

# E-36.56

8/8/78

Memorandum 78-54

Subject: Study E-36.56 - Condemnation Law and Procedure (Ad  
Valorem Property Taxes in Eminent Domain Proceedings)

Attached is the staff's redraft of the property taxes in eminent domain recommendation in accordance with the Commission's decisions at the June 1978 meeting. The staff circulated the redraft among persons who had commented on the tentative recommendation to see whether the changes made at the June meeting were acceptable. We have received the comments of Professor Sato (Exhibit 1--pink) and Charles Hemmings (Exhibit 2--yellow), suggesting a number of technical revisions. We plan to make the technical revisions set out--Exhibit 3 (green). As so revised, we hope the recommendation can be approved to print and introduced in the next session of the Legislature.

Respectfully submitted,

Nathaniel Sterling  
Assistant Executive Secretary

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July 10, 1978

Mr. Nathaniel Sterling  
Assistant Executive Secretary  
CALIFORNIA LAW REVISION COMMISSION  
Stanford Law School  
Stanford, California 94305

Dear Mr. Sterling,

I offer the following comments on the Staff Draft of Recommendations relating to Ad Valorem Property Taxes in Eminent Domain Proceedings.

1. Section 1250.250(b) should be revised to read:

The lien upon property for ad valorem taxes is extinguished as a matter of law when a property becomes exempt property as defined in section 5081 of the Revenue and Taxation Code.

The changes are both substantive and stylistic. I am sure that the removal of the lien is only with respect to property acquired by public entities. I see no reason for extinguishing the lien when the property becomes exempt from taxation upon acquisition by charitable or other organizations. Second, the section as presently drafted would apply only to property which is exempt prior to acquisition. I assume that the Commission intends to refer to property which was taxable prior to acquisition but becomes exempt upon acquisition by a public entity.

2. Section 1260.250 should be revised as noted below:

09034

Code of Civil Procedure § 1260.250 (added). Determination and payment of property taxes

SEC. 2. Section 1260.250 is added to the Code of Civil Procedure, to read:

1260.250. (a) The court, on the date it issues an order for possession, <sup>whether</sup> on or before the date set for trial, or on or before the date of entry of judgment, ~~whichever occurs first~~, shall give the tax collector the legal description of the property sought to be taken and direct the tax collector to certify to the court the following information:

(1) The current assessed value of the property together with its assessed identification number.

(2) All unpaid taxes, penalties, and costs levied for prior tax years <sup>on the secured roll</sup> ~~that constitute a lien on the property.~~

[To distinguish from lien imposed w/ Rev & Tax §§ 2191.4 3103]

(3) All unpaid taxes, penalties, and costs levied for the current tax year <sup>on the secured roll</sup> ~~that constitute a lien on the property~~ prorated to, but not

including, the date of acquisition as determined pursuant to Section

next succeeds

5082 of the Revenue and Taxation Code or the date of trial, whichever ~~is~~

~~the issuance of order for possession.~~

~~earlier.~~ If the amount of the current taxes is not ascertainable at the

[The B in accu]

time of proration, the amount shall be estimated and computed based on

the current assessed value and the tax rate levied on the property for

the immediately prior year.

(4) The actual or estimated amount of taxes that are or will <sup>be on</sup> ~~become~~ <sup>secured roll</sup> ~~a lien on the property~~ in the next succeeding tax year prorated to, but

not including, the date of acquisition as determined pursuant to Section

next succeeds

5082 of the Revenue and Taxation Code or the date of trial, whichever ~~is~~

~~the issuance of order for possession.~~

~~earlier.~~ Any estimated amount of taxes shall be <sup>computed</sup> ~~premised~~ upon the as-

essed value of the <sup>property</sup> ~~parcel~~ for the current <sup>tax</sup> ~~assessment~~ year and the tax

rate levied on the property for the current <sup>tax</sup> ~~fiscal~~ year.

[Less to be consd]

(5) The amount of the taxes, penalties, and costs allocable to one day of the current tax year, and where applicable, the amount allocable

to one day of the next succeeding tax year, hereinafter referred to as

the "daily prorate."

[The deleted portion is already included in (3) & (4).]

(6) The total of paragraphs (2), (3), and (4), ~~plus the applicable~~

~~daily prorate~~

(b) If the property sought to be taken does not have a separate valuation on the assessment roll, the information required by this section shall be for the larger parcel of which the property is a part.

(c) On or before the date set for trial or on or before the date of entry of judgment, ~~whichever occurs first~~ <sup>next succeeds the issuance of order for possession,</sup> the tax collector shall certify the required information to the court.

(d) The court, as part of the judgment, shall separately state the amount certified pursuant to this section and order that the amount be paid to the tax collector from the award. If the amount so certified is prorated to the date of trial, the order shall include, in addition to the amount so certified, an amount equal to the applicable daily prorate multiplied by the number of days commencing on the date of trial and ending on and including the day before the date of acquisition as determined pursuant to Section 5082 of the Revenue and Taxation Code.

(e) Notwithstanding any other provision of this section, if the board of supervisors prescribes the procedure set forth in Section 5087 of the Revenue and Taxation Code, the court shall make no award of taxes in the judgment.

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3. Section 1268.410 should be revised to read:

As between the plaintiff and defendant, the plaintiff is liable for the amount of ad valorem taxes, penalties, and costs which are a lien upon the property acquired by eminent domain, whether or not the property becomes exempt property as defined in Section 5081 of the Revenue and Taxation Code, to the same extent that the taxes, penalties and costs would be cancellable under Article 5 (commencing with Section 5081) of Chapter 4 of Part 9 of Division 1 of the Revenue and Taxation Code if the property were exempt property.

The comment to this section should indicate that this section provides for the apportionment of taxes, penalties and costs between the condemnor and condemnee, even if the property does not become exempt upon acquisition, in a manner similar to the apportionment if the property were to become exempt. The liability provided in this section has nothing to do with how the tax on the secured roll is collected.

4. I have a number of difficulties with section 1268.420.

First, I assume that what is intended by (a)(1) is that taxes, penalties and costs on property which will be cancelled will not be collectible. The section presents a contradiction in that plaintiff is made liable for a tax that is going to be cancelled. Since cancellation under Revenue and Taxation Code is the operative event that makes the tax, etc., noncollectible, it would be better to refer to that event than to engage in a circumlocution through section 1268.410.

Second, (a)(2) should be rephrased so as to remove any implication that there is any personal liability. Note that the present draft provides that the tax "shall be collectible from the plaintiff." I believe that it is sufficient to provide that the plaintiff shall be the assessee for the amount of taxes, etc., for which the plaintiff becomes liable under 1268.410. I assume that the lien for taxes, etc., will remain on the property and that usual method of enforcing a tax on the secured roll will continue.

Third, (b), I assume, is applicable in the rare situation where the condemnor has taken possession but has abandoned the condemnation proceedings. In most situations where possession has not been taken and the proceedings are abandoned, the plaintiff would not have been "liable" for the taxes. (b) gives the impression that plaintiff might be required to reimburse the defendant even in the latter situation.

Mr. Nathaniel Sterling  
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5. I believe that it is more accurate to speak in terms of "separate assessment" rather than "separate valuation" in 1268.450. Changes should be made accordingly.

6. Section 2921.5 should be redrafted to remove the internal inconsistency. It should read:

(a) Except as provided in subdivision (b), taxes which will be on unsecured property . . . .

The term "real estate" should be changed to "real property."

7. Section 5082(a) should be revised to read:

The date the conveyance to the public entity is recorded.


This formulation is much more accurate. I don't know what a conveyance in the name of the public entity is.

8. Section 5085, fourth line, should be revised to read,

". . . the amount of the taxes for that fiscal year . . . ."

Should there be any question concerning this, please don't hesitate to call me.

Sincerely,



Sho Sato  
Professor of Law

SS:es

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July 11, 1978

Nathaniel Sterling  
Assistant Executive Secretary  
California Law Revision Commission  
Stanford Law School  
Stanford, California 94305

Re: Ad Valorem Property Taxes in  
Eminent Domain Proceedings

Dear Mr. Sterling:

The July 1978 draft recommendation is very well thought out.

I have lingering doubts about the effectiveness of proposed CCP §1260.250(a) on page 3 of the draft; it is not clear whether judge or plaintiff's counsel has been charged with the responsibility of going ahead with the request to the tax collector. There is a lingering distinction between "court" and "judge" (1 Witkin, California Procedure (2d ed) p. 320-1 §38).

I note that CCP §1255.410(b) requires that an order for possession shall describe the property, but does not require "its assessed identification number".

Perhaps the wording of §1260.250(a) should be:

"The tax collector shall promptly certify to the clerk of the court in which the action is pending the information set forth in (1) to (6), inclusive, upon receipt of an order requiring such information.

"The order shall be sent to the tax collector on the earliest of these dates:

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- (i) when an order for possession is issued;
- (ii) if possession is not ordered, on or before the date set for trial of the action;
- (iii) in any event, before judgment."

Sincerely,

  
Charles L. Hemmