any of the parties involved in the sale.

Step 1: Depending on the manner in which the bulk sale becomes known, determine one of the following courses of action:

If the sale becomes known by receipt of a *Bulk Sale Notice to Creditor*, proceed to Step 2.

If the sale becomes known by means other than a *Bulk Sale Notice to Creditor*, proceed to [Chapter IV, Section 4.1.4, Assemble Absent Business Property Value Information](#).

Step 2: Stamp the *Bulk Sale Notice to Creditor* with the date received.

Step 3: Confirm compliance of the *Bulk Sale Notice to Creditor* using the following criteria:

- The following information must be provided in a *Bulk Sale Notice to Creditor* ([Cal. Com. Code §6105\(a\)](#)):
 - A statement that a bulk sale is about to be made. This may include the escrow number and closing date;
 - The name and business address of the seller, together with any other business name and address used by the seller within three years before the date the list is sent or delivered to the buyer;
 - The name and business address of the buyer. An exception is when the sale is an auction sale. In that case, use the name and business address of the auction house ([Cal. Com. Code §6108 \(3\)](#));
 - The location and general description of the assets;
 - The place and the anticipated date of the bulk sale; and
 - A statement whether or not the bulk sale assets are valued at two million dollars (\$2,000,000) or less and that the sale will be consummated substantially or entirely by cash or an obligation of the buyer to pay cash in the future to the seller or a combination thereof.
- The following actions must be taken at least 12 business days before the date of the bulk sale ([Cal. Com. Code §6105\(b\)\(1-3\)](#)):

- The Bulk Sale Notice to Creditors must be recorded in the office of the county recorder in the county or counties in the state in which the tangible assets are located and, if different, in the county in which the seller is located;
- Notice of the sale must be published at least once in a newspaper of general circulation in the judicial district in the state in which the tangible assets are located and in the judicial district, if different, in which the seller is located; and
- The Bulk Sale Notice to Creditors must be delivered or sent by registered or certified mail to the county tax collector in the county or counties in the state in which the tangible assets are located

Step 4: Verify that a current *Business Property Statement* (BPS) ([BOE-571-L](#), [BOE-571-S](#)) is included with the Notice to Creditor. A BPS must be provided to the county tax collector and the county assessor for any bulk sale date between January 1 and May 7 ([Cal. Com. Code, §6105 \(b\)\(3\)](#)).

- If a BPS is included, forward the BPS to the county assessor and proceed to, [Chapter IV, Section 4.1.5, Determine Taxes Due](#).
- If no BPS is included, proceed to the next section, [Chapter IV, Section 4.1.4, Assemble Absent Business Property Value Information](#).

4.1.4 Assemble Absent Business Property Value Information

In most cases, when a bulk sale is scheduled prior to the BPS due date, the sale facilitator (escrow company, title company, or private party) will be in concurrent communication with the county tax collector's office and the county assessor's office and, in particular, will be receiving direction from the assessor concerning business-asset documentation (the BPS or similar).

However, there may be instances in which a county tax collector's office is more directly involved in acquiring business asset information, especially when the sale facilitator has not communicated with the county assessor.

The steps below outline a general process to follow if this is the case:

Step 1: From the *Bulk Sale Notice to Creditor* or other related documentation, identify the sale facilitator involved in the sale.

Step 2: Request the sale facilitator to submit, either by certified or registered mail, the following:

- A copy of the *Bulk Sale Notice to Creditor*; and
- A copy of the BPS. If the sale facilitator is not able to produce a BPS, advise the sale facilitator to contact the assessor's office and do the following:
 - Provide documentation of all asset information (Some assessor offices may have a formalized document such as an Assessor's Worksheet); and
 - Return the asset information to the tax collector and/or assessor immediately.

NOTE: In order to save time, the tax collector can request a fax or email scan of the asset information, rather than having it sent by mail.

Step 3: Confirm with the county assessor's office that they have received the information requested in Step 2.

- If received, proceed to Step 3 of [Chapter IV: Section 4.1.5: Determine Taxes Due](#); or
- If not received and/or the sale facilitator is unable to comply with the request, either:
 - Contact the assessor to obtain the previous year's BPS and tax rate formula and proceed to Step 3 of [Chapter IV: Section 4.1.5, Determine Taxes Due](#);
 - Access the tax collector's database and research BPS information from the previous year and proceed to Step 3 of [Chapter IV: Section 4.1.5, Determine Taxes Due](#);
 - Inform the sale facilitator that the purchase price for the proposed bulk sale will be used as the value to calculate the estimated tax, and proceed to Step 5 of [Chapter IV: Section 4.1.5, Determine Taxes Due](#); or
 - Immediately seize the property. See [Unsecured Property Tax Collection Procedural Manual, Chapter II: Seizure and Sale](#), for process and procedures.

4.1.5 Determine Taxes Due

Step 1: Determine which tax liability the business falls under.

- If the liability is for past and/or current year taxes (June 30 to December 31), and a current BPS is included among the materials, proceed to Step 2; or
- If the liability is for past and/or *estimated* current taxes (January 1 to May 31) with no current BPS or asset information, proceed to Step 3.

Step 2: Confirm the taxes due and prepare a claim letter for that amount plus any unpaid past taxes and interest due, if applicable. Proceed to Step 6.

Step 3: Upon receipt of the asset values from the assessor, either:

- Send a copy to the county auditor's office for the extension of the tax rate. The asset values will provide the information needed to calculate the estimated taxes; or
- Contact the county auditor's office, request the tax rate for the previous year, and make the estimated tax calculation.

Step 4: Upon receipt from the county auditor (or the tax collector's own calculation) of the estimated tax obligation, it is recommended that an additional 20-25% be added to the final estimated total to ensure accounting for all known and unknown assets.

Step 5: Assemble all of the informational materials and compose an Estimated Taxes Due Claim Letter. See State Controller's Office sample form, *Estimated Taxes Due Claim Letter* ([SCO 2-25](#)). The *Estimated Taxes Due Claim Letter* should include the following:

- Sale facilitator name and address;
- Seller name (from the worksheet);
- Buyer name (from the worksheet);
- Sale date (from the Notice to Creditors);

- Business name;
- Business address;
- Escrow number (from the Notice to Creditors);
- Account number/assessment number (from the worksheet);
- Amount due (from the tax rate calculation [taxes due + 20-25%]);
- Payment deadline; and
- Fiscal year (This should be the next fiscal year).

Step 6: Send the claim letter to the sale facilitator with a return remittance envelope.

Step 7: If the sale facilitator requires a notice that the current year's taxes are paid, along with estimated taxes, provide documentation once the current year taxes are paid.

Step 8: Proceed to [Chapter I, Section 1.6, Receipt of Payments](#).

4.1.6 Receipt of Payments

Step 1: Determine the payment status.

- If the payment received is the full amount, proceed to Step 2; or
- If the payment is not in full, consider the following:
 - If the business has a liquor license, the tax collector may elect to initiate a hold on the liquor license. Proceed to [Chapter IV, Section 4.2.4, Prepare a Notice of Intent to Hold Liquor License](#); or
 - If the business does not have a liquor license, the tax collector may elect to begin the process of seizing the property. See the [Chapter II, Section 2.3.1, Pre-Seizure Review](#).

Step 2: Determine what the payment resulted from.

- If the payment is pursuant to an *Estimated Taxes Claim Letter*, proceed to Step 3; or
- If payment is pursuant to a tax bill, prepare and send a letter to the escrow or title company confirming that the taxes have been paid in full. This collection procedure is complete.

NOTE: If a hold was placed on a liquor license, ensure that the release of that hold is completed. For release of liquor license hold procedures, proceed to [Chapter IV, Section 4.2.4, Prepare a Notice of Intent to Hold Liquor License](#).

Step 3: Record the payment in an escrow-type suspense account file. Data fields can include the following:

- Assessee's name;
- Category number/internal number;
- Account number;
- Tax year covering the estimated taxes;
- Amount collected; and

- Date received.

Step 4: Deposit the payment into the escrow-type suspense account according to the tax collector's office procedures.

Step 5: Upon completion of the fiscal year tax bills, compare the amount of the final bill with the estimated amount collected, determine the following, and execute accordingly:

- If the amount collected from the estimated tax bill is **within** the county policy over or under the amount reflected in the final bill amount, then adjust the pay stub.
- If the amount collected from the estimated tax bill is **more than** the county's policy overage amount reflected in the final bill amount, then:
 - Process the account for a refund; and
 - Return the balance to the payor.
- If the amount collected from the estimated tax bill is **less than** the county's policy underpayment from the final bill amount, then:
 - Prepare a letter to the payor stating that there was an underpayment;
 - Place a copy of the letter in the bulk sale file; and
 - Mail a tax bill for the remaining balance to the payor.

Step 6: Determine whether a hold was placed on a liquor license.

- If a hold was placed on a liquor license, ensure that the hold has been released. For release of liquor license hold procedures, proceed to [Chapter IV, Section 4.2.4, Prepare the Release of Hold on Liquor License](#); or
- If there is no liquor license hold to address, this collection procedure is complete.

Section 4.2: Alcohol Beverage Control (ABC) Liquor License Hold

4.2.1 Background

A liquor license is a permit issued by the State of California to an individual, company, or corporation to sell alcoholic beverages.

Whenever the owner of a liquor license is contemplating a bulk sale (bulk transfer), [California Code of Regulations Section 68.2](#) authorizes the refusal of a liquor license transfer or any on-sale general seasonal license if delinquent unsecured taxes exist against the transferor *and* a notice concerning the delinquency has been filed with the department ([Business & Professions Code §23815 et. seq., §24049](#)).

General Process

If a business with a liquor license has delinquent unsecured taxes or the tax collector has reason to believe that pending taxes may not be paid, the tax collector may file State Controller's Office sample form, *Hold of Liquor License* ([SCO 2-16](#)) with the ABC to secure and motivate the payment of any unsecured taxes due or anticipated. Upon payment of the tax, the county tax collector issues state *Release of Liquor License Hold*.

Additionally, if the liquor license holder has filed for bankruptcy, not withholding any other transaction, a hold request should be filed with the ABC. A hold request is not a collection action and, hence, does not violate the automatic stay, but ensures that the license cannot be transferred.

NOTE: A temporary license may be issued under certain circumstances. For example, if the establishment utilizing the liquor license is sold, ABC may issue the new business owner a temporary liquor license to conduct business. However, the new owner will not receive a license transfer until the delinquent taxes have been paid.

4.2.2 Prepare a Notice of Intent to Hold Liquor License

Step 1: Obtain the business's license information from the [ABC website](#).

NOTE: In addition to processing liquor license hold requests for businesses involved in a bulk sale, the ABC also accepts hold requests for businesses that have delinquent unsecured taxes. However, in delinquent tax cases, ABC will accept the following license type holds from a moratorium county: license type classes: 21, 47, 48, 49, 57, 75, or 20.

Step 2: Prepare a *Notice of Intent to Hold Liquor License*. See State Controller's Office sample form, *Notice of Intent to Hold Liquor License* ([SCO 2-26](#)).

Pertinent Information:

- Date;
- Transferee (Assessee) name and address;
- Demand statement and statutory authority;
- Filing date of transfer application;
- Payment deadline (recommended date is 10 days or less from date of notice); and
- Amount of taxes due.

Step 3: Send the form to the sale facilitator involved in the transfer.

4.2.3 Prepare the Liquor License Hold Request

Step 1: If the taxes remain unpaid after the deadline imposed in the *Notice of Intent to Hold Liquor License*, prepare a *Liquor License Hold Request*. See State Controller's Office sample form, *Notice of Intent to Hold Liquor License* ([SCO 2-26](#)) and State Controller's Office sample form, *Liquor License Hold Request* ([SCO 2-16](#)). Ensure that the request contains at least the following information:

- Date;
- Account number;
- Transferee (assessee) name and address;
- Escrow agent name;
- Demand statement and statutory authority;
- ABC file number;
- Liquor license number;
- Filing date of transfer application; and
- Name of district administrator for ABC transferee name.

Step 2: Mail the completed form the local ABC office (<http://www.abc.ca.gov/districts.asp?City=SD>) and the sale facilitator (escrow company, title company, or private party).

4.2.4 Prepare the Release of Hold on Liquor License

Step 1: Once the taxes are paid, initiate a *Liquor License Hold – Release Advice*. See State Controller's Office sample form, *Liquor License Hold – Release Advice* ([SCO 2-18](#)). Include the following:

- Date;
- Account number;
- Transferee (assessee) name and address;
- Transferer (Escrow or Sale Facilitator Agent) name;
- ABC file number;
- Liquor License Number;
- Tax Collector Signature Block; and
- Deputy Tax Collector Signature Block.

Step 2: Mail the completed form the local ABC office (<http://www.abc.ca.gov/districts.asp?City=SD>) and the sale facilitator (escrow company, title company, or private party).

Step 3: If the license hold **was not** part of a bulk sale, this collection procedure is complete. If the license hold **was** part of a bulk sale, go to [Chapter IV, Section 4.1.6: Receipt of Payments](#).

Section 4.3: Interagency Intercept Collections Program

4.3.1 Background

The county tax collector may request the State Controller's Office (SCO) to offset, from a potential state tax refund or California Lottery winnings, any amount the person owes a county for unsecured delinquent taxes ([Gov. Code §12419.8](#)).

4.3.2 General Process

To participate in the Interagency Intercept Collections Program (IIC), a county must file a request with the SCO. Once the request is processed, the county provides a list of names, with pertinent information, and submits the list to the Franchise Tax Board (FTB) to match against any names that are due money from the State. If a match is made, the amount requested by the county is intercepted. The SCO deducts and retains a sufficient reimbursement amount for itself and the corresponding government office from where the funds were obtained for the administrative costs of processing the offset payment ([Gov. Code §12419.8](#)).

NOTE: Before any funds can be intercepted, the tax collector must notify the assessee and allow him or her an opportunity to pay the outstanding delinquent taxes.

4.3.3 Obtain Program Participation Approval

Obtain a copy of the Interagency Intercept Participation Guide provided by the FTB for a comprehensive outline of the program requirements. The guide is available on the [FTB website](#). The guide and forms within it are updated annually. The most current forms must be used in order to participate in the program, so it is imperative to refer to the most up-to-date guide.

NOTE: The offset may not be used if an automatic stay in a bankruptcy proceeding is in effect and/or if the assessee has entered into a four-year payment plan pursuant to [Revenue and Taxation Code, section 4837.5](#). Additionally, offset of funds of corporate officers and trustees of trust may not be done

Step 1: Designate a staff member to be the dedicated contact person for the tax collector's office. This is important because FTB will not receive or provide communication about any accounts to anyone but the staff person listed on the participation application.

NOTE: Additional contact persons may be added, but doing so can impact the initial efficiency of the program.

Step 2: Determine whether the tax collector's office is already on file for the IIC by either of the following methods:

- Locate an existing approval letter from the SCO; or
- Contact the SCO Offset Coordinator at intercept@sco.ca.gov.

Step 3: Once the tax collector has determined whether or not the tax collector's office is approved for the IIC, do one of the following:

- If the tax collector's office is already on file as approved, refer to the Interagency Intercept Collection Program Participation Guide, Participation Overview, for instructions on completing the process; or
- If the tax collector's office is not on file as approved, refer to the Interagency Intercept Collection Program Participation Guide, Program Requirements, for instructions on completing the process.

NOTE: Participation must be renewed annually.

For any questions regarding the IIC program or to receive services/support please contact FTB at:

State of California

Interagency Intercept Collections MS A116

Franchise Tax Board

PO Box 2966

Rancho Cordova, CA 95741

Phone: 916.845.5344

Fax: 916.843.2460

Email: iicgroup@ftb.ca.gov (do not send confidential account information through email)

The tax collector may also contact the SCO at:

Office of the State Controller

Local Government Programs and Services Division

Tax Administration

ATTN: Offset Coordinator

PO Box 942850

Sacramento, CA 94520

Email: intercept@sco.ca.gov

Section 4.4: Bank Account Levy

4.4.1 Background

To levy a bank account, the tax collector must have both legal authority and corresponding documentation to present to a bank. The *Seizure Notice for Taxes* satisfies the documentation requirement ([§2951–§2953.1](#)). See State Controller's Office sample form, *Seizure Notice for Taxes* ([SCO 2-27](#)).

NOTE: [Chapter 484, statutes of 2013 \(AB 2364\)](#) altered servicing requirements in the Code of Civil Procedure for Bank Levy and Garnishments. When levying an account, the tax collector should try to adjust their service to work within the confines of Chapter 484 to alleviate confusion by levying departments in the bank.

It is stated, “A financial institution may, and if it has more than nine branches or offices at which it conducts its business within this state, shall, designate one or more central locations for service of legal process within this state, pursuant to the [Code of Civil Procedure §684.115\(a\)](#). Each designated location shall be referred to as a ‘central location.’ If a financial institution elects or is required to designate a central location for service of legal process, the financial institution shall file a notice of its designation with the Department of Financial Institutions.”

[The Code of Civil Procedure §684.115\(b\)](#) states, “Should a financial institution required to designate a central location fail to do so, each branch of that institution located in this state shall be deemed to be a central location at which service of legal process may be made, and all of the institution’s branches or offices located within this state shall be deemed to be a branch or office covered by central process.”

The Department of Business Oversight will, within 10 business days, reflect a filing or a modification or revocation on its [Service of Legal Process website](#) ([Code Civ. Proc. §684.115 \(e\)\(1\)](#)).

NOTE: Should the notice be sent to the branch of an assessee, not designated as the central location, it will not be effective, unless the financial institution, in its absolute discretion, elects to act upon the request unless the bank failed to properly designate a central branch ([Financial Code §1620\(e\)](#)). If they elect not to act, the bank or credit union **may** send a notice informing the tax collector that the process was not properly served, and include the appropriate address ([Code Civ. Proc., §684.115](#)).

4.4.2 Preliminary Procedures

Verify whether the assessee is; enrolled in a four-pay payment plan, a corporate officer, a trustee of a trust, and/or any bankruptcies are associated with the individual or business entity slated for a bank account levy and do one of the following:

- If any of the above conditions exist, or at any time during the levy becomes known, cease all collection activity and refer the account to the tax collector’s office bankruptcy specialist for further action; or
- Otherwise, proceed to [Chapter IV, Section 4.4.3: Locate the Individual’s/Business’ Bank Account](#).

4.4.3 Locate the Bank Account

Step 1: Researching the tax collector's database to locate an assessee's prior payment of taxes may be helpful in obtaining a current bank account number. In addition, reviewing the county treasurer's archived check deposit records may also provide account number information for any assessee (individual or business) that has made payments to another county department.

NOTE: The bank checking and/or savings account numbers are not required to seize an account. If the account number is unknown, enter “Any & All” for the account number and include as much identifying information as possible (SSN, FEIN, assessee’s home and/or business address, etc.). This will assist the bank in locating an account and verifying that it is the correct assessee’s account for seizure.

Step 2: If the tax collector is unsuccessful in locating the assessee’s bank account, the tax collector can still attempt seizure. Begin by serving banks that are near the assessee’s home and/or business. Search online for “Banks near (assessee’s address).” This will produce banks in the area by distance from assessee’s address. Under the “permissible purpose” clause of [Title 15 United States Code §1681\(b\)](#), the tax collector may consider using locator options to find the assessee including: Statewide Property Ownership Locator Resources

- DataQuick; and
- Real Quest.

Individual Assessee Locator Resources

- Infoquest;
- Accurint;
- Court records; and
- DMV records (best for ownership records/lienholder information of vessels and boats).

Step 3: Compile a list of all banks and credit unions within the vicinity of the assessee addresses.

4.4.4 Seize the Bank Accounts

Step 1: Complete a *Seizure Notice for Taxes* for each bank or credit union the tax collector determine may have an account of the assessee. See State Controller’s Office sample form *Seizure Notice for Taxes*, ([SCO 2-27](#)). Include the following information:

- Date;
- Assessee name and address, including associated DBA names;
- FEIN or SSN, if available;
- Addresses;
- Demand statement and statutory authority;
- Taxes owed;
- Initial 10% penalty calculation amount;
- Monthly 1.5% penalty calculation amount;
- Collection fee;
- Release fee;
- Recording fee;
- Less payments;
- Total taxes due;
- Information to show intentions/actions in complying;
- Penalty of perjury statement; and
- Signature line and date.

Step 2: Deliver a completed seizure notice to the central location of all banks and credit unions associated with the assessee’s name.

NOTE: Banks and credit unions will provide any of the following account information:

- Active and funded account(s) exist, and that will be frozen;
- An account that is a joint account, of which one is not a debtor;
- No account(s) exist;
- The account has been inactivated; or
- There are no funds to seize.

Step 3: Determine account status:

- Active account, proceed to Step 5; or
- No account, inactivated account, or no funds: end of procedure. The tax collector may elect to seek alternative collection actions outlined in the various chapters of the *Unsecured Property Tax Collection Procedural Manual*.

Step 4: The financial institution is required to complete the notification requirements in 10 business days or less. For the notification process, the financial institution sends a notice to the assessee informing him or her that his or her assets have been frozen. Once the 10 business days have passed, the financial institution will release funds to the tax collector.

NOTE: The financial institution may charge fees for any internal seizure processing costs.

Step 5: OPTIONAL: After receiving confirmation of receipt of the seizure notices from the contacted institutions, the tax collector's office may elect to send the assessee a copy of the seizure notice as a means to motivate direct payment from the assessee.

4.4.5 Release of Bank Account Levy

On occasion, an assessee may complete payment on unsecured taxes owed (or the assessor cancels a tax bill) **after** a bank levy has been initiated.

Step 1: Do one of the following:

- If the payment is completed or is no longer owed, proceed to Step 2.
- If no payment is made, proceed to [Chapter IV, Section 4.4.6: Receipt of Funds from Bank](#).

Step 2: Confirm that the bill has been canceled or payment has been made with good funds.

NOTE: The tax collector should consider accepting payment only by cash or money order and refrain from accepting credit cards to avoid potential charge-backs.

Step 3: Fax a *Release of Seizure for Taxes* letter to each bank or credit union from which the tax collector received confirmation of assets being frozen. See State Controller's Office sample form, *Release of Seizure for Taxes* ([SCO 2-28](#)). The letter should contain the following information:

- Date of letter;

- Bank name and address;
- Assessee name and address;
- Account number, if available;
- Dollar amount requested for seizure;
- Statement informing release of seizure request; and
- Date that the release of seizure was made.

4.4.6 Receipt of Funds from Bank

Step 1: Upon receipt of funds from the bank:

- If the funds have been seized pursuant to [§2953.1](#) (Jeopardy Seizure), proceed to [Chapter II, Section 2.1.6: Jeopardy Seizure Protest](#); or
- If the funds seized are for taxes already delinquent, proceed to Step 2.

NOTE: Retain a copy of the receipt-of-mail notices from the financial institution and assessee.

Step 2: The tax collector may elect to do either of the following:

- Apply the funds toward the taxes due; or
- Record and hold the funds and offer the assessee an administrative hearing.

NOTE: An administrative hearing for accounts or related monetary instruments seized for delinquent taxes is not required.

Step 3: Do one of the following:

- If the tax collector applies the funds toward the taxes due without offering an administrative hearing, this procedure is complete; or
- If the tax collector chooses to offer the assessee an administrative hearing, proceed to [Chapter II, Section 2.5.1, Preliminary Actions – Scheduling and Noticing](#).

Section 4.5: Till Tap/Keeper's Levy

4.5.1 Definitions

- Till tap is a levy collection action whereby a collection agent enters a business and takes cash and checks out of the cash register.
- Keeper's levy is a collection action whereby a collection agent is situated at the business for a specified amount of time to collect money as it is paid to the business. This can also include inventorying fixed assets and preventing any removal of them without a payment transaction.

4.5.2 Background

The till tap levy and keeper's levy are collection techniques that involve seizing money and/or tangible items at the business premise.

These types of levies are most effective on retail-type businesses that maintain a cash drawer (or register) and conduct over-the-counter sales. Examples of these businesses include restaurants, boutiques, and convenience stores, as well as nomadic or seasonal businesses such as carnivals and ski resorts.

Additionally, there are several variations to the till tap levy and keeper's levy collection techniques depending on the circumstance of the individual business that could involve taking inventory of the business equipment and other tangible assets, as well as guarding against removal of these items.

In some instances, law enforcement may be more appropriate for executing these types of collection techniques than county tax collector staff. However, when involving law enforcement, additional court documents may be required, which could delay initiation of the collection effort and possibly requiring additional upfront costs.

4.5.3 General Process

For a till tap levy collection, an officer of the tax collector's office or law enforcement officer serves documentation (either a certificate of lien or a writ process) on the owner or responsible party of the business (judgment debtor or debtor's agent), explains the purpose of the levy, and then removes the cash and checks (checks should be signed over to the collecting officer – law enforcement officers usually have a stamp), found in the cash register or safe. Once the money is removed, the collection is concluded. If a new till tap must be conducted, even if it is the result of the business being closed in response to the collection effort, the process must be re-initiated.

NOTE: The levy instructions must include the exact name of the judgment debtor's business and address.

For a keeper's levy, the keeper (or Sheriff's Keeper, a civilian employee of the Sheriff's office) is placed in a debtor-owned business to collect money resulting from sales and transactions. During the keeper

period, the business may continue to operate, provided all sales are final and are for cash or its equivalent (i.e., checks). Keepers are customarily installed for periods of 4, 12, or 24 hours per day. Many counties will provide creditors with instruction forms specifically designed for keeper levies. Use the *Levy Upon Debtor's Going Business* form with this type of levy. See State Controller's Office sample form *Levy Upon Debtor's Going Business*, ([SCO 2-29](#)).

4.5.4 Initial Procedures: Profile of the Business

Step 1: Determine the following information about the business; doing so may require inconspicuously contacting or visiting the business:

- Hours of operation;
- Hours of highest volume of transaction within the business; and
- Whether the business maintains a cash till.

Step 2: Determine whether the business is high-profile and engages in large-volume public traffic or is low-profile and somewhat light in public traffic.

- If a low-profile business with very little public traffic, the tax collector or appropriate staff may be sufficient to execute the collection action. Proceed to [Chapter IV, Section 4.5.5 Collection by the Tax Collector](#) below.
- If a high-profile business with significant public traffic, it may be prudent to solicit law enforcement to execute the collection action. Proceed to [Chapter IV, Section 4.5.6 Collection by Law Enforcement](#).

