

State of California

# County Tax Collectors' Reference Manual

Chapter 2000: Unsecured Tax Collections

Updated 08/2019



California State Controller's Office

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## Introduction

The County Tax Collectors' Reference Manual, is produced by the State Controller's Office, Local Government Programs and Services Division, Property Tax Standards Unit. This manual is designed to provide comprehensive reference material to assist county tax collectors in performing their duties in compliance with statutory requirements and promote uniformity throughout the state.

All statutory references cited are from the Revenue and Taxation Code, unless otherwise noted. Citations and references in this manual are current as of its publication date however, care must be taken to ensure that none have been superseded by subsequent legislative action or court decisions.

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 used should contain all information required by statute.

**NOTICE:** This publication is provided by the State Controller's Office, Property Tax Standards Unit, as a general resource for California's county tax collectors. 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.

## 2000-2004 Unsecured Tax Collection: General Information

### 2000. TAX COLLECTOR'S DUTIES

"The tax collector shall collect taxes on unsecured property" ([§2903](#)).

The authority of a board of supervisors is limited to those expressed and implied powers granted to the board by statutes. Since the Legislature has provided the tax collector a specific duty to collect all of the taxes, the board of supervisors has no authority to transfer this function to any other officers of the county or to any private person or company, except in accordance with provisions of [Government Code §26220](#).

In lieu of seizure and sale, the law provides a method for assigning delinquent unsecured taxes to a collection agency. Such assignment may be made 90 days after the lien is due and delinquent. Such assignment requires a four-fifths vote by the board of supervisors and approval by the tax collector. The tax collector is required to declare that seizure and sale procedures will not be used in collection of the subject lien ([Gov. Code §26220\(b\)](#)).

Secured roll taxes may not be assigned to a collection agency ([Gov. Code §26220\(c\)](#)).

**NOTE:** No injunction, writ of mandate or other legal or equitable process will be issued in any action or proceeding in any court against any county, district, or any officer thereof to prevent or enjoin the collection of property taxes to be collected ([§4807](#)).

Injunctions or restraining orders by bankruptcy or other federal courts where such actions are permitted by federal rules and case law are not prevented by [§4807](#).

### 2001. DEFINITION

"Unsecured property" is property on which taxes:

- Are not a lien on real property sufficient to secure payment of the taxes ([§134](#)); and
- Were secured by real estate on the lien date but the property was later acquired by a public agency and the taxes transferred to the unsecured roll pursuant to [§2921.5](#) or [§5090](#).

Most possessory interests, goods in transit not secured by any lien on real property, improvements assessed pursuant to the provisions of [§2188.2](#), and unsecured property not secured by a lien on any real property constitute unsecured property and are subject to assessment on the unsecured roll ([§107](#), [§2191.3](#)). Possessory interests may be placed on the secured roll at the discretion of the county board of supervisors, but tax collection is enforced through unsecured measures.

The taxes on possessory interests and on improvements assessed pursuant to [§2188.2](#) constitute a lien against such interests and property. If the real property subject to the possessory interests or where improvements are located is not tax-exempt land, the lien must be indicated on the secured roll where the real property is listed ([§2190.2](#)).

Leasehold estates in exempt property for the production of gas, petroleum, and other hydrocarbon substances, as defined in [§107.2 - §107.3](#), are subject to assessment on the secured roll as possessory interests. However, for enforcement of the collection of taxes thereon, they are subject to seizure and sale like unsecured property ([§107](#), [§2189.5](#), [§2951-§2963](#), [Gottstein v. Adams](#), 202 Cal. 581, also see [Picchi v. Montgomery](#), 261 Cal. App. 2d 246).

## **2002. TYPES OF UNSECURED ASSESSMENTS**

Typical items assessed and collected on the unsecured roll include:

- Boats, with the exception of those excluded by [§228](#);
- Airplanes;
- Improvements on the real estate of others;
- Business property;
- Most possessory interests, except those to which a homeowners' exemption applies (manual section [2011](#));
- Escape and supplemental assessments against former owners of real property;
- Change of ownership penalties imposed on former owners of real property;
- Special levies against former owners of real property; (e.g., weed abatement);
- Mining rights; and
- Some fixtures.

## **2003. PAYMENT LIABILITY**

The lien for unsecured taxes is against the assessee. The assessee can be any person owning, claiming, possessing, or controlling the property on the lien date, January 1 ([§405](#)). Enforcement is against the property owned by the assessee ([§2186](#), [§2191.3](#)).

## **2004. MISTAKE IN THE NAME OF PROPERTY OWNER**

If there is a mistake in the name of an owner or supposed owner of property on the unsecured roll, the error does not invalidate an assessment or a tax sale ([§613](#)).

# **2010-2015 Secured Taxes Subject to Unsecured Collection**

## **2010. GENERAL APPLICATION**

Certain assessments are entered on the secured roll, but when delinquent, these assessments become subject to unsecured collection procedures ([§760](#)). Typical examples of such assessments include:

- Manufactured homes, mobile homes, floating homes, and related supplemental assessments;
- Structural improvements on leased land and other leasehold interests;



- Personal property and fixtures assessed by the California Department of Tax and Fee Administration (CDTFA);
- Real property assessed by the CDTFA that becomes delinquent;
- Possessory interests in public lands and leasehold estates for gas, oil, and other hydrocarbon substances; and
- Escape assessments discovered after the real property has transferred ownership.

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

## **2011. POSSESSORY INTERESTS**

If a homeowner's exemption has been applied to a possessory interest, the assessor must enter the possessory interest on the secured roll noting that such assessment does not constitute a lien on the land. When any installment of tax becomes delinquent, the tax collector may use unsecured collection procedures (certificates of lien, seizure and sale, summary judgment, suit for taxes). If the possessory interest tax remains unpaid at the time set for tax default of the secured property, the county must transfer the possessory interest tax, penalties, and costs to the unsecured roll ([§2190](#)).

## **2012. FLOATING HOMES**

Floating homes are assessed on the secured roll. When floating homes become delinquent, the taxes are collected as unsecured. When ownership is transferred or a floating home is moved, its owner must obtain a tax clearance certificate from the tax collector. See manual sections [10032-10034](#) for procedures involved in completion of the tax clearance certificate ([§229](#), [§2189.7-§2189.8](#)).

## **2013. MANUFACTURED HOMES**

If the tax installment on a manufactured home is unpaid as of either December 10 at 5 p.m., April 10 at 5 p.m., or the close of business, whichever is later, unsecured collection procedures can begin ([§2617-§2618](#), [§5830\(a\)](#)). The taxes, penalties and costs applied while on the secured roll are transferred to the unsecured roll at the time set for declaring delinquent secured taxes to be in default ([§5830\(b\)](#)).

## **2014. FEE AND TAX WAIVER PROGRAM**

Effective January 1, 2017 through December 31, 2019, manufactured home and mobile home 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 with the Department of Housing and Community Development (HCD) for 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 less any penalties and interest resulting in the ability to transfer title ([§5832](#), [Health & Saf. Code §18116.1](#)).

For detailed information relating to the Fee and Tax Waiver Program, see manual sections [10030-10034](#).

## **2015. ESCAPE ASSESSMENTS**

Installment payments authorized by [§4837.5](#) apply to taxes due on secured or unsecured escape assessments for prior fiscal years.

Arbitrary and penal assessments are covered in manual sections [1700-1741](#).

## **2020-2022 Discharge of Accountability**

### **2020. GENERAL APPLICATION**

Any county department, officer, or employee charged by law with the collection of any delinquent taxes, penalties, interest, or any other charges on unsecured property may file a verified application with the board of supervisors for a discharge from accountability if the amount is too small to justify the cost of collection or if collection enforcement is impracticable ([§2923](#), [Gov. Code §25257 - §25259.5](#)). See State Controller's Office sample form, *Request for and Authorization of Discharge of Accountability* ([SCO 2-22](#)).

The application to the board of supervisors for a discharge of accountability must include ([§2611.2](#)):

- A statement of the nature of the amount owing;
- The names of the assesseees or persons liable and the amount owed by each;
- The estimated cost of collection; and
- Any other fact warranting the discharge, except where the board of supervisors determines that the circumstances do not warrant the furnishing of detailed information.

If the tax collector has obtained a discharge of accountability, this does not release an assessee from the obligation to pay the amounts due ([Gov. Code §25259](#)).

### **2021. DELEGATION OF AUTHORITY**

The board of supervisors may adopt a resolution that authorizes and designates the county auditor as the officer to exercise the authority of the board ([Gov. Code §25259.5](#)).

The board may order the discharge and instruct the auditor to adjust tax charges accordingly ([§2611.3](#)).

### **2022. WHEN AMOUNT IS \$20 OR LESS**

Collection of amounts equal to \$20 or less may be waived without authorization of the board of supervisors or approval of the county counsel ([§2611.4](#)).

**NOTE:** A charge that is so small as not to justify the cost of collection may be canceled in accordance with provisions of [§4986.8](#).

## 2030 Destruction of Unsecured Records

### 2030. GENERAL APPLICATION

Any original tax roll may be destroyed if ([§2928](#)):

- The board of supervisors has approved the destruction;
- The auditor has certified the delinquent roll or abstract list as correct and complete; and
- A certified, permanent record has been made on a substitute media and will be retained for at least five years.

The substitute media, as defined by Gov. Code [§26205\(a\)](#), may also be destroyed following the expiration of the five-year retention period.

## 2040 Bankruptcy

### 2040. GENERAL APPLICATION

Various provisions in the [United States Bankruptcy Reform Act of 2005 \(P.L. 109-8\)](#) affect the rights of a county in claiming taxes. See [Chapter 11000: Bankruptcy](#) for more information.

Upon learning that an unsecured assessee is legally in bankruptcy, the tax collector should make no further efforts to enforce collection of the county's lien until the bankruptcy court has released the "automatic stay." County counsel should be consulted for guidance concerning bankruptcy cases.

## 2100-2104 Billing and Payment Processing: Administrative Requirements

### 2100. DUE DATES

Taxes on unsecured property are due on the lien date ([§2901](#)), which is the first day of January preceding the fiscal year for which the taxes are levied ([§2192](#)).

### 2101. NEGOTIABLE PAPER

Negotiable paper is defined as checks, drafts, and money orders ([§2504](#)). This includes personal checks ([Attorney General Letter 3-6-46](#)).

The tax collector may accept negotiable paper for payment of any tax ([§2505\(a\)](#)).

### 2102. REMITTANCES BY MAIL

Taxes on the unsecured roll may be paid by mail.

If a remittance is received through the United States Postal Service and is properly addressed with postage prepaid, it is deemed to be received on the date shown on the cancellation, or on the date it was actually mailed if proof satisfactory to the tax collector is submitted that mailing

occurred earlier. If a timely mailed remittance is received more than 30 days after the payment deadline, it need not be accepted ([§2512\(a\)](#)).

If a mailed remittance is received and accepted after final settlement, the tax collector should file an amended collection report with the auditor.

### **2103. REMITTANCES BY AN INDEPENDENT DELIVERY SERVICE**

If a remittance is deposited for shipment with an independent delivery service that is either designated as an independent delivery service by the Internal Revenue Service or approved by the tax collector, prior to a specified date and hour, and, if it is received before 5 p.m. on the next business day after the effective delinquent date, it is deemed to be received on the date shown in the packing slip or air bill attached to the outside of the package ([§2512\(a\)](#)).

### **2104. REMITTANCE BY EFT**

If a remittance to cover a payment is made by an electronic payment option such as a wire transfer, credit card, or internet, the remittance will be deemed received on the date the transaction was completed by the assessee on the taxing agency's website or telephone service. Proof of the transaction in the form of a confirmation number or other evidence is presented by the assessee to the satisfaction of the tax collector. This subdivision does not apply to payments by electronic fund transfer as provided in [§2503.1-§2503.2](#) ([§2512\(b\)](#)).

This section does not apply to payments made for the redemption of tax defaulted property ([§2512\(c\)](#)).

## **2110-2114 Billing and Payment Processing: General Information**

### **2110. DELIVERY OF ASSESSMENT RECORDS**

The assessment is complete after the assessor records the assessment in the manner prescribed by the California Department of Tax and Fee Administration ([§2902](#)).

So that unsecured taxes may be collected efficiently, the assessor is required to deliver to the tax collector, as soon as possible after the lien date (January 1), a written record of the assessment of unsecured property, in such form as the California Department of Tax and Fee Administration prescribes ([§2909.1](#)).

### **2111. ROLL INDEX FROM ASSESSOR**

The assessor prepares an index to the roll showing the name of the assessee and each page, assessment, or parcel number under which his or her assessment appears. The index must be delivered to the tax collector on or before the delivery of the extended roll ([§615](#)).

## **2112. DELIVERY OF RECORDS TO THE TAX COLLECTOR**

To enable the tax collector to collect taxes on unsecured property on or after the due date, the assessor will deliver a written record of the assessment of unsecured property to the tax collector as soon as practicable ([§2909.1](#)).

## **2113. APPLICABLE TAX RATE**

The rate used for unsecured taxes is the rate used for the preceding year's secured roll ([§2905](#)).

Taxes on escape assessments are calculated at the rate(s) applicable to the unsecured roll for the year(s) when the property should have been assessed ([§506](#), [§531](#), [§2905](#)).

## **2114. AUDITOR'S CHARGE TO TAX COLLECTOR**

Annually, between the last business day in July and December 1, the auditor examines the unsecured roll and charges the tax collector with the taxes and penalties collected ([§2603-§2604](#)).

# **2120-2122 Billing and Payment Processing: Billing**

## **2120. GENERAL REQUIREMENTS**

The tax collector must mail or electronically transmit a tax bill for every assessment on the unsecured roll on which taxes are due no later than 30 days prior to the delinquent date, August 31. Tax bills should be delivered as soon as the extended assessment roll is received. Failure to receive a tax bill does not relieve the lien of taxes; however, the penalty for delinquent taxes must be cancelled if the assessee convinces the tax collector that they did not receive a tax bill ([§2910.1](#)).

The tax collector may refrain from mailing a tax bill or recommend the tax be cancelled by the auditor for an amount that is too small to justify collection ([§4986.8](#)).

## **2121. INFORMATION ON THE TAX BILL**

The following information will be included either in each county tax bill or in a separate statement accompanying the tax bill ([§2611.6](#)):

- The full value of locally assessed property, including assessments made for irrigation district purposes in accordance with [Water Code §26625.1](#);
- The tax rate required by Article XIII A of the California State Constitution (1% of the full cash value);
- The rate or dollar amount of taxes levied in excess of the 1% limitation to pay for voter-approved indebtedness incurred before July 1, 1978, or bonded indebtedness for the acquisition or improvement of real property approved by two-thirds of the voters on or after June 4, 1986;

- The amount of any special taxes and special assessments levied;
- The amount of any tax rate reduction, pursuant to [§96.8](#), with the notation, "Tax reduction by (name of jurisdiction)."
  - The jurisdiction must be a local agency, school district, community college district, or county superintendent of schools ([§95](#));
- The amount of any exemptions reimbursable by the State are shown separately;
- The total taxes due on the property covered by the bill;
- Instructions on tendering payment, including the name and mailing address of the tax collector;
- The billing of any special purpose parcel tax as required by [Government Code section 53087.4\(b\)\(2\)](#);
- A notice that, if taxes are unpaid, delinquency penalties, costs, redemption penalties, and a redemption fee will be incurred ([§2611](#), manual section [1125](#));
- Information specifying all of the following:
  - If the assessee disagrees with the assessed value as shown on the tax bill, the assessee has the right to an informal assessment review by contacting the assessor's office;
  - If the assessee and the assessor are unable to agree on a proper assessed value pursuant to an informal assessment review, the assessee has the right to file an application for reduction in assessment for the following year with the county board of equalization or the assessment appeals board, as applicable;
  - The address of the clerk of the county board of equalization or the assessment appeals board, as applicable, where forms for an application for reduction may be obtained; and
  - That if an informal or formal assessment review is requested, relief from penalties will apply only to the difference between the county assessor's final determination of value and the value on the assessment roll for the fiscal year covered.

**NOTE:** Not more than five assessment appeals boards may be created within any county. Assessment appeals boards will be designated by number in the ordinance providing for their creation ([§1621](#)). This restriction will remain in effect only until January 1, 2005, unless a later enacted statute deletes or extends that date.

State Controller's Office sample form, *Tax Bill Checklist for Both Secured and Unsecured Taxes* ([SCO 2-01](#)) is a checklist to assist in designing new tax bills.

## **2122. SUBSEQUENT NOTICE**

Prior to delinquency, it may be beneficial to notify assessees of the approaching delinquency date and the penalty for delinquency.

## **2130-2138 Billing and Payment Processing: Special Circumstances**

### **2130. TAX BILLS AND NOTICES RETURNED DUE TO INCORRECT ADDRESSES**

The following records may be researched to obtain a correct address:

- County tax collector's records;
- Secretary of State's office;
- FAA records;
- County recorder's records;
- Expired change-of-address records;
- County clerk's records;
- Prior-year tax payment records; and
- DMV records.

### **2131. RETURNED CHECKS**

Payment is the date of acceptance of negotiable paper only when it is duly paid ([§2506](#)). The tax collector will cancel on his or her records any indication of payment when negotiable paper, for any reason, is not paid and will immediately send a notice of cancellation to the person who attempted payment. The tax lien continues as though no attempt at payment had been made ([§2509-§2510](#)).

If any personal check is returned without payment, for any reason, the public agency may impose a fee for the returned check, not to exceed the actual costs incurred by the agency, and may prescribe a different method of payment for that payment and future payments by the person ([§6157\(b\)](#)).

If a check is returned and the person or entity who wrote the check refuses to honor it within 30 days following a written demand, the person or entity will be liable to the county for damages of three times the amount of the check in addition to the amount owed. In no case can this charge be less than \$100 or more than \$1,500, and the written demand must be sent by registered or certified mail to the payer. If the payer has not satisfied the amount owed within 30 days of the mailed notice, an action may be brought in small claims court or in any other appropriate court ([§1719\(a\)\(2\)](#)).

### **2132. DUPLICATE PAYMENTS**

When a payment is submitted that is identical in every respect to the original, it is a duplicate payment. If there are other unpaid bills on the same property, the funds from the duplicate payment can be applied to the open delinquent bills ([§2635.5](#)).

Duplicate payments of taxes, made either before or after delinquency, may be refunded by either the tax collector or the auditor within four years after payment (manual sections [2170](#), and [1601](#))

### **2133. RETURN OF REPLICATED OR DUPLICATE PAYMENT**

A replicated payment is a payment submitted by or for an assessee that is indicated for application to a specific tax or tax installment that has already been paid, whether or not the prior payment and the replicated payment are in the same amount ([§2780.5](#)).

The law requires a county, whenever possible, to return a replicated payment to the tendering party within 60 days of the date the payment becomes final. Payment is "final" when the original payment is not subject to chargeback, dishonor, or reversal ([§2781](#)).

Counties that manually process payments can usually verify duplicates and return one payment within a few days or weeks.

Counties that use check-processing machines ordinarily must refund replicated amounts, and they must pay interest on any amounts not returned to the tendering parties within 60 days of becoming final ([§2782](#)). Replicated payments returned after 60 days must include interest at the rate provided in [§5151](#), if that interest is \$10 or more. The interest is calculated at the greater of 3% per annum or the county pool apportioned rate and applies from the 60th day after the replicated payment becomes final to the date the replicated payment is returned to the tendering party ([§2783](#)).

A tax collector is allowed to exercise reasonable judgment in applying a payment if the payer returns the wrong payment stub or does not indicate the intended application for the payment ([§2783](#)).

**NOTE:** The payment submitted must be clearly indicated as applicable only to a specific tax or tax installment. Usually such payment is accompanied by a letter or installment stub indicating the payer's intent to pay a particular tax or installment. In a case where no intent is expressed and an installment or a tax on another property owned by that person has not been paid, the tax collector may apply payment to the remaining installment or other tax without incurring interest penalties if subsequent data indicate that payment should not have been so applied ([§2635.5](#)).

#### **2134. CASH DIFFERENCE FUND**

The cash difference fund may be used when discrepancies are \$10 or less ([§2611.5](#)).

#### **2135. OVERAGE FUND**

When an amount paid to the county on any tax, assessment, penalty, cost, or interest exceeds the amount due and the excess does not exceed \$10, the excess amount may be deposited into an overage account. If the excess amount is not so deposited, it must be refunded to the person making the deposit.

#### **2136. EXCESS AMOUNTS OVER \$10**

If the amount tendered exceeds the amount of taxes due by an amount greater than \$10, the tax collector may:

- Apply the overpayment to any delinquent taxes due on the same property, as long as the assessee remains liable for the payment of the delinquent tax ([§2635.5](#)); or
- Refund the excess payment without the necessity of submitting a claim to the board of supervisors ([§5097.2](#)).



## **2137. PAYMENTS UNDER PROTEST**

The procedures described in [§5140-§5149.5](#) allow an assessee to recover secured and unsecured taxes (manual sections [2170-2172](#) and [1246](#)).

## **2138. SUIT FOR RECOVERY**

The person who paid the tax, the person's guardian, the executor of the person's will, or the administrator of the person's estate may bring an action only in the superior court to recover the taxes. They cannot bring action in the small claims division of the superior court ([§5140](#)).

This action must be commenced within six months after the date that the board of supervisors rejects a claim for refund in whole or in part ([§5141\(a\)](#)). The board of supervisors may delegate the authority to the tax collector or another official.

To file a claim with the board of supervisors, the tax must be paid in full within four years of the date of the claim. The postmark determines the date of the claim ([§5097.2](#)).

**NOTE:** Actions brought under [§5148](#), which are disputes involving state-assessed property, are excluded from any action commenced under [§5149](#). Such actions may be brought by public agencies under [§5161](#).

## **2140-2142 Billing and Payment Processing: Post-Payment Requirements**

### **2140. POSTING AND RECORDING OF PAYMENTS**

The tax collector will record payment of taxes on the unsecured roll by either of the following methods ([§2913](#)):

- By marking the fact and date of payment on the unsecured roll opposite the tax to which the payment relates; or
- By recording the fact and date of payment on a machine-prepared list or electronically.

### **2141. RECEIPT TO PAYOR**

A receipt is issued by the tax collector when taxes on unsecured property are paid in cash or when a receipt is requested at the time of payment ([§2910.5](#)).

### **2142. DEPOSIT OF MONEY**

All moneys collected must be immediately deposited with the treasurer or in a bank selected by the treasurer ([§2507](#), [Gov. Code §53680-§53681](#)).

## 2150-2154 Billing and Payment Processing: Corrections

### 2150. WHO MAY CORRECT ROLL

Corrections are made on the roll by the auditor ([§4834](#)).

### 2151. CHANGE IN THE AMOUNT OF TAX

If a correction increases the amount of an assessment, the tax rate applied to the increase must be the rate for the year in which the error was made ([§532](#)). The increased taxes are entered on the roll prepared or being prepared for the current assessment year ([§4836.5](#)).

If the correction decreases the amount due, it is necessary to obtain the consent of the board of supervisors ([§4835](#)).

### 2152. CORRECTION TIME FRAME

Any increase in the amount of taxes due created by the correction cannot constitute a lien or charge on the real property if the property has been sold or encumbered for value prior to enrollment of the correction ([§4836.5](#)). These taxes are transferred to the unsecured roll and collected in the same manner and subject to the same penalties as other taxes transferred under provisions of [§5090](#).

The tax collector may file a certificate of lien against the assessee liable for the amount due ([§2191.3](#)). Any such recorded lien has the force, effect, and priority of a judgment lien ([§2191.4](#)).

Assessments (usually of personal property) based on erroneous information supplied by the assessee may be corrected within the time limitation imposed by [§532-§532.1](#) ([§4831.5](#)). Most corrections must be made within four years from July 1 of the assessment year in which a problem occurs.

An escape involving fraud or willful concealment may be corrected within six years after July 1 of the assessment year in which the escape occurs. The lien of taxes improperly entered on the secured roll can be cancelled and then re-entered, either as cross-secured to other real property or on the unsecured roll ([§4840](#)).

After four years, corrections can be made only by the auditor, at the direction of either the county board of equalization ([§1614](#)) or the assessment appeals board ([§1620-§1630](#)).

If an error is discovered from an audit of the assessee's books and records, the assessor has six months after the completion of the audit to make the correction ([§4831\(b\)](#)).

### 2153. CORRECTION OF ENTRIES ON UNSECURED ROLL

Any error or omission involving the exercise of a value judgment that arises solely from a failure to reflect a decline in the taxable value of real property, as required by [§51\(a\)](#), may be corrected within one year after the assessment being corrected was made ([§4831\(c\)](#)).

Any error resulting in incorrect entries on the unsecured roll may be corrected within four years after the assessment being corrected was made. This does not apply to either of the following:

- Errors involving value judgments; or
- Escape assessments caused by the assessee's failure to report information required under [§441 et seq.](#)

## 2154. FOUR-YEAR INSTALLMENT COLLECTION OF TAX INCREASE

When an increase in property tax results from either an escape assessment for a prior year only or correction of an error on the roll of a prior year, the assessee has the option of paying the tax over a four-year period. The assessee cannot make installment payments if the additional tax is less than \$500 ([§4837.5\(a\)](#)).

The current taxes for the same property must be kept current. If not, the four-year plan is defaulted. The payment plan can be reinstated only if the assessee can convince the tax collector that the payment was not made through any fault of the assessee and if payment of the installment amount plus any additional interest that has accrued is made prior to the time the property becomes tax defaulted or prior to June 30, whichever is earlier.

Also, in the case of an escape assessment triggered because there was a violation of assessment requirement, such as a failure to file a change-of-ownership statement, the assessee is required to pay interest at the rate of 3/4% per month for the life of the payment plan.

**NOTE:** When the installment account is paid in full or placed on the tax rolls due to a defaulted payment plan and the tax collector has filed for record a certificate of lien, the tax collector will also file for record a release of lien. The filings of the certificates of lien and the release of lien are not subject to recording fees ([§4837.5\(h\)](#)).

## 2160-2161 Billing and Payment Processing: Cancellations

### 2160. ERRONEOUS OR ILLEGAL ASSESSMENTS

All or any portion of any tax, penalty, or cost may be cancelled by the auditor if it was levied or charged ([§4986](#)):

- More than once;
- Erroneously or illegally;
- On the cancelled portion of an assessment that has been decreased pursuant to a correction authorized by [§4876-§4880](#);
- On property that did not exist on the lien date;
- On property annexed after the lien date by the public entity owning it;
- On property acquired by the United States, the state, or any county, city, school district, or other public entity to the extent provided for in [§5081-§5091](#); or
- On that portion of an assessment in excess of the value of the property as determined by the assessor, pursuant to [§469\(c\)\(4\)](#).

**NOTE:** When the board of supervisors approves any uncollected tax, penalty, or cost subject to transfer from the secured roll or abstract, pursuant to [§5090](#), and amounting to less than \$20 is cancelled rather than transferred to the unsecured roll ([§5089](#)).

## **2161. UNENFORCEABLE TAX LIEN**

Whenever it is discovered that collection of a tax cannot be enforced because of an error in a description, assessment, equalization, levy, or any other proceeding, the board of supervisors must be notified and a cancellation of the tax requested ([§3438](#), [§4946](#)).

If the board of supervisors determines that the tax should be enforced, it orders the assessor to place the uncollected taxes on the next roll. The procedure for rescinding the cancellation is located in [§4946-§4948](#).

## **2170-2178 Billing and Payment Processing: Refunds**

### **2170. APPLICATION OF REFUND**

The tax collector may apply a refund due to an assessee to any delinquent taxes owing on the same property, as long as the assessee remains liable for the payment of the delinquent tax ([§2635.5](#)). This law applies to both secured and unsecured tax liens.

### **2171. CLAIM REQUIRED**

A refund may be made only upon a verified claim filed by the person who who paid the tax, his or her guardian, executor, trustee, or administrator ([§5097\(a\)\(1\)](#)).

### **2172. CLAIM EXCEPTIONS**

The county board of supervisors may adopt a resolution or ordinance that allows for the refund of taxes or assessments to be paid to the assessee of that property or to the latest recorded owner of that property, as shown on the tax roll, without a claim for refund filed if both of the following conditions are met ([§5105](#)):

- There has been no transfer of the property during or since the fiscal year for which the taxes subject to refund were levied.
- The amount of the refund is less than five thousand dollars (\$5,000).

Additionally, the auditor or tax collector can make a refund within four years after the date of the payment without a claim being filed, under the following conditions ([§5097.2](#)):

- The amount has been paid more than once;
- The amount paid exceeds the amount due on the property as shown on the roll;
- The amount paid exceeds the amount due on the property as the result of corrections to the roll or cancellations ordered by the board of supervisors after such taxes were paid;
- In any other case, where the claim for refund is made under penalty of perjury and is for an amount less than \$10, with the written consent of the legal advisor; or

- The amount paid exceeds the amount due on the property as the result of a reduction attributable to a hearing before an assessment appeals board or an assessment hearing officer.

## 2173. TIME LIMITATIONS

If a verified written claim for refund is filed pursuant to [§5097](#), the following time frames apply (manual section [2171](#)):

- Except as provided in [§5097\(a\)\(3\)](#), the claim must be filed within:
  - Four years after making the payment sought to be refunded;
  - Within one year after the mailing of the notice as provided in [§2635](#);
  - A period of time agreed upon by the assessor and the assessee as provided by [§532.1](#); or
  - Within 60 days of the date of the notice by the auditor as prescribed in [§4836\(a\)](#), whichever is later ([§5097\(a\)\(2\)](#)).
- An application for a reduction of an assessment filed under [§1603](#) is a sufficient claim for refund if the applicant states that the application is also for a refund. However, If the application does not include a claim for refund, the applicant can file a separate claim for refund, pursuant to [§1603](#) or [§1604](#), within the time frame specified in [§5097\(a\)\(3\)](#) ([§5097\(b\)](#)).
- If an application for equalization of an escape assessment is filed pursuant to [§1603](#), a claim may be filed on any taxes resulting from the escape assessment or the original assessment to which the escape relates within the period provided in [§5097\(a\)\(3\)](#) ([§5097\(c\)](#)).

## 2174. UNCLAIMED REFUNDABLE AMOUNTS

After the deadline for filing a claim for refund has expired under [§5097](#) (manual section [2172](#)), any unclaimed amount otherwise payable as a refund may be transferred to the county general fund, on order of the board of supervisors ([§5102](#)).

**NOTE:** Certain circumstances permit refunds to be issued without a claim being filed. See manual section [2172](#).

## 2175. REFUNDS ORDERED BY BOARD OF SUPERVISORS

Any taxes, including penalties, interest, and costs paid ([§5107](#)) before or after delinquency, will be refunded by order of the board of supervisors, if the taxes were ([§5096](#)):

- Paid more than once;
- Erroneously or illegally collected; including those paid due to the inability of the claimant to file a veteran's exemption because of military service outside of the continental limits of the United States between the lien date and 5 p.m. on February 15 of any year ([§273](#));
- Illegally assessed or levied;
- Paid on an assessment in excess, due to either the assessor's clerical error or erroneous information furnished by the assessee;

- Paid on improvements nonexistent on the lien date;
- Taxes collected on behalf of a special district from an assessee whose property was annexed to a city but not detached from the special district due to an error ([§5096.1](#)); or
- Any taxes paid on an assessment in excess of the value of the property as determined by the assessor, pursuant to [§469\(c\)\(4\)](#).

For the conditions to order refunds, see [§5097](#) and manual section [1408](#).

## **2176. COURT ACTION TO RECOVER**

If the board of supervisors rejects a claim for refund, an action to recover may be instituted only in the superior court, but not in the small claims division of the superior court, within six months after the rejection ([§5141](#)). Failure of the board of supervisors or the city council to act on the claim for a period of six months may be treated as a rejection for purposes of suit ([Otis v. San Francisco, 170 Cal. 98](#)).

When an application for reduction of assessment states that it is intended as a claim for refund under [§5097](#), the claim is considered denied as of the date the final installment of the tax extended on the assessment becomes delinquent or on the date the equalization board makes its final determination on the application, whichever is later ([§5141\(c\)](#)).

Superior court actions may be brought by public agencies, pursuant to [§5161](#).

## **2177. INTEREST PAYABLE WITH CERTAIN REFUNDS**

The county must pay interest, when such interest amounts to \$10 or more, on any amounts refunded:

- On property acquired by a public agency where a proration of taxes is required ([§5096.7](#));
- As a result of the reduction of assessed value following an application for equalization by a county board of equalization ([§1605](#));
- By a court action to recover penalties ([§5150.5-§5151](#)); or
- On correction of an assessor's clerical error.

**NOTE:** This is not an exception to the \$10 exclusion ([§5150.5](#)).

No interest may be paid if the assessee has been given the notice required by [§2635](#) and has failed to apply for a refund within 30 days after the mailing of such notice ([§5151\(a\)](#)).

The interest paid by the county on the refundable amounts will be taken proportionately from the appropriate funds, as determined by the county auditor ([§5151](#)).

An assessee has no right to recover interest from the county on property taxes that the county voluntarily refunds unless interest is provided for by statute ([Ball v. Los Angeles County, 82 Cal. App. 3d 312](#)).

## 2178. APPLICATION OF REFUND TO FUTURE TAX LIABILITIES

Assesseees may enter into an agreement with the county to use (or get credit for) their refund amount to offset future tax liabilities. Interest may accrue on the refund amount until it has been fully offset ([§5103](#)).

## 2200-2204 Delinquent Payment Processing: General Information

### 2200. EFFECTIVE DATES, TIMES AND PENALTIES

Taxes on the unsecured roll as of July 31, if unpaid, are delinquent at 5 p.m., or the close of business, whichever is later, on August 31 and thereafter subject to a delinquent penalty of 10% ([§2922\(a\)](#)).

For taxes added to the roll after July 31, delinquency starts at 5 p.m., or the close of business, whichever is later, on the last day of the month following the month the taxes were added to the roll. The delinquent penalty, as mentioned in [§2922\(a\)](#), always attaches on the last day of the month following the date of delinquency, even if it falls on a weekend or holiday.

However, the penalty is not applied in cases where the last day of the month falls on a weekend or a holiday and the tax collector receives payment before 5 p.m. or the close of business, whichever is later, on the next business day.

**NOTE:** A penalty will not attach to unpaid taxes already carrying a delinquent penalty transferred from the secured roll or the supplemental roll. Such taxes are subject only to the additional penalties and costs as prescribed in [§2922\(d\) and \(e\)](#), which will attach beginning July 1 and on the first day of each month thereafter ([§2922\(c\)\(e\)](#)).

### 2201. ADDITIONAL PENALTY

If taxes on the roll remain unpaid at 5 p.m. or the close of business, whichever is later, on the last day of the second succeeding calendar month after delinquency, they become subject to an additional penalty of 1.5% per month up to the time the delinquency is paid. This penalty is added together with any actual costs of collection incurred by the county ([§2922\(c\)\(d\)](#)).

This additional penalty attaches on the first day of each month thereafter until payment is made or a court judgment is entered, whichever occurs first.

**EXAMPLE:** A 10% penalty applied after 5 p.m., November 30. An additional 1.5% penalty attaches on February 1, March 1, and so on.

If delinquent taxes transferred from the secured and supplemental rolls at the time of default carry a delinquent penalty from the secured roll, they are also subject to the additional penalty of 1.5% beginning July 1 and on the first day of each month thereafter.

If the last day of a month falls on a weekend or legal holiday, the additional penalty will not attach if the tax collector receives payment in full by 5 p.m. or the close of business, whichever



is later, on the next business day. If the board of supervisors, by adoption of an ordinance or resolution, closes the county's offices for business prior to the time of delinquency on the "next business day" or for that whole day, that day will be considered a legal holiday ([§2922\(f\)](#)).

## **2202. PENALTIES ON ADJUSTED OR "LATE" TAX BILLS**

When a late, amended, or corrected tax bill is issued, the penalty imposed for delinquent taxes does not apply if payment is made within 30 days from the date the tax bill is mailed or electronically transmitted ([§2610.5](#)). This 30-day period applies to bills issued with fewer than 30 days remaining prior to the delinquency date or issued after the delinquency date has passed (manual section [1144](#)).

**EXAMPLE:** If taxes are enrolled as of July 31, an adjusted tax bill for unsecured property mailed on August 15 must be paid as of September 14, in order to cancel the delinquent penalty attaching on August 31.

## **2203. ASSESSMENT REDUCED BY APPEALS BOARD DECISION**

Unpaid unsecured taxes where an assessment appeals hearing has reduced the disputed assessment is exclusively handled in accordance with [§2922.5](#).

Applicable portions of [§4985](#), which is tied to [§2922.5](#), allow cancellation of any penalty, cost, interest, or fee attaching because of an error caused by the tax collector, auditor, or assessor if payment of the corrected amount is made within 30 days from the date the roll or abstract is corrected.

Interest at the rate of 1% per month is calculated from the delinquent date established in [§2922](#) (normally August 31) to the date of correction. In addition, the delinquent penalty attaches to the reduced assessment 31 days after the roll or abstract is corrected. An additional penalty of 1.5% per month is added when no payment is made by 5 p.m. or the close of business, whichever is later, on the last day of the second succeeding month after the delinquent penalty attaches.

## **2204. INFORMATION NEEDED FOR ENFORCEMENT OF LIEN**

Upon the request of the tax collector, the assessor will disclose and provide to the tax collector the information used in preparation of that portion of the unsecured roll for which the taxes thereon are delinquent. The tax collector will certify to the assessor that the information requested is needed for the enforcement of the assessee's tax lien in collecting those delinquent taxes ([§408\(c\)](#)).

Information requested by the tax collector may include social security numbers, and the assessor will recover from the tax collector his or her actual and reasonable costs for providing the information. The tax collector will add the costs to the assessee's delinquent tax lien and collect those costs subject to [§2922\(e\)](#) ([§408\(c\)](#)).



## 2210-2212 Delinquent Payment Processing: Abstract List or Delinquent Roll

### 2210. PREPARATION AND MAINTENANCE

The collector must prepare either an abstract list of all unpaid items or a delinquent roll ([§2927](#)). Annually, after delinquency, unpaid items must be inserted in the abstract list or a delinquent roll must be prepared. Upon completion of the list or roll, the auditor certifies it to be correct ([§2927.2-§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 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](#)).

### 2211. FORM AND CONTENTS

The form of the abstract list or the delinquent roll must be approved by the auditor and the board of supervisors and must contain all essential information relating to unpaid items contained in the rolls from which it was prepared ([§2927.1](#)). See State Controller's Office sample form, *Abstract of Delinquent Unsecured Taxes* ([SCO 2-04](#))

### 2212. CANCELLATION OF DELINQUENT PENALTIES

Any penalty, cost or other charge resulting from tax delinquency may be cancelled by the auditor or the tax collector in the following situations ([§4985.2](#)):

- The failure to make a timely payment was due to circumstances beyond the assessee's control. For this to apply, the payment for the proper amount of the tax due must be made no later than June 30 of the fourth fiscal year following the fiscal year the tax became delinquent. All of these requirements must be met before a penalty cancellation can be made.
- There was an inadvertent error in the amount of payment made by the assessee, provided the principal payment for the proper amount of the tax due is made within 10 days after the notice of shortage is mailed by the tax collector.
- The cancellation was ordered by a local, state, or federal court.
- When the Federal Deposit Insurance Corporation (FDIC) is acting as a receiver, all penalties and costs will be cancelled ([Federal Deposit Insurance Act Sec. 15 \[12 U.S.C. 1825 \(b\)\(3\)\]](#)).

## 2300-2305 Delinquent Payment Enforcement: Notice to Assessee

### 2300. NOTICE OF DELINQUENT TAXES

Tax bills and notices should inform assessees of their responsibility to pay the taxes and when they will be subject to penalties. Assesseees should also be advised of the collection actions that may be taken should they fail to pay the bill.

Checking the secured and supplemental tax rolls can be an effective method of locating addresses for assesseees with delinquent unsecured bills.

Sending multiple follow-up notices of unpaid accounts can result in a lower delinquency rate. Also, assessee complaints can be resolved before delinquency, or at least prior to enforced collection action. While lack of receipt of a tax bill is not a defense against enforced collection, the mailing of multiple notices discourages an assessee from using this excuse.

See State Controller's Office sample form, *Notice of Delinquent Taxes* ([SCO 2-30](#)).

### 2301. ENFORCEMENT COLLECTION LETTER

Sending a letter warning of impending enforced collection early in the first month of delinquency, with the penalty amount included, may result in substantial payments.

After the expiration date of the intent letter, there should be a recording and mailing of liens, to encourage additional payments. See manual section [2310](#) for a description of appropriate actions.

### 2302. DELINQUENCY NOTICE ON TRANSFERABLE TAXES

A notice of delinquency should be sent to any assessee listed on the secured roll whose property tax is subject to unsecured collection enforcement procedures. These assessments are subject to transfer to the unsecured abstract at the end of the fiscal year. Generally, collection efforts can begin upon delinquency of either installment ([§75.54\(b\)](#), [§107](#), [§2188.7\(e\)](#), [§2189](#), [§2189.6](#), [§2189.7](#), [§2190](#), [§5830](#)).

### 2303. FINAL NOTICE BY PHYSICAL DELIVERY

If field investigators or collectors are employed, a separate final notice can be used to elicit payment from unresponsive assesseees. Although some offices mail such "final notices," the best collection results are obtained with face-to-face field contact.

### 2304. PAYMENT BY PERSONAL CONTACT WITH DELINQUENT ASSESSEES

The demand for payment should be made upon the assessee or his or her agent. Business should be conducted in private, if at all possible.

## **2305. CONTACT WITH BANKRUPT ASSESSEES**

A tax collector must not take any action to violate an automatic stay, but he/she should pursue information required to file a claim with the bankruptcy court. Be cautious of debtors who say they are "bankrupt" due to lack of funds but are not planning to formally file bankruptcy ([11 U.S.C. §362\(a\) 4 and 5](#)).

**NOTE:** Consult county counsel when dealing with bankruptcy cases.

## **2310-2314 Delinquent Payment Enforcement: Collection Action Information**

### **2310. GENERAL INFORMATION**

When an unsecured tax becomes delinquent, the tax collector should initiate involuntary collection action. The type and timing of the action necessary depends on the dollar amount of the bill, whether the assessee owns the real estate, his or her ability to pay, future reliability of bill collection, and prior payment record.

Actions a tax collector may take include liens on real estate located in any county, summary judgments or other court action, Federal Aviation Administration liens, California Department of Alcoholic Beverage Control liens, claims in a bulk transfer of assets, and claims in bankruptcy. For tax collectors, the following may offer some collection guidance.

### **2311. PARTIAL PAYMENTS**

Notwithstanding any other provision of law, in the case of a deficiency of payment of taxes due and payable pursuant to the provisions of [§2901-§2963](#), with approval from the board of supervisors, the tax collector may accept partial payments. If partial payments are accepted, the amount accepted is distributed rather than held in trust; only the balance is subject to additional penalties. Accepted partial payments are first applied to delinquency charges, then to the actual tax. The difference between the amount paid and the amount due will be treated as a delinquent tax in the same manner as any other delinquent tax ([§2927.6](#), manual section [1240](#)).

An exception is made for counties operating under the alternative method known as the "Teeter Plan" ([§4701-§4717](#)).

### **2312. AVAILABILITY OF ASSESSEE**

The type of enforcement technique selected may depend on locating the assessee or his or her assets. If the assessee is located within the county, collection enforcement is usually easier and most of the legal steps to enforce collection may be effective. If the assessee and all his or her assets are out of the county but within California, collection instruments may be recorded in the county of domicile and assistance obtained from officials of that county. Seizures by mail of funds in bank accounts are available for bank branches located in California.

Similarly, writs of execution served to county sheriff departments can assist in attaching assets. Out-of-state assesseees can pose the greatest impediment to collections, particularly if the

assets are also moved. Assessors' offices may be able to provide additional information on the assessee's location.

**NOTE:** There are various sources of information, such as [Experian](#), [ParcelQuest](#) and [RealQuest](#), which provide statewide property ownership information and online people-finding services that can be used to locate assessees. Other resources include DMV records and court records.

### **2313. ASSETS OF ASSESSEE FOR COLLECTION ENFORCEMENT**

The type of assets available often determines the most effective collection technique to implement. A known bank account may be easier to collect against than certain physical assets. The mobility of an asset may impede collections. The assessor may provide additional information on the makes, models and identification of assets. DMV can provide ownership records and lienholder information for all vehicles and boats registered in California.

### **2314. ASSETS SUBJECT TO SPECIAL COLLECTION PROCEDURES**

Special collection procedures against certain assets may be used in conjunction with other collection techniques or may require certain recorded collection instruments (manual section [2500 et seq.](#)). For instance, the California Interagency Offset Program (manual section [2610](#)) requires a recorded lien before an offset will be made by the Franchise Tax Board. A review of the special collection requirements should be made so that needed instruments can be obtained in a timely manner.

## **2320-2329 Delinquent Payment Enforcement: Court Actions/General Applications**

### **2320. DISCLAIMER**

The information provided in manual sections [2320-2386](#) of this chapter is intended to be informational only and does not constitute legal advice. The State Controller's Office, Property Tax Standards Unit does not have the authority for such legal services, and therefore, it is highly recommended that the county consult county counsel when dealing with court actions and other legal enforcement techniques for the collection of delinquent unsecured property taxes.

### **2321. GENERAL INFORMATION**

To initiate a civil court case against an assessee for delinquent unsecured taxes, the tax collector must file an application with the court. The State Controller's Office recommends seeking the advice of county counsel on proper application procedures and requirements.

An assessee cannot, as a defense in any court action, claim that the taxes are excessive based on an overvaluation unless he/she has petitioned the county board of equalization for a reduction of the assessment ([Security First National Bank v. County of Los Angeles, 35 Cal. 2d 319](#)). However, distinctions exist between a wrongful assessment of property not subject to taxation and property wrongfully valued that is taxable. The county board of equalization need

not be petitioned if property is nontaxable ([Lockheed Aircraft Corp. v. County of Los Angeles, 207 Cal. App. 2d 119](#)). The defendant, except for small claims cases, may claim that the tax was illegally assessed for reasons other than valuation.

## **2322. AUTHORITY FOR SUITS**

Counties have the authorization for civil action in their own name against an assessee to recover delinquent unsecured taxes or assessments, including penalties, interest, and costs ([§3003](#)). This includes an assessee in a partnership, persons who have assumed the liability to pay the assessed taxes by contract or lease, and those persons who are the alter ego or successor in interest of a corporate assessee. Suits for the collection of delinquent taxes on leasehold estates or rights as defined in [§107](#) are authorized pursuant to [§2189.5](#).

No attorney may take part in the conduct or defense of a small claims action ([Code of Civ. Proc. §116.530](#)). However, the tax collector may employ an attorney to sue in his or her name if the assessee moves to another county ([§3002](#), manual section [2333](#)).

For the collection of delinquent taxes on improvements of water distribution systems, see manual section [6115](#).

For the collection of delinquent taxes on possessory interests that have been entered on the secured roll, see manual section [2011](#).

## **2323. AUTHORITY FOR EX PARTE WRIT OF ATTACHMENT**

When there is sufficient information to justify the commencement of an action prior to the date taxes on the unsecured roll become delinquent, the tax collector may apply to the court for issuance of an ex parte writ of attachment of enough of the assessee's property as is necessary to satisfy the taxes on the basis of this information ([§3006](#)). "Ex parte" means that a judicial proceeding may be held and any petition for this writ may be granted by the court without notice to the assessee or without the necessity of the assessee being present in court.

A tax collector generally seeks this attachment because of the financial position of the assessee or for some other appropriate reason, such as when there is a reported sale of unsecured property to another party, or when property is moved or hidden.

**NOTE:** Since this declaration must be filed under penalty of perjury, the tax collector should seek the advice of county counsel prior to commencing the lawsuit.

## **2324. RESOLUTION OF BOARD OF SUPERVISORS**

The board of supervisors directs and controls the prosecution and defense of all suits to which the county is a party, and it is allowed discretionary power to appoint county officials to initiate and conduct litigation in superior court on behalf of the county ([Gov. Code §25203](#)). The board, by resolution, should authorize actions to recover delinquent unsecured property taxes, penalties, and costs. This should include the authority to name partners of an assessed partnership and other persons as alter egos or successors in interest.

**NOTE:** A single annual resolution, or a resolution effective until rescinded, authorizing institution of legal actions by either the district attorney or county counsel and the tax collector is

recommended, since it facilitates collection and obviates the need for a resolution by the board of supervisors in each instance.

## **2325. REFERRAL TO COUNTY COUNSEL**

Following the delinquency date and prior to expiration of the statute of limitations, the tax collector may prepare and submit to the county legal officer a list of unpaid accounts where, individually, the total sum of tax and penalties exceeds \$5,000 ([Code Civ. Proc. §116.220\(a\)\(2\)](#)).

The tax collector should keep county counsel informed of any payments the assessee makes. Counsel will be better able to advise whether to accept any partial payment. Partial payments do not constitute full satisfaction of the taxes, costs, and penalties due the county ([Attorney General Opinion 9-18-79](#)).

Amounts of \$5,000 or less lie within the jurisdiction of the small claims courts ([Code Civ. Proc. §116.220\(a\)\(1\)](#)). Counsel may be consulted but may not appear in court. However, in known disputed cases involving amounts greater than \$2,500, the county legal officer may pursue an action in superior court. County counsel may also wish to pursue an action in superior court to recover taxes from third parties liable under contract, "alter egos," or successors in interest.

## **2326. ENFORCEMENT BY COURT ACTION/SMALL CLAIMS**

Action in small claims court is commenced when the plaintiff files a claim under oath with the judge or clerk of the small claims division. The claim will be prepared by the tax collector in the same form as shown in the Claim of Plaintiff and Order form ([Code Civ. Proc. §116.320](#)).

The small claims court has jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant ([Code Civ. Proc. §116.220](#)). If an assessee denies the legality of unsecured personal property taxes, the tax collector may have the matter transferred to superior court (manual section [2328](#)).

The assessee's defenses in any court action appear limited to:

- The fact that the assessee did not own the property (*People v. Wilson*, 26 Cal. 127);
- The nonexistence of the property on the lien date; or
- The fact that the property was outside the jurisdiction of the county on the lien date. Temporary absence from jurisdiction is not a valid defense against the assessment of personal property ([Brock & Co. v. Board of Supervisors](#), 8 Cal. 2d 286, [Church v. City of Los Angeles](#), 96 Cal. App. 2d 89).

Actions filed in small claims court are time-consuming. In some cases, the judgments have been unsatisfactory. While this option remains open to counties, most tax collectors no longer use small claims court. A summary judgment procedure may be more effective ([Code of Civ. Proc. §116.210-§116.270](#)).

**NOTE:** Generally, a summary judgment is preferable to a small claims action because the defendant often raises an assessment issue, requiring the case to be transferred to superior court (manual section [2328](#)).

**2327. FILING FEE EXEMPTION**

Authority for exemption of filing fees is found in [Government Code §6103](#). However, the filing fee which is exempted by this section must be included in the amount of final judgment (manual section [2380](#)).

**2328. DEFENSES AGAINST COUNTY'S CLAIM**

Small claims, justice, or municipal courts are without jurisdiction to try the legality or validity of the tax. Defenses raised on these points fall within the jurisdiction of the superior court only ([Code Civ. Proc. §86\(a\)\(1\)](#), [§116.220\(a\)\(2\)](#), [Cal. Empl. Stab. Com. v. Municipal Court](#), 62 Cal. App. 2d 781). In such cases, the district attorney or county counsel should initiate steps to transfer these cases to the superior court.

In any suit for taxes, the roll or a duly certified copy of any entry showing the assessee, the property, and unpaid taxes or assessments is prima facie evidence of the plaintiff's right to recover ([§3004](#)).

**2329. STATUTE OF LIMITATIONS**

The three-year statute of limitations, contained in the [Code of Civil Procedure §338\(c\)\(1\)](#), applies to suits for collection of unsecured taxes and begins with the date of delinquency ([Los Angeles County v. Continental Corp.](#), 113 Cal. App. 2d 207).

Civil actions for delinquent taxes or assessments, pursuant to [§3003](#), will be commenced within three years of the date upon which unsecured taxes became delinquent. The limitation period of this section will be extended for any and all periods during which a civil action described by this section is prohibited by federal bankruptcy laws or rules or by a court order.

**EXCEPTION:** If property is acquired by a public agency so as to become tax-exempt, and the sum of delinquent taxes and pro rata share of current taxes are transferred from the secured to the unsecured roll, the statute of limitations begins to run from the date of the transfer ([§5090](#)).

## 2330-2336 Delinquent Payment Enforcement: Court Actions/Judgment Processing

**2330. ENTRY OF JUDGMENT**

At the conclusion of the hearing, if a decision is given in favor of the county, judgment is entered by the court ([Code Civ. Proc. §116.860](#)).

The judge may provide for payment immediately or at any time and upon such terms and conditions as he/she determines ([Code Civ. Proc. §116.860](#)).



### 2331. ABSTRACT OF JUDGMENT

If no payment is received, an abstract of judgment may be obtained from the court without charge ([Code Civ. Proc. §116.610](#)). Upon recordation of the abstract in any county (without charge), the judgment becomes a lien upon all real property owned in the county or subsequently acquired by the defendant ([Code Civ. Proc. §674\(a\)](#)). For information regarding the recordation of an abstract of judgment in other counties, see manual section [2333](#).

The lien continues for 10 years from the entry of the judgment or until the lien is satisfied or otherwise discharged ([Code Civ. Proc. §697.310](#)).

If justified, an action to renew the original judgment may be commenced within 10 years ([Code Civ. Proc. §683.180](#)). When the new abstract of judgment is recorded, the lien attaches for another 10-year period.

**NOTE:** Do not confuse an abstract of judgment with the provisions for summary judgment. See manual sections [2350-2355](#).

### 2332. RECORDING THE JUDGMENT

After the judgment is obtained, an abstract of judgment must be recorded as soon as possible in any county in which the defendant has real property. From the date of the recording, the judgment or decree becomes a lien upon all the real property of the judgment debtor not exempt from execution and continues for 10 years from that date ([§3105](#), [Code Civ. Proc. §697.310](#)).

Actions for the recovery of taxes may be instituted in other states that permit such actions when the amount to be recovered is sufficient to justify the time, expense, and effort ([§31](#)).

### 2333. INTEREST ACCRUAL ON JUDGMENTS

Interest on judgments rendered by California courts accrues at the following rates:

- On and before December 31, 1982 – 7% per annum on a daily basis until the judgment is paid.
- January 1, 1983, through June 30, 1983 – 10% per annum on a daily basis until the judgment is satisfied or up to the date of a levy under a writ of execution.
- On or after July 1, 1983 – 10% per annum on a daily basis until the judgment is satisfied or, in the case of a writ of execution, up to the date the proceeds of the sale or collection are actually received by the levying officer ([Code Civ. Proc. §685.010](#)).

**NOTE:** Interest on judgments accrues from the date of entry. If the judgment was entered before January 1, 1983, it accrues interest at the rate of 7% per annum until December 31, 1982; thereafter, the judgment accrues interest at the rate of 10% per annum until satisfied, as described above.

### 2334. EXECUTION OF JUDGMENT

The marshal or the sheriff can assist in preparing documentation required to execute a judgment. The judgment may be carried into execution in any county of the state.



**2335. EXAMINATION OF DEBTOR (ASSESSEE)**

The county may apply for the assessee to be examined in court when a money judgment has been filed in the county's favor to aid in enforcement of the judgment ([Code Civ. Proc. §708.110\(a\)](#)).

The order for examination must be served, pursuant to the [Code of Civil Procedure section 415.10](#), to the debtor in person 10 days prior to the date of examination. Service of the order creates a lien on the personal property of the debtor for a period of one year from the date of the order unless extended or sooner terminated by the court. A court order for examination is permitted every 120 days. A special request may be filed with the court to shorten the time limit if it is felt the debt will be jeopardized by waiting the required period of time ([Code Civ. Proc. §708.110\(a\)](#)).

**NOTE:** The Order of Examination must be served by a sheriff, marshal, constable, or other officer of the court, or the court will not order a bench warrant in cases where the debtor does not appear ([Code Civ. Proc. §708.170](#)).

A debtor may not be required to attend an examination before a court located outside the county in which the person resides or has a place of business unless the distance is less than 150-mile radius ([Code Civ. Proc. §708.160\(b\)](#)).

**NOTE:** It is highly recommended to consult with county counsel for the Examination of Debtor procedure.

**2336. SERVICEMEMBERS' CIVIL RELIEF ACT**

Under this Act, no proceeding or action may be commenced to collect unsecured taxes from service members during their military service, except upon leave of the court, granted upon application of the tax collector. For the provisions of this Act affecting tax collections, refer to [United States Code, Title 50, App. §501-§597b](#).

Any tax or assessment that is not paid when due will bear interest at the rate of 6% per year until paid, and no other penalty or interest will be incurred by reason of such nonpayment.

An affidavit or declaration by the assessee, indicating nonmilitary status, must be filed with the court before a judgment by default will be entered.

**2340-2343 Delinquent Payment Enforcement: Certificate of Lien****2340. GENERAL APPLICATION**

Liens on all delinquent bills over a certain dollar amount and liens on an individual basis can be filed shortly after the delinquent date. The dollar amount used by counties ranges from \$20 to

\$100. Liens are filed approximately two weeks after delinquency. These liens are a very helpful tool since they appear on title reports and credit reports ([§2802](#)).

From the time of filing, the lien has the force, effect, and priority of a judgment lien and continues for 10 years from the time the certificate is recorded, unless it is released or otherwise discharged before then. The lien is upon all personal and real property in the county owned by and then assessed to the assessee named in the certificate or acquired by him/her before the lien expires ([§2191.4](#)). See State Controller's Office sample form, *Certificate of Lien for Unsecured Property Taxes* ([SCO 2-02](#)).

The courts have held that a certificate of lien is not effective against an innocent or bona fide purchaser for value or an encumbrancer for value who acquires interest in the property without actual knowledge of the certificate of lien ([§2191.4](#)).

The lien is also subordinate to preferences given to claims for personal services by [Code of Civil Procedure §1204-§1206](#) ([§2191.5](#)).

## 2341. NOTICE TO ASSESSEE

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](#)). It is recommended the notice is mailed 10 days prior to the intended filing.

## 2342. FILING A CERTIFICATE OF LIEN

When delinquent taxes become subject to unsecured collection procedures, or when unsecured taxes become delinquent, a certificate specifying the amount of tax due, including interest, costs and penalties, may be recorded in any county without a fee being charged. This procedure extends to ([§2191.3](#), manual section [1720](#)):

- A possessory interest secured only by a lien on the interest itself;
- Goods in transit, not secured by any lien on real property;
- Improvements that have been assessed pursuant to [§2188.2](#);
- Off-roll taxes on escape assessments where the error was not the fault of the assessee and the escape taxes are being paid pursuant to [§4837.5](#);
- Unsecured property not secured by a lien on real property, when the tax has become delinquent or when there are prior unpaid and delinquent taxes on the property;
- A tax entered on the unsecured roll pursuant to [§482](#), [§531.2](#) or [§4836.5](#); or
- A tax transferred to the unsecured roll under any provision of law.

The filing of this certificate establishes priority of the county's lien over any subsequently recorded lien; therefore, the certificate should be recorded as soon as possible after taxes become delinquent.

**NOTE:** A certificate of lien must be recorded for each year of delinquency. The certificate of lien is NOT an "add-on" lien, i.e., taxes from a subsequent year cannot be added to an existing certificate of lien.

Filing the certificate does not prevent the tax collector from seeking to enforce the collection of unsecured delinquent taxes through the use of unsecured roll summary judgment ([§3101 et](#)

[seq.](#)), suit for taxes ([§3002 et seq.](#)), or seizure and sale procedures ([§2951 et seq.](#), [Attorney General Letter 12-11-62](#)).

A certificate of lien is accepted for recording in the office of the county recorder in any county without a fee. The certificate should specify the amount due, the name of the assessee, the Social Security number, if known, and the last known address of the assessee. The certificate should include a statement that the county is in compliance with all provisions of the Revenue and Taxation Code with respect to the computation and levy of the tax.

The procedure authorized is cumulative to the procedure provided by [§2951](#) and [§3003](#). The county recorder will, within 30 days after a filing, send a notice of the filing to the assessee at the assessee's last known address. The notice will contain the information contained in the filing and will prominently display on its face the following heading ([§2191.3](#)):

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

### **2343. EXTENSION OF A CERTIFICATE OF LIEN**

Within 10 years from the date of certificate recording, or within 10 years from the date of the first lien extension, the lien may be extended for another 10-year period by re-filing ([§2191.4](#)).

**NOTE:** Notwithstanding any number of extensions caused by filing a new certificate, the lien is presumed paid 30 years after the time when the tax became a lien ([§2195](#)).

## **2350-2355 Delinquent Payment Enforcement: Summary Judgment**

### **2350. PURPOSE AND EFFECT OF LIEN CREATED**

A summary judgment is an additional method of enforcing the collection of unsecured taxes with the same force and effect as any other judgment in superior court and can be used to attach wages, bank accounts, and other property owned by the assessee. Penalties continue to accrue rather than being modified to the lower legal interest rate that may apply to other judgments. The cost to the county is mainly in the mailing of a certified notice. Summary judgments and all other court judgments appear on credit reports. The summary judgment also affords a means of levying through a writ of execution ([§3101-§3107](#), manual sections [2370-2376](#)).

A recorded judgment creates a lien against bona fide purchasers but only upon the debtor's real property; the levy of a writ of execution is required to bind the debtor's personal property in a manner that is effective against bona fide purchasers ([Code Civ. Proc. §674](#), [Miller v. Bank of America, 2-19-48, Ninth Circuit, U.S. Court of Appeals, 166 F. 2d 415, 417-419](#)).

Without such a levy, the lien of the judgment on personal property has no "force, effect, or priority" against bona fide purchasers.

The recorded judgment has the force, effect, and priority of a judgment lien upon all property of the assessee that may be owned by him/her in the county at that time or that may be subsequently acquired by him/her prior to the expiration of the lien ([§3103](#)).

**EXCEPTION:** If the judgment debtor sells all personal property encumbered by the recorded judgment, the lien is not valid against a purchaser of the personal property unless he/she has actual knowledge of the lien ([§3103](#)).

## **2351. NOTICE OF INTENT TO FILE A CERTIFICATE**

A Notice of Intent to File a Certificate Seeking Summary Judgment must first be sent to the assessee, by registered or certified mail to his or her last known address, not less than 10 days prior to the filing of the tax collector's certificate ([§3101\(a\)](#)). State Controller's Office sample form, *Notice of Intent to File a Certificate Seeking Summary Judgment* ([SCO 2-11](#)) is recommended.

## **2352. CONTENTS OF NOTICE**

The notice is required to contain the following ([§3101\(b\)](#)):

- The names of all of the assessees;
- The description of the property assessed;
- The assessed value of the property;
- The fact that judgment will be sought in the amount of the tax, penalty, and interest that is unpaid at the time of the filing of the certificate;
- The fact that, following issuance and recordation of such judgment, additional penalties will continue to accrue at the rate prescribed by law, and any bond premium posted or other costs to enforce the judgment are an added charge; and
- The fact that a fee, as provided in [Government Code §27361.3](#), must be paid for the purpose of the recordation of any satisfaction of the judgment lien.

## **2353. PROPERTY NOT SUBJECT TO EXECUTION OF JUDGMENT**

The following types of property are not subject to execution ([§699.720](#)):

- An alcoholic beverage license without the appointment of a receiver under the [Code of Civil Procedure section 708.630](#) (however, a hold can be placed on an on-sale liquor license; manual sections [2520-2523](#));
- An interest of a partner where the partnership is not a judgment debtor;
- A cause of action that is the subject of a pending action or special proceeding (this does not apply to a cause of action for money or property);
- A judgment in favor of the judgment debtor prior to the expiration of the time for appeal or prior to the determination of an appeal;
- A debt (other than earnings) owing and unpaid by a public entity;
- The loan value of an unmaturing life insurance, endowment, or annuity policy;
- A franchise granted by a public agency;
- The interest of a trust beneficiary;
- Any interest that is not vested; and

- Property in a guardianship or conservatorship estate.

**NOTE:** These exemptions do not necessarily apply to means of collection other than execution, i.e., seizure and sale. For immediate action, control over assets, and the absence of exemption and litigation, seizure under [§2951](#) is generally better than execution on judgments. However, after the three-year statute of limitations has expired for seizure, execution on judgment can still be affected. See manual section [2375](#) for additional exemptions.

## **2354. FILING OF CERTIFICATE SEEKING SUMMARY JUDGMENT**

If any tax, interest, or penalty is not paid by the last day of the month succeeding the delinquency date and not less than 10 days following mailing of the Notice of Intent (manual sections [2351-2352](#)), a certificate may be filed (without fee) with the county clerk.

## **2355. CONTENTS OF CERTIFICATE**

The certificate seeking summary judgment must state the following ([§3101](#)):

- That a Notice of Intent to File a Certificate Seeking Summary Judgment was sent by registered or certified mail to each assessee at his or her last known address not less than 10 days prior to the filing of this certificate;
- That the Notice of Intent set forth the information required, pursuant to ([§3101\(b\)](#));
- The names of all of the assessees (manual section [2352](#));
- The amount for which judgment is sought;
- The fact that the county has complied with all of the provisions [§2501-§3205](#), in the computation and levy of the tax, penalty, or interest; and
- The fact that a request was therein made that judgment be issued and entry be made against the named assessee.

**NOTE:** Consulting with county counsel is advised when seeking a summary judgment.

## **2360-2363 Delinquent Payment Enforcement: Summary Judgment – Processing**

### **2360. ENTRY OF JUDGMENT**

Immediately after the filing of the certificate, the county clerk enters a judgment for the county against the assessee for the total amount specified ([§3102](#)).

### **2361. RECORDING OF JUDGMENT**

An abstract or a copy of the judgment with respect to unsecured taxes will be recorded without a fee in the office of the recorder of any county ([§3103](#)).

**2362. PERIOD OF LIEN**

The lien continues for a period of 10 years from the date of recording unless released or otherwise discharged before then ([§3103](#), manual section [2383](#)). Prior to the expiration of the first period of the judgment lien, the abstract or copy of the judgment may be re-recorded. Doing this extends the judgment lien for an additional 10 years. A subsequent 10-year extension may be obtained in like manner unless the lien is released or otherwise discharged sooner ([§3105](#)).

**2363. EXECUTION ON JUDGMENT - PURPOSE AND EFFECT**

After a judgment has been recorded, execution on the judgment can be commenced through a writ of execution, writ of possession, writ of sale, or application for earnings withholding order. This is the enforcement area of the judgment, which allows active pursuit of assets to satisfy the judgment. The application request is made to the clerk of the court where the judgment was obtained, and the signed writ is effective for a six-month period.

**2370-2376 Delinquent Payment Enforcement: Writ of Execution****2370. GENERAL INFORMATION**

Once a summary judgment is obtained, a county can attach any assets of the assessee by writ of execution. Once the writ is completed, it is filed with the clerk and delivered to the sheriff in the county in which the asset is located. This avoids the tax collector's involvement in the actual attaching of the asset. A writ can be used for attaching bank accounts, wages, boats, cars, equipment, tills, etc. ([Code of Civ. Proc. §680.380](#), [§699.510-§699.560](#)).

**NOTE:** The court may require a fee for issuance of the writ. Contact the clerk of the superior court to determine if a fee is required.

Generally, all property not tax-exempt is subject to enforcement of a money judgment ([Code Civ. Proc. §695.010](#)). Community property and certain real property leases are subject to execution ([Code Civ. Proc. §695.020](#), [§695.035](#)).

**EXCEPTION:** A money judgment against a public entity is not subject to execution ([Code Civ. Proc. §695.030](#)).

**NOTE:** It is recommended that each county issuing a writ of execution contact the sheriff's civil division or marshal's office for the procedure to be used within that county. Each county requires instructions for levy that must be completed and furnished with the necessary copies of the writ.

**2371. FEES NECESSARY FOR EXECUTION OF WRIT**

A fee for execution of the writ is required by the levying officer. Fees can vary from county to county, and some counties require the fees to be paid before the writ is executed. The county levying officer within the county where the execution of the writ will take place should be contacted prior to issuance of the writ for information on the fee requirements. This fee is to be added to the amount owed by the assessee.

## 2372. SUGGESTED PROPERTY FOR LEVY OF A MONEY JUDGMENT

Typical properties that creditors obtain money judgments against:

- A "till tap" of a business concern;
- Automobiles, boats or aircraft. Make a prior determination of any lienholders before requesting a levy on these properties. This can be verified through the Secretary of the State and Uniform Commercial Code. For automobiles, see EXEMPTIONS in manual sections [2374-2375](#);
- Bank accounts;
- Safety deposit boxes; and
- Monies held in escrow by a title company.

For more information on "till tap" procedures, see Chapter 5, Section 5: Till Tap/ Keeper's Levy of the [Unsecured Property Tax Collection Manual](#).

**NOTE:** For other possible property or choices of action for levies, refer to [Code of Civil Procedure section 700.030 et seq.](#)

## 2373. WRIT OF POSSESSION

This is used to obtain actual possession of personal or real property and is generally not used by tax collectors. See the county legal officer if possession of specific property is desired.

## 2374. SALE OF LEVIED PROPERTIES

The county enforcement officer, under local procedures, can provide for a sale of levied properties ([Code Civ. Proc. §701.520](#), [§701.630 et seq.](#)).

## 2375. EXEMPTIONS

Earnings and other items of property are subject to exemptions under a writ of execution or other enforcement of judgment, including:

- Motor vehicles – up to \$2,300 ([Code Civ. Proc. §704.010](#));
- Household furnishings and personal effects ([Code Civ. Proc. §704.020](#));
- Materials that are to be applied to the repair or improvement of a residence – up to \$2,425 ([Code Civ. Proc. §704.030](#));
- Jewelry, heirlooms, and works of art – the aggregate, up to \$6,075 ([Code Civ. Proc. §704.040](#));
- Health aids ([Code Civ. Proc. §704.050](#));
- Tools of a trade – up to \$6,075 (\$12,150 if the judgment debtor and the spouse exercise the same trade) ([Code Civ. Proc. §704.060](#));
- Deposit account for Social Security – There are several exemption amounts, depending on the circumstances; see [Code Civ. Proc. §704.080](#) to determine the amount of the exemption;
- Life insurance policies – A loan value of up to \$9,700 is also exempt ([Code Civ. Proc. §704.100](#));
- Public retirement benefits ([Code Civ. Proc. §704.110](#));



- Homestead or primary residence – from \$75,000 to \$175,000 ([Code Civ. Proc. §704.730](#));
- Paid earnings, subject to withholding for child support ([Code Civ. Proc. §704.070](#));
- Funds held in trust for an inmate of a correctional facility – up to \$1,225 ([Code Civ. Proc. §704.090](#));
- Vacation credits accumulated by a state employee ([Code Civ. Proc. §704.113](#));
- Private pension plan ([Code Civ. Proc. §704.115](#));
- Unemployment compensation ([Code Civ. Proc. §704.120](#));
- Disability or health insurance benefits ([Code Civ. Proc. §704.130](#)); and
- Workers' compensation awards ([Code Civ. Proc. §704.160](#)).

**NOTE:** These exemptions do not apply to seizures under [§2951](#), except that seizure of real property (other than possessory interests or improvements) is not authorized ([Code Civ. Proc. §703.010](#)).

## **2376. RECOVERY OF ADDITIONAL COST**

The clerk of the court is required to include in the judgment the amount of the filing fee ([Gov. Code §6103.5](#)). No interest is charged on this fee (manual sections [2327](#) and [2332](#)).

Costs to which a sheriff, marshal, or constable is entitled must be made part of the judgment ([§3005](#)). Upon payment, such costs are deposited in the county general fund.

The prevailing party in any action in a small claims court is entitled to costs of the action and costs of executing the judgment. Costs include service of the order for the defendant's appearance ([Code Civ. Proc. §116.610\(g\)](#)).

## **2380-2386 Delinquent Payment Enforcement: Satisfaction/Payment**

### **2380. PAYMENT TO THE COURT**

A writ of execution, issued by the court from which a judgment was obtained, must be returned to the court showing that the judgment has been satisfied. If no writ of execution was issued but the judgment has been satisfied by some method, an acknowledgment of satisfaction must be filed with either the court, the tax collector, or the county's legal officer by endorsing the court's records ([Code Civ. Proc. §697.640](#)).

Whenever an abstract of judgment has been filed with any county recorder, an acknowledgment of satisfaction must be delivered to the judgment debtor no later than 30 days after the judgment has been satisfied in full. The satisfaction of judgment must identify the county or counties where the abstract was recorded and include the book and page of the official recordation. It should be accompanied by a statement advising the recorder, at the expense of the judgment debtor, to release of the judgment lien ([Code Civ. Proc. §724.060](#)).

When judgment or order is issued against a defendant, they must pay immediately, according to terms and conditions prescribed by the judge. Immediately upon receipt of payment, the judgment creditor or their assignee must file with the court an acknowledgment of satisfaction of judgment ([Code Civ. Proc. §116.850\(a\)](#)).



Any judgment creditor or assignee who, after payment in full of the judgment and after written demand by the judgment debtor, fails to execute and file such acknowledgment of satisfaction with the court for a period of 14 days, is liable to the judgment debtor or their grantees or heirs for all damages that may be sustained by reason of such failure ([Code Civ. Proc. §116.850\(b\)](#)).

### **2381. PAYMENT TO THE COUNTY**

The judgment is satisfied and the lien removed upon payment of:

- The judgment amount;
- The additional penalty imposed pursuant to [§3104](#); and
- A fee, as provided in [Government Code §27361.3](#), for the recordation of a satisfaction of judgment in each county where the judgment was recorded. This recording fee is transmitted to the county recorder with the discharge from the county judgment lien ([§3107](#)).

**NOTE:** Some counties mail the release to the assessee for recording and mail the payment of fees directly to the county recorder.

State Controller's Office sample form, *Satisfaction of County Unsecured Property Tax Judgment* ([SCO 2-14](#)) is recommended.

### **2382. ADDITIONAL PENALTY IMPOSED**

Interest authorized or allowed on court judgments is not to be collected on an unsecured roll summary judgment ([§3104](#)).

In lieu of interest, the additional penalty, provided for in [§2922\(d\)](#), is computed and applied to the unpaid taxes (manual section [2202](#)). Any bond premiums posted or other costs to enforce the judgment are an added charge ([§3104.5](#)).

### **2383. IF TAXES CANCELLED**

The judgment is also satisfied and the lien removed when the tax is legally cancelled by the board of supervisors. A discharge from the judgment is recorded in any county where such judgment was recorded. No recording fee is required in this instance ([§3107\(b\)](#)).

### **2384. PARTIAL SATISFACTION**

As a judgment creditor, the tax collector may file a partial satisfaction of a judgment as to specific property. The instrument should be recorded, with the appropriate fees, in the county recorder's office.

### **2385. SATISFACTION AND RELEASE OF CERTIFICATE OF LIEN**

The lien resulting from recording the certificate pursuant to [§2191.3](#) is discharged or removed in the following situations, except as provided in [§2191.4](#) ([§2191.6](#)):

- Upon payment of the tax, including applicable penalty and interest and a recording fee, as provided in [Government Code §27361.3](#). The lien for taxes is removed upon

recordation of a certificate of release or discharge of the lien with the recorder. The lien should be removed in each county in which the certificate was filed.

- The recording fee should be collected by the tax collector and, together with the certificate of release or discharge of the lien, transmitted to the county recorder to be recorded.
- The tax is legally cancelled and a release of the certificate of lien is recorded in the office of the county recorder. A recording under this subdivision is made without fee.

No fee is charged for recording a release of certificate of lien if the original lien is recorded in error ([Gov. Code §27361.3](#)) or if the taxes have been legally cancelled ([§2191.6\(b\)](#)).

State Controller's Office sample form, *Release of Certificate of Lien* ([SCO 2-03](#)) is recommended.

### **2386. REMOVAL OF INVALID LIEN**

The tax collector may determine that a lien has been erroneously recorded against the assessee. In such case, the tax collector must send a document to the recorder stating the facts that indicate an erroneous filing. The document must be clearly labeled with the words, "Removal of Invalid Lien," and must be signed by either the tax collector or his or her deputy ([§2196](#)). See State Controller's Office sample form, *Removal of Invalid Lien* ([SCO 2-21](#)).

The recorder must mail notice of the removal of the lien after it is recorded to the owner of the property. If the recorder does not do this, the tax collector should send notice ([§2196](#)).

## **2400-2408 Delinquent Payment Enforcement: Property Seizure and Sale**

### **2400. PURPOSE AND EFFECT**

Physical seizure of property allows for the immediate possession of property. Prior to seizure and as soon after delinquency as possible, record a certificate of tax lien. The filing of a certificate of tax lien for delinquent taxes constitutes a lien on all personal and real property belonging to the assessee at the time of seizure and acquired thereafter. Once the asset has been seized by the tax collector, the property cannot be sold by the assessee until the taxes are paid. Most tax collectors reserve seizures for large sums ([§2951-§2963](#)).

**NOTE:** The certificate of lien is not valid for personal property against a bona fide purchaser for value without specific knowledge of the lien.

The following property may be seized and sold at public auction ([§2951](#)):

- Personal property
- Improvements
- Possessory interests

**NOTE:** Seizure will usually provide immediate payment on businesses and boats ahead of other creditors. However, tax bills that are more than one year delinquent may lose their priority status in subsequent bankruptcy cases.

The seizure and sale process can be done in a short period of time and is a much faster process than enforcement through a writ of execution. Seizure avoids the posting of costs with the sheriff or marshal where such posting is required. Seizure also avoids judicial deductions and litigation over possible defenses permitted by executions of judgments. No prior judgment or lien is required.

Property owners are entitled to an administrative hearing prior to sale; however, any necessary administrative hearing can be relatively informal.

#### **2401. FEES AND COSTS**

The decision to seize an item of personal property is also a decision by the county to expend keeper's fees, locksmith fees, and time to inventory the property. These fees are added into the seizure total and collected along with the tax payment. Failure to collect the bill will result in a loss of these costs. Every seizure should be approached as if a sale will be required ([§2958](#)).

#### **2402. TIME LIMITATION**

Property will not be seized and sold for unsecured taxes after three years ([§2963](#)).

**EXCEPTIONS:** The three-year statute relative to leasehold estates (manual section [2329](#)) begins to run on the delinquency date ([§107](#)). The limitation period will be extended for any period during which collection actions are prohibited by bankruptcy laws or rules, or by court order.

#### **2403. PRE-SEIZURE REVIEW**

Determine whether the assessee is in bankruptcy. If so, suspend further collection activity, except for ABC liquor license holds. Flag the account for monthly review and file a claim with the bankruptcy court.

The following steps should be taken prior to seizing the property:

- Check with the [California Secretary of State](#) for [UCC](#) liens and the recorder's records for other liens.
- Use records of previous years' processed checks and electronic payments to determine if a bank account can be located, and
- Search for other assets/holdings. Sources to accomplish this include:
  - Property statement filed with the assessor (with the assessor's permission);
  - DMV or FAA records; and
  - Field inspection.

#### **2404. SEIZURE PRIOR TO TAX DELINQUENCY (JEOPARDY SEIZURE)**

The tax collector may initiate seizure and sale action prior to the delinquency date, August 31, by filing a written declaration, made under penalty of perjury, with the clerk of the board of supervisors. The declaration must set forth the grounds and necessity for seizure ([§2953](#)). The tax collector must deliver a copy of the declaration to the assessee at the time of seizure.

**EXCEPTION:** If any property has been assessed on the unsecured roll and advertised for sale pursuant to [Commercial Code sections 6101-6111](#), inclusive, or advertised to be sold at public

auction, or seized for prior-year delinquent taxes, it may be seized by the tax collector prior to delinquency without filing a declaration with the clerk of the board of supervisors ([§2953.1](#)).

The tax collector should have justifiable reasons for determining that seizure and sale prior to the date of delinquency are necessary. It must be clear that the prospect of collecting the tax is in jeopardy.

Examples of suitable reasons for seizure prior to delinquency include the assessee's:

- Financial condition;
- Attempt to conceal, dispose of, or ruin the property;
- Attempt to remove the property from the county; and
- Assessee's obvious pending loss of income (i.e., jail sentence, seasonal work, etc.).

The actual sale of property is usually unnecessary in pre-delinquency seizures where the assessee has taken the matter to court, because the assessee's bond covers the taxes and costs when the county prevails. However, when the assessee prevails in court and subsequently fails to pay the tax, his or her assets may again be seized. The assessee is then additionally liable for all the costs the county incurred in connection with the original seizure and afterwards ([§2955](#)).

#### **2405. NOTICE TO ASSESSEE**

Prepare a written declaration enumerating the conditions and rationale necessitating a pre-tax delinquency seizure. Ensure that the declaration includes a "with penalty of perjury" statement. State Controller's Office sample form, *Declaration of Intent to Seize Property* ([SCO 2-05](#)) is recommended.

Once the *Declaration of Intent to Seize Property* ([SCO 2-05](#)) has been delivered to the assessee, the tax collector should provide a copy to any other person who may be in possession of the property to be seized. No notice is statutorily required; however, a reasonable effort should be made to notify the assessee to provide opportunities for payment prior to the sale.

#### **2406. SEIZURE**

If it is necessary to safeguard seized property, it should be put in the custody of a keeper. The keeper holds the property until relieved from that duty. A record should be kept of all property seized ([§2952](#)). State Controller's Office sample form, *Appointment of Keeper* ([SCO 2-07](#)) is recommended.

A seized business in operation should be allowed 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 as partial payment of taxes and fees. See Chapter 5, Section 5: Till Tap/ Keeper's Levy of the [Unsecured Property Tax Collection Manual](#) for additional information.

As a precautionary measure against incurring liability for damages, any vehicle that is seized should be towed by a professional towing service rather than moved under its own power. Local law enforcement officials should be contacted before a vehicle is towed.

Other property available for seizure can include property that is often in the possession of third parties such as an assessee's bank account, rents, and accounts receivable. (manual sections [2410-2415](#)).

**NOTE:** Two witnesses should be present when a seizure is made.

## 2407. KEEPING RECORD OF SEIZURE AND SALE

A record must be kept of property seized and sold ([§2952](#)). See State Controller's Office sample form, *Record of Seizure and Sale* ([SCO 2-06](#)).

## 2408. PROTEST OF PRE-DELINQUENCY SEIZURE

In the case of a pre-delinquency seizure, the assessee may challenge the seizure by filing a petition in the superior court. To obtain release of the property from custody by the county, the assessee must file a bond sufficient to pay the taxes, fees and charges incurred by the tax collector in seizing the asset ([§2954](#)).

If the assessee's challenge prevails, the county must pay all costs including attorney fees. In such an instance, the county bears all costs of seizure and any fees and expenses of keeping the property ([§2955](#)).

The courts usually give a speedy hearing when seizure of property is challenged by an assessee ([§2956](#)).

Although there is no period set in law for protesting seizure, such action would fall within or before the minimum seven day framework that is imposed by [§2957](#) before a sale may be conducted (manual section [2420](#)).

# 2410-2415 Delinquent Payment Enforcement: Property Seizure and Sale – Eligible Property Types

## 2410. GENERAL INFORMATION

Taxes due on unsecured property may be collected by seizure and sale of any of the following property belonging to the assessee ([§2951](#)):

- Personal property (includes money in bank accounts, rent, and trust deed payments due to delinquent assesseees)
  - Leased equipment
  - Rental payments
  - Sheriff's levy (seizure of property by judicial process)
- Improvements
- Possessory interest

Seizure is not limited to the property assessed ([§2951](#)). The seizure of leasehold estates for the production of gas, petroleum, or other hydrocarbon substances from beneath the surface of the earth, and of personal property improvements is permitted. Leasehold estates become subject to seizure and sale upon the delinquency of any installment of taxes ([§107](#), [§2189.5](#)).

When assessed to a person other than the owner of the underlying land, taxes on water system improvements on the secured roll are subject to unsecured collection procedures after any installment of secured taxes becomes delinquent ([§2189.6](#)).

The assessments on these improvements cannot be a lien on the land, and such fact must be noted on the secured roll.

**NOTE:** If the tax remains unpaid at the time set for tax default, such tax, together with the first-year secured penalty and costs accrued while on the secured roll, must be transferred to the unsecured roll.

## **2411. BANK ACCOUNTS**

Bank accounts are personal property subject to seizure. To levy a bank account, you must have both legal authority and corresponding documentation to present to a bank ([§2951](#)).

If a copy of the assessee's check is available, verify the account information with the bank and serve the bank with the seizure notice. Make every attempt to have the notice served on the bank at a time when there are funds available in the account. Checking account seizures avoid direct conflict with the assessee and the costs involved in keepers, inventories, etc., but they generally occur only when tax bills exceed \$50 or \$100.

Tax payment transaction history may be helpful in obtaining bank account numbers. Confirm that the named assessee is a signatory on the bank account. The tax collector should give notice by delivering by hand or registered or certified mail ([§36](#)) a seizure notice to the bank and credit unions identified. The banks and credit unions will respond with the current status of the assessee's account(s).

See State Controller's Office sample form, *Seizure Notice for Taxes* ([SCO 2-27](#)).

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.

### **2411.1 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. If this happens, confirm payment has been made with good funds, then proceed by sending a *Release of Seizure for Taxes* to each bank or credit union which you received a confirmation of assets being frozen. See State Controller's Office sample form, *Release of Seizure for Taxes* ([SCO 2-28](#)).

## **2412. IMPROVEMENTS**

Improvements can be buildings, structures, and fixtures erected or affixed to the land, together with all fruit, nut-bearing or ornamental trees and vines not of natural growth and not exempt from taxation ([§105](#)).

**2413. POSSESSORY INTEREST**

Possessory interests can include any taxable improvement or tax-exempt land, together with any leasehold estates for the production of gas, petroleum and other hydrocarbon substances that constitute incorporeal hereditaments or profits a prendre ([§107](#)).

**2414. TRUST DEED PAYMENTS**

This is useful for supplemental real property bills where the property was sold before the bill was issued. The next 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.

**2415. THIRD PARTY PAYMENTS**

If there is a situation where an assessee with delinquent taxes has income generating property such as leased equipment, it is possible to collect the lease payments. To do this, seize the property, make the lessee the keeper, and have the lessee make the lease payment to the tax collector instead of the lessor.

## 2420-2426 Delinquent Payment Enforcement: Property Seizure and Sale – Sale Process

**2420. PRE-SALE REQUIREMENTS**

The tax collector must give notice, either by publication or by posting in three public places, at least seven days prior to selling any seized property ([§2957](#), manual section [9901](#)). See State Controller's Office Sample form, *Notice of Public Auction of Seized Property* ([SCO 2-35](#)).

There is no legal requirement to have seized assets appraised or to obtain a minimum bid for each item. An item is sold for the highest bid obtainable. Terminate the sale when enough money has been raised to cover all taxes and costs.

**2421. REDEMPTION**

The owner may redeem seized property at any time before it is sold ([§2959](#)). The amount necessary to redeem includes:

- The original tax;
- The delinquency penalty;
- Additional penalties;
- A \$10 cost, pursuant to [§2621](#) or [§2706](#), that which may have been transferred from the secured roll;
- A \$15 tax collector's seizure fee;
- Mileage fees and costs of the keeper/marshal/sheriff ([Gov. Code §26726](#));
- The cost of advertising (publishing or posting); and



- Other costs incurred that are directly attributable to the seizure and sale procedure ([§2922\(e\)](#), [§2958](#); [Gov. Code §26720 et seq.](#)); e.g., a locksmith hired to change a lock or gain entrance to the property.

## 2422. CONDUCTING A SALE

The public auction must be held at the exact time and location specified in the notice. A sufficient amount of the property will be sold to pay the taxes, penalties and costs. It is suggested that appropriate retailers be contacted as potential bidders.

The person conducting the sale begins by reading the tax sale preamble in full and then proceeds to sell the seized property at the highest bid obtainable ([§2958](#)). State Controller's Office sample form, *Unsecured Property Tax Sale Preamble* ([SCO 2-36](#)) is recommended.

If the seized property consists of more than one article, the articles may be offered for sale separately or collectively, until the required amount has been received. A minimum bid may be established. This is especially appropriate when selling encumbered equipment.

## 2423. COSTS OF SALE

Costs of sale include, but are not limited to, the costs of advertising, the same mileage and keepers fees as allowed by law to the sheriff for seizing and keeping property under attachment ([Gov. Code §26720 et seq.](#)), and a fee not exceeding \$15 for each seizure, which may be charged by the tax collector making the seizure ([§2958](#)).

## 2424. ADMINISTRATIVE HEARING

It is unconstitutional to sell seized property without giving the owner an administrative hearing (*T.M. Cobb Co. v. County of Los Angeles*, 128 Cal. Rptr. 655, 16 Cal. 3d 606). See State Controller's Office sample form, *Request for an Administrative Hearing* ([SCO 2-33](#)).

If the assessee responds with a request to have an administrative hearing, then the tax collector will send a notice informing the assessee of the date and location of the hearing. This should be done no later than 10 days from the receipt of the hearing request from the assessee. See State Controller's Office sample form, *Administrative Hearing Notice* ([SCO 2-34](#)).

The law provides no formal requirements for conducting the hearing.

## 2425. PAYMENT BY CHECK

Payment will be in the medium specified in the notice and as announced prior to the beginning of the sale. If payment is made by personal check, it is suggested that the bill of sale is not executed and delivered until the check has cleared the bank.

## 2426. ACCEPTANCE OF BID/BILL OF SALE

The property is sold and the right of redemption is terminated when the final bid is accepted by the auctioneer ([§2959](#)). Opening and subsequent bids are only "received," whereas the final bid is "accepted."



"A sale at public auction is completed when the auctioneer publicly announces, by the fall of the hammer, or in any other customary manner, that the item is sold" ([Young v. Patterson \(1908\) 9 Cal. App. 469](#)).

**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 time of payment of the price bid for the property sold and delivery thereof to the buyer, along with a bill of sale. A copy of the bill of sale should be retained in the records of the sale (manual section [2404](#)). See State Controller's Office sample form, *Bill of Sale* ([SCO 2-08](#)).

## 2430-2432 Delinquent Payment Enforcement: Property Seizure and Sale – Post-Sale Process

### 2430. UNSOLD PROPERTY

The unsold portion of any seized property may be left at the place of sale at the risk of the owner ([§2962](#)). Nevertheless, the property owner should be notified in order to safeguard or reclaim the property.

### 2431. DEPOSIT OF PROCEEDS

The portion representing taxes and penalties is apportioned like other receipts on the unsecured roll.

That 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](#) is deposited in the county general fund.

### 2432. EXCESS PROCEEDS

Proceeds of the sale in excess of taxes, penalties, and costs are credited to the property owner and deposited in the county treasury. If not claimed within three years after the date of sale, such proceeds revert to the county ([§2961](#)).

The tax collector will send a notice to claim excess proceeds to owner(s) of record prior to the seizure and sale. See State Controller's Office sample form, *Notice of Right to Claim Excess Proceeds from the Sale of Tax Defaulted Property* ([Figure 9.8](#)) ([§3701](#)).

## 2500-2508 Special Collections: Aircraft

### 2500. GENERAL INFORMATION

Taxes on aircrafts, as defined in [§5303](#), are entered onto the unsecured roll and collected in the same manner and at the same rate as other taxes on the unsecured roll. For details on the assessment, levy, and collection of taxes on aircrafts, refer to [§5301-§5392](#).

### 2501. FEDERAL AVIATION ADMINISTRATION

Federal law provides for the filing of a lien against an aircraft, pursuant to the Federal Aviation Regulations [Title 14, Code of Federal Regulation \(CFR\), parts 47.1-47.71](#) and [49.1-49.6](#). The filing of a lien with the Federal Aviation Administration (FAA) provides notice of delinquent taxes against the individual aircraft when recorded with the Federal Aircraft Registry. The FAA will accept either a specially designed certificate of lien or any judgment.

**NOTE:** The judgment lien granted in a summary judgment is a lien against the property (in this case the aircraft). However, the lien imposed by this section will not be valid insofar as personal property is concerned as against a purchaser for value without actual knowledge of the lien ([§3103](#)). Therefore, the filing of a lien with the FAA may not guarantee that the lien attaches to the aircraft. If the purchaser of the aircraft has no actual knowledge of the lien, the lien might not be binding. However, filing of a lien with the FAA gives the tax collector a greater chance of collecting the taxes, since most persons check with the FAA for liens prior to purchasing.

### 2502. CERTIFICATE OF LIEN

Confirm that the delinquent roll or the abstract list has been prepared, and 10 days after the optional notice of FAA lien has been sent to the assessee, record a certificate of lien. For the optional notice, see State Controller's Office Sample form, *Notice of FAA Lien Recorded* ([SCO 2-20b](#)). For the certificate, see State Controller's Office sample form, *Certificate of Lien for Unsecured Property Taxes (Aircraft)* ([SCO 2-20a](#)).

### 2503. REQUIREMENTS FOR FILING A LIEN OR JUDGMENT WITH THE FAA

The general requirements for filing with the FAA are as follows:

- The security instrument must be in accordance with the law of the state ([Gov. Code §7150-§7191](#)) where the judgment may be enforced ([14 CFR §49.17](#));
- The judgment must describe the aircraft by make and model, manufacturer's serial number, United States registration number, or other detailed information that makes identification possible ([14 CFR §49.33](#));
- The judgment must be the original document or a duplicate original. If the tax collector wishes the original be returned, he/she should submit a true copy with the original; attached to the copy must be a certification signed by the tax collector stating that the copy has been compared with the original and is a true copy ([14 CFR §49.21](#), manual section [2505](#));
- The filing must be accompanied by a filing fee ([14 CFR §49.15](#));
- The owner's name must be spelled correctly and completely (the FAA will not record a judgment if the name on the judgment does not match the name on the registration or if the assessee is no longer the registered owner of the aircraft); and

- The judgment must be recorded with the FAA.

State Controller's Office sample form, *Abstract of Judgment* ([SCO 2-15](#)) contains the required information that is acceptable to the FAA for recording.

#### **2504. WHERE TO RECORD JUDGMENT**

The judgment must be recorded with the FAA at:

The Department of Transportation  
Federal Aviation Administration  
Federal Aircraft Registry  
PO Box 25504  
Oklahoma City, OK 73125

#### **2505. RECORDATION OF THE LIEN WITH THE FAA**

When the FAA records a lien, a *Notice of Recordation – Aircraft Security Conveyance* ([FAA Form 8050-41](#)), is sent to the tax collector. Since the FAA normally does not return the original document, retain a copy of the FAA notice on file. The notice is proof of the filing and contains recording information needed to release the lien.

**NOTE:** A list of all aircrafts in California is available from the [FAA Registry: Aircraft Inquiry](#).

#### **2506. RETURN OF ORIGINAL COPY OF THE JUDGMENT**

If the tax collector wants to retain the original copy of the judgment, a certified copy must be submitted with the original to the FAA. After recordation, the copy is kept by the FAA and the original is returned to the tax collector with the date and time of recordation stamped on it. The certified copy must be a complete copy of the original and must have a signed statement attached that the copy has been compared with the original and is a true copy.

#### **2507. RECORDATION OF THE RELEASE OF JUDGMENT**

If an unsecured property tax judgment has been recorded with the county recorder, a satisfaction of the judgment must also be recorded ([§3107](#), manual section [2380](#)). See State Controller's Office sample form, *Satisfaction of Judgment* ([SCO 2-20](#)).

The completed *Satisfaction of Judgment* ([SCO 2-20](#)) must also be sent to the FAA. If the claimant signs it, the *Notice of Recordation – Aircraft Security Conveyance* ([FAA Form 8050-41](#)) can also be used to satisfy this requirement.

#### **2508. FAA REGISTERED AIRCRAFT INFORMATION**

The FAA maintains an updated list of all registered aircrafts in California on its website. For a detailed search, go to the [FAA Registry, Aircraft Inquiry page](#). Information on registered aircrafts is available at no cost to state, county, and city assessment and tax collection officials. The tax collector may obtain an aircraft's ownership verification, N-number, serial number, aircraft information, current situs address, and information available on any assessee.

## 2510-2514 Special Collections: Vessels

### 2510. GENERAL INFORMATION

A "vessel" is defined as, "every description of watercraft used or capable of being used as a means of transportation on water, but does not include aircraft" ([§130a](#)). For a list of what is excluded from the definition of a "vessel," see [§6273](#).

Vessel property tax, when unsecured, must be paid to renew vessel registration, which expires on December 31 of every odd-numbered year. The biennial renewal fee must be paid on or before midnight of that date to avoid a 50% penalty. Renewal billing notices are mailed by the Department of Motor Vehicles (DMV) approximately 60-90 days before the expiration date. A vessel must be located in California to be renewed. Vessels assessed by July 31 are delinquent August 31 at 5 p.m. Vessels assessed after July 31 become tax delinquent at 5 p.m. or the close of business, whichever is later, on the last day of the month after the month in which they are enrolled.

**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.

### 2511. TAX COLLECTOR'S NOTICE TO ASSESSEE

The tax collector may give the assessee written notice, within 30 days after the tax has become delinquent, that in addition to standard county delinquent property tax procedures, the renewal of the Certificate of Number, and transfer of title to or interest in that vessel, will be withheld by the DMV until the delinquent taxes have been paid ([Veh. Code §9880](#)). If the county tax collector has given written notice of the delinquency to the assessee, the written notice must be given to the DMV for recordation ([§3205](#)).

See State Controller's Office sample form, *Notification Letter to Assessee on Tax Delinquent Vessels* ([SCO 2-23](#)).

**NOTE:** Do not request that the DMV withhold renewal of the Certificate of Number unless a written notice has first been mailed to the assessee. A "blanket notice" printed on the annual county property tax bill does not constitute adequate notice of delinquent vessel taxes to the assessee.

### 2512. TAX DELINQUENT VESSEL PROGRAM

The DMV will withhold renewal of the Certificates of Number of those vessels upon notification of the tax delinquent vessel information. Transmit delinquent vessel information to the DMV by the method agreed upon when the Notification of Intent was completed.

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.

### **2513. SATISFACTION OF LIEN AND REMOVAL OF STOP (WITHHELD RENEWAL)**

After the delinquent taxes have been satisfied and upon issuance of a tax clearance certificate (Vessel Tax Disposition [BOAT 120]) form by the tax collector to the DMV, the DMV will issue a Certificate of Number or a new Certificate of Ownership reflecting a transfer of title or interest in the vessel. The tax collector will update the department's vessel record and remove the vessel tax hold. If a vessel is transferred, or not renewed for 26 months, the DMV must notify the county tax collector ([Veh. Code §9880](#), [§3205](#)).

The tax collector must provide notice to the DMV when the delinquency has been paid or cancelled. This should be done at least once a week.

Transmit vessel tax disposition data to the DMV by one of the following methods:

- Hard copy (manual abstracting) – Use DMV form BOAT 120 in all cases where hardcopy input has been the method of data input to the DMV. Use hardcopy for small volume transmittals also, such as occasional over-the-counter transactions, even though the agreed-upon transmittal method with the DMV was either magnetic tape or direct electronic access. DMV form BOAT 120 is a three-part form: send the original copy to the DMV, give the second part to the assessee, and retain the third part for your records.
- Magnetic tape – If data is transmitted to the DMV by magnetic tape input, use tape to report vessel tax disposition, unless the small volume of such transactions warrants using DMV form BOAT 120 (hardcopy).
- Direct access update – Like magnetic tape input, this is one of the principal methods of input to the DMV, but it can be supplemented with DMV form BOAT 120.

The DMV sends a Deletions Report (transmittal of deletions) listing of delinquent vessel stops that are being deleted when one of the following occurs:

- Vessel ownership is transferred (change of ownership);
- Vessel registration is not renewed for 26 months. However, the stop request may be resubmitted after receiving the deletion report, identifying removal of a stop because the time period has elapsed; or
- Clearance is received as evidence of payment or cancellation of the delinquent tax. The DMV removes the stop and renews the Certificate of Number by accepting from an assessee evidence of satisfaction of delinquent taxes (DMV form BOAT 120).

**NOTE:** Contact the DMV to obtain copies of the DMV form BOAT 120.

## **2514. PAYMENTS TO DMV FOR WITHHOLDING OF VESSEL INFORMATION**

The DMV charges \$1 for each record successfully matched when placing the stop. With hardcopy and magnetic tape procedures, there is no charge for removing a stop or for attempts to match records. The DMV bills the county monthly, normally the month after the stop is requested and completed.

## **2520-2524 Special Collections: ABC Liquor License Transfer**

### **2520. GENERAL INFORMATION**

Whenever the owner of a liquor license is contemplating a bulk sale, [Rule 68.2](#) of the Department of Alcoholic Beverage Control (ABC) authorizes a 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 ([Bus. & Prof. Code §24049](#)).

For certain liquor license types, a hold may be applied when a business that has delinquent unsecured taxes regardless of whether a bulk sale or transfer of ownership of bulk assets is pending.

If a business with a liquor license has delinquent unsecured taxes or the tax collector has reason to believe that the business may not pay pending taxes, the tax collector may file a hold on the liquor license with ABC to secure and motivate the payment of any unsecured taxes due. Upon payment of the tax, the hold is released.

If it is discovered that 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 does not violate the automatic stay, but ensures that the license cannot be transferred.

**NOTE:** 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.

### **2521. NOTICE OF INTENT TO HOLD LIQUOR LICENSE TO BUSINESS**

Before submitting a hold request on any liquor license, obtain the business's license information from the [ABC website](#). Use this information to prepare a notice for the business that there is an intent to hold its liquor license.

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

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

## **2522. LIQUOR LICENSE HOLD REQUEST TO ABC**

When a delinquency remains after sending the Notice of Intent to Hold Liquor License, submit two duplicate copies of a Liquor License Hold Request or a similar form, to the:

Department of Alcoholic Beverage Control

Attn: License Division

3927 Lennare Drive, Suite 100

Sacramento, California 95834

See State Controller's Office sample form, *Liquor License Hold Request* ([SCO 2-16](#)).

When an application for transfer is filed, ABC returns the duplicate to the taxing agency, along with all pertinent information.

## **2523. NOTIFICATION OF ESCROW HOLDER**

Within 30 days after ABC returns the duplicate copy of the Liquor License Hold Request, the tax collector must send a Release of Liquor License Hold to the escrow holder making demand for the amount due to the taxing agency. Copies of this demand are sent to the transferor, the transferee, ABC's Sacramento office, and ABC's district office.

See State Controller's Office sample form, *Release of Liquor License Hold* ([SCO 2-17](#)).

## **2524. RELEASE OF HOLD FOR LIQUOR LICENSE TRANSFER**

Two duplicate copies of a notice from the escrow holder that the delinquent tax has been paid and that the withholding is to be released must accompany the Release of Liquor License Hold. Upon payment to the taxing agency, the escrow holder forwards the original of this form to the ABC office in Sacramento.

See State Controller's Office Sample forms, *Liquor License Hold – Release Advice* ([SCO 2-18](#)).

If the total of all taxing agencies' tax holds exceeds the sale price, the treasurer-tax collector with the largest lien prorates the taxes for all agencies with holds. Be sure to include all bills, current and delinquent, plus an estimate for any bills due after the lien date but not yet assessed. It is important that penalty amounts are current to the distribution date. Generally, the county holds are the smallest amounts and receive a reduction in pro rata situations.

## **2530-2532 Special Collections: Bulk Sale**

### **2530. BACKGROUND**

A "bulk sale" is defined as either of the following ([Cal.Com. Code §6102\(a\)\(3\)](#)):



- 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 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; and
- Restaurants/Fast Food Franchises.

### **2531. NOTICE TO TAX COLLECTOR OF PENDING BULK SALE**

When a bulk sale is to be made, the tax collector receives a notice by certified or registered mail at least 12 business days prior to the time the transfer is consummated. The notice is sent by the "buyer" of the goods if the transfer is between private parties, or by the "auctioneer" if the transfer is to be by sale at auction ([Cal. Com. Code §2103\(1\)\(a\)](#), [§6104](#) -[§6105](#), [§6108](#)). The following actions must be taken at least 12 business days before the date of the bulk sale ([Cal. Com. Code §6105\(b\)](#)):

- 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.
- The Bulk Sale Notice to Creditors must be delivered or sent by registered or registered or certified mail to the county tax collector in the county or counties in the state in which the tangible assets are located.

For any bulk sale date between January 1 and May 7, a current California Department of Tax and Fee Administration, *Business Property Statement* ([BOE-571-L](#) or [BOE-571-S](#)) must be provided to the county tax collector and the county assessor should be included with the bulk sale notice ([Cal. Com. Code §6105 \(b\)\(3\)](#)).

If a liquor license is associated with the bulk sale, see manual sections [2520-2523](#).

### **2532. CALCULATING TAX DUE AND FILING OF CLAIM**

Upon receipt of the bulk sale notice, the tax collector should determine if there are any delinquent or due and payable unsecured property taxes against the property to be transferred. If taxes are due or delinquent, file a claim for the amount of the county's lien with the person



named in the notice to receive such claims or, in the absence of such a person, to the person required to send the notice. See State Controller's Office sample form, *Estimated Taxes Due Claim Letter* ([SCO 2-25](#)). Estimate an amount for the current year if the assessor has not enrolled the assessment. Include estimated amounts for any tax liability that may accrue if escrow extends beyond January 1. The tax collector must file this demand with the transfer agent within 12 working days of the original notice date.

The 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 date).

**NOTE:** If the property is transferred without payment of the county's claim, the tax collector should seek the guidance of the county legal advisor as to the proper manner of enforcing payment of the claim. The procedures to follow may differ, depending on whether the transfer was between private parties or by sale at auction.

## 2540-2543 Special Collections: Mining Claims

### 2540. GENERAL INFORMATION

Real property is defined in part by [§104\(b\)](#) as, "All mines, minerals, and quarries in the land, and all rights and privileges appertaining thereto." The term "land" is defined by California Department of Tax and Fee Administration [Property Tax Rule 121](#) in relevant part as "...the possession of, claim to, ownership of, or right to possession of land; mines, quarries, and un-extracted mineral products."

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

**NOTE:** Mining claims include mineral rights.

### 2541. 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.

Mining claims are assessed annually to the persons owning, claiming, possessing, or controlling the claim(s) on the lien date ([§ 405\(a\)](#)). 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.

The following are exempt from 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](#)).

## **2542. PROOF OF PAYMENT**

The board of supervisors may require, by resolution, that any person filing an affidavit, pursuant to the [Public Resources Code §3914](#), demonstrate, prior to the recordation of the affidavit, proof of payment of any unsecured tax levied against the mining claim for which the affidavit is filed along with any delinquent unsecured taxes levied against the person filing the affidavit.

The most effective method to motivate payment of taxes is to withhold county recordation of mining claims.

## **2543. ADOPTION OF RESOLUTION**

If a resolution is adopted by the board of supervisors pursuant to the [Public Resources Code §3914](#), it may include the following provisions and any other provisions determined by the board as necessary to carry out the intent of this code section:

- A provision prohibiting the county recorder from accepting the affidavit for recordation without the tax collector's certification that the taxes have been paid; and
- Provisions requiring that:
  - When taxes are paid, the tax collector issues a receipt or certificate of payment for use in certification of the affidavit;
  - The county recorder forwards the affidavit to the tax collector 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;

- 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; and
- If the taxes have not been paid, the tax collector returns the affidavit unrecorded to the filer.

## 2550-2553 Special Collections: Rubber-Tired Equipment

### 2550. GENERAL INFORMATION

It is recommended that a county have some method of standard procedure to implement the requirements of the assessment of movable rubber-tired equipment outlined in [§994\(b\)](#).

The recommended procedure in manual section [2551](#) incorporates suggestions and recommendations from:

- The Assessment Standards Division of the California Department of Tax and Fee Administration;
- The 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 procedures they will follow are included in this manual so that there is a general understanding of the measures taken to ensure that the proper deduction is made.

### 2551. 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 §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 vehicles that are not subject to the license fees by the DMV. In addition, exempt from registration is special construction equipment ([Veh. Code. §565](#)), and special mobile 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.

**2552. SITUS FOR TAXATION**

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 under the California Department of Tax and Fee Administration [Property Tax Rule 205](#). Movable property is all property that is intended to be, and is, moved from time to time from one location to another. The situs of such property should be governed by the duration of its stay at any location, as discussed generally in [Property Tax Rule 205](#), and referenced further in [Property Tax Rule 204](#), Leased Equipment, and [Property Tax Rule 203](#), Property in Transit.

**2553. RECOMMENDED PROCEDURE**

When the assessor receives a business property statement ([BOE-571-L](#) or [BOE-571-S](#)) on which the assessee reports rubber-tired equipment that requires a permit (vehicle is oversize or overweight) to be moved or operated on public streets or highways, the assessor immediately mails an Application for Deduction of Vehicle License Fees from Property Tax to the assessee.

For an example of detailed instruction on the application execution, see State Controller's Office sample form, *Instructions for Application for Deduction of Vehicle License Fees from Property Taxes* ([SCO 2-19](#)).

The assessee completes and signs the application form and files the application with the assessor.

**NOTE:** If the application is filed with the tax collector, the tax collector forwards the application to the assessor.

After receiving the completed application signed by the applicant, the assessor, and the auditor, the tax collector collects the net tax due.

**2560-2569 Special Collections: Racehorses****2560. GENERAL PROVISIONS**

Subjecting ownership of racehorses to the general property tax resulted in a serious lack of uniformity between counties in assessment practices and taxation of racehorses. As enacted in [§5701](#) by Chapter 1250, Sec. 3, in 1985, the Legislature intended to establish a more equitable method of taxing racehorses and to provide incentives for owners to maintain their horses within the state.

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

**2561. DEFINITION**

"Racehorse" means 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 parimutuel racing is permitted under rules and regulations prescribed by the California Horse Racing Board. "Racehorse" does not mean or include any horse over three years old, or four years old in the case of an Arabian horse, that has not participated in a horserace contest on which parimutuel wagering is permitted or has not been used for breeding purposes in order to produce racehorses during the two previous calendar years ([§5703](#)).

**2562. TAX 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](#)).

**2563. ANNUAL TAX**

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 a racehorse is determined by the horse's age and category and the amounts are listed in [§5722](#).

**2563.1 EXEMPTION**

Foals born to a racehorse mare during the current calendar year are exempt from the tax imposed by this part or by any other part of the Revenue and Taxation Code ([§5741](#)).

**2563.2 COLLECTION**

The tax is determined as of 12:01 a.m. on January 1 of the calendar year for which it is imposed, and it 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.

**2563.3 DELINQUENCY**

The tax imposed becomes delinquent at 5 p.m. on February 15 of the calendar year for which it is imposed ([§5762](#)).

A delinquent penalty of 6% attaches at 5 p.m. on the day any tax imposed by this part becomes delinquent. An additional penalty of 1% attaches to the tax on the first day of the first calendar

month commencing after the tax becomes delinquent and on the first day of each subsequent calendar month until the delinquent tax and penalties have been paid in full ([§5763](#)).

#### **2563.4 JEOPARDY DETERMINATION**

If it is determined that payment of the tax will be jeopardized by delay, a computation should be made of the tax amount to be collected. The amount so determined will 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 Revenue and Taxation Code Chapter 3.3 ([§2851-§2862](#)), Chapter 4 ([§2901-§2928.1](#)), Chapter 5 ([§3002-§3007](#)), and Chapter 6 ([§3101-§3107](#)) ([§5764](#)).

#### **2563.5 STATUTE OF LIMITATION**

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

#### **2564. AUDITS BY 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, pursuant to [§5765](#).

#### **2565. EXAMINATION OF BUSINESS RECORDS**

Upon the request of the assessor, an owner of a racehorse(s) subject to the tax imposed by this part will make available at his or her principal place of business, principal location, or principal address in California or at any place mutually agreeable to 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 and the number of days spent in each county during that period. Records referred to in this section will be retained by the owner for a period of five years from the date that any tax to which they relate becomes due ([§5768](#)).

#### **2566. ADMINISTRATION**

The California Department of Tax and Fee Administration makes rules and regulations and prepares forms necessary to carry out the intent and purposes of this part ([§5781](#)).

#### **2567. REPORTING TAX DUE (BY RACEHORSE OWNER)**

On forms provided to the owner by the assessor's office ([§5782](#)), the owner of a racehorse will report the tax due, pursuant to the California Department of Tax and Fee Administration [Property Tax Rule 1045](#), Administration of the Annual Racehorse Tax. The required reports may be filed with the tax collector of the county in which the racehorse is domiciled. See the California Department of Tax and Fee Administration sample form, *Annual Racehorse Tax Return* ([BOE-571-J](#)).

**2567.1 DELINQUENCY AND PENALTIES FOR FAILURE TO REPORT TAX DUE**

The reports will be filed on or before 5 p.m. on the day the tax due becomes delinquent ([§5782](#)). Failure to file by the time specified adds a penalty equal to 10% of the tax and the penalties provided by [§5763](#). If any person required to file the report 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.

**2568. INTER-COUNTY COLLECTION REPORTING**

The auditor of the county in which a report is filed will transfer any taxes paid pursuant to this part that belong to another county as shown on the report. A copy of the report should be included in the order that the auditor of any county receiving transferred funds can allocate them in the manner provided for in [§5790](#). See manual section [2562](#) regarding the proper county of domicile. Funds do not have to be transferred to another county based on racehorse boarding records of the county.

The tax imposed is determined as of 12:01 a.m. on January 1 of the year for which it is imposed, and it is immediately due and payable to the tax collector of the county in which the racehorse is domiciled ([§5761](#)).

**2569. DISTRIBUTION OF PROCEEDS**

All proceeds derived from the tax, interest, and penalties imposed by this part are allocated by the auditor, as promptly as is feasible, in the following manner ([§5790](#)):

- If the domicile of the racehorse was located within a city and any school district, the tax proceeds from such racehorse will be distributed one-third to the city, one-third to the school district, and one-third to the county.
- If the domicile of the racehorse was located outside of any city but within one or more school districts, the tax proceeds from such racehorse will be distributed one-half to the school district(s) and one-half to the county.
- If the domicile of the racehorse was located in both an elementary school district and a high school district, the tax proceeds allocable to school districts will be divided equally between the elementary and the high school districts to the exclusion of all other school districts.

**NOTE:** The details of the allocation are supplied by the county auditor and approved by the board of supervisors. The details must fairly carry out the purposes of this section.

**2570 Special Collections: California Interagency Offset Program****2570. General Information**

The County Tax Collector may request payment from 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\(a\)](#)).



The Controller deducts and retains from any amount offset in favor of a county an amount sufficient to reimburse the Controller and the Franchise Tax Board for the administrative costs of processing the offset payment ([Gov. Code §12419.8\(b\)](#)).

**NOTE:** This procedure cannot be used when an automatic stay in a bankruptcy proceeding is in effect.

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. Counties must renew participation annually ([Gov. Code §12419.8\(b\)](#)).

For a comprehensive outline of the program, see the Franchise Tax Board's [Interagency Intercept Participation Guide](#).

The tax collector should not be named in any action that may be brought as a result of compliance with this provision ([Gov. Code §12419.8\(d\)\(2\)](#)).

## 2600-2603 Reporting and Distribution: General Information

### 2600. REPORT OF COLLECTION

The tax collector will account to the auditor for all money collected during the preceding reporting period. This report is due not less than once every 12 months and on dates approved by the auditor. On the same day, the tax collector will file with the auditor a statement, under oath, showing that all money collected has been paid as required by law, and showing an itemized account of all transactions and receipts since the last settlement, including the amount collected for each fund or district extended on the roll ([§2616](#)).

### 2601. DISTRIBUTION OF CURRENT TAXES

Taxes, including all taxes and assessments charged on the unsecured roll ([§4655](#)), will be distributed to each fund on the basis of the tax rate established for the fiscal year preceding that in which distribution is made and in the same proportion that the tax rate for each fund bears to the total tax rate applicable ([§4651](#), [§4655.2](#)).

### 2602. DISTRIBUTION OF DELINQUENT UNSECURED TAXES

The term "taxes" includes all taxes and assessments charged on either the delinquent unsecured roll or the abstract list ([§4658](#)). Taxes are distributed to each fund ([§4651](#)) on the basis of the tax rate established for the preceding fiscal year and in the same proportion that the tax rate for each fund bears to the total tax rate applicable ([§4658.2](#)).



**2603. DISTRIBUTION OF PENALTIES AND LEGAL INTEREST**

Amounts paid as delinquent penalties, the delinquent penalty of 10% provided for in [§2922\(a\)](#) and the additional penalty provided for in [§2922\(d\)](#), or accrued legal interest paid on judgments for the recovery of unpaid taxes rendered by the courts of this state will be distributed to the county general fund ([§4658.4](#)).

**2610-2611 Reporting and Distribution: Special Circumstances****2610. IN-LIEU TAXES PAID BY PUBLIC RETIREMENT SYSTEMS**

Public retirement systems are required to reimburse cities and counties in an amount equal to the difference between the taxes that would have accrued and the taxes due for possessory interests in the acquired property, for revenue loss resulting from their acquisition of real property, pursuant to [Government Code §7510](#). If a public retirement system acquires property within its boundaries, this property is exempt from taxation except for private possessory interests. For example, if CalPERS or the State Teachers' Retirement System purchases real property anywhere in California.

Local public retirement systems that are already authorized by statute or ordinance to invest in real property do not fall under [Government Code §7510](#).

The difference between the current market value tax and the possessory interest tax is paid as an annual in-lieu fee. The county is thereby guaranteed that the acquisition of real property within the county by a public retirement system will not cause a decline in tax revenue below the level that would have prevailed had the acquiring person or entity been taxable.

If the public retirement system acquires real property outside its boundaries, the property will not be removed from the local secured assessment roll.

The law is unclear as to billing and collection techniques and includes no delinquency provisions. Presumably, the in-lieu fee is computed and billed by the auditor once the assessment has been made. Should no payment be received, apparently the county's only recourse is court action. See the California State Department of Tax and Fee Administration Letter No. 83-3 for more information.

**2611. CALIFORNIA DEPARTMENT OF TRANSPORTATION (CalTrans) - POSSESSORY INTEREST**

CalTrans has been required to pay rent to counties in compensation for property tax revenues lost on lands held for future highway needs. 24% of rental revenues received by the state on such lands has been paid to the counties.

CalTrans is required to pay possessory interest taxes to each county for leased property held for future highway needs, pursuant to [Streets and Highways Code §104.13](#). Formerly, the county billed individual lessees for possessory interest taxes. Now, each bill is transmitted directly to CalTrans. The department must collect enough extra "rent" from each lessee to cover the tax. The rental agreement between CalTrans and the holder of the possessory interest created by the lease must state that the department will pay all possessory interest taxes arising from the lease and that the rent charged reflects such extra cost.

CalTrans returns bill payment stubs to assist in reconciling the accounts. The 24% in-lieu reimbursement is calculated on gross revenue collected from leases before deduction of administrative expenses.

The tax collector should flag possessory interest assessments subject to [Streets and Highways Code §104.13](#) so they will not become subject to regular lien-perfection techniques. Although no special distribution of these possessory interest revenues is required, delinquency charges should not be applied nor should the revenues be shown as reducing delinquent charges.

CalTrans is instructed to make payment to the county "not later than the first day of November following the close of any fiscal year ([Streets and Highways Code §104.13](#)).