NOTE: As with any effort to collect from difficult assessesees, consider the potential risks for the tax collector staff in trying to enforce collection at a business premises and plan accordingly.

Step 3: Calculate and estimate the total collection amount and take one of the following actions:

- If the amount owed is relatively small, to the degree that the business may have the funds available for immediate collection, initiate the till tap levy procedure.
- If the amount owed is such that the business may not have the funds available for immediate collection, initiate a keeper's levy procedure.

4.5.5 Collection by the Tax Collector

Step 1: Determine the date and hour for till-tapping the business.

Step 2: Schedule two or three staff members to administer the till tap.

Step 3: Upon arrival at the business, identify the owner and present her/him with the seizure documents.

Step 4: Announce the tax collector's collection intentions: either till tap or keeper's levy.

Step 5: Collect the cash and checks. For checks, request that the owner endorse the checks over to the tax collector's office. If the tax collector is collecting checks and the owner refuses to endorse them, the tax collector may inform the owner that property seizure will be promptly initiated, with the first action being to close the business.

Step 6: Upon collection of the total amount, provide the owner with documentation detailing that the taxes paid have been paid in full. This collection procedure is complete.

4.5.6 Collection by Law Enforcement

Step 1: Obtain a Summary Judgment and Writ of Attachment from the courts.

Step 2: Upon receipt of the Writ of Attachment, complete the *Levy upon Debtor's Going Business* form. See State Controller's Office sample form *Levy upon Debtor's Going Business*, ([SCO 2-29](#)).

NOTE: Contact the tax collector's local sheriff's department to determine any specific guidelines or forms they may require. The law enforcement officer cannot enforce a writ that does not list the debtor's legal entity. A "DBA" (doing business as) is not a legal entity. For example, A-1 Auto DBA A-1 Auto Parts does not list the legal entity. But, A-1 Auto, a corporation, DBA A-1 Auto Parts is acceptable.

Step 3: Present the *Levy Upon Debtor's Going Business* and *Writ of Attachment* to the law enforcement officer. The Writ is valid for six months after issuance from the court ([Code Civ. Proc., §712.010](#)).

Step 4: Upon receipt of the money from the law enforcement officer, prepare a payment received letter and send to the owner. This collection procedure is complete.

Section 4.6: Court Actions

4.6.1 Background

Court actions for unsecured taxes offer a variety of options for a tax collector to collect delinquent unsecured property taxes. Most are not recommended due to a tendency to be time consuming, costly, and complicated. For further information on court actions as a method of collection, see the [Tax Collectors' Reference Manual, Chapter 2000: Unsecured Tax Collections](#).

4.6.2 Statute of Limitation

Civil actions for delinquent taxes or assessments must be commenced within three years of the date upon which unsecured taxes became delinquent ([§3007](#)).

NOTE: This guide is provided by The State Controller's Office as a resource and does not constitute legal advice. It is recommended to consult county counsel when pursuing court actions for the collection of unsecured taxes.

Section 4.7: Sample Forms

| | |
|--|---------------------------------|
| <i>Estimated Taxes Due Claim Letter</i> | <u>SCO 2-25</u> |
| <i>Notice of Intent to Hold Liquor License</i> | <u>SCO 2-26</u> |
| <i>Liquor License Hold Request</i> | <u>SCO 2-16</u> |
| <i>Liquor License Hold – Release Advice</i> | <u>SCO 2-18</u> |
| <i>Seizure Notice for Taxes</i> | <u>SCO 2-27</u> |
| <i>Release of Seizure for Taxes</i> | <u>SCO 2-28</u> |
| <i>Levy upon Debtor’s Going Business</i> | <u>SCO 2-29</u> |

*To view an electronic copy of this manual visit:
The State Controller's Website*

http://www.sco.ca.gov/ardtax_unsecured_proptax_collection_manual.html

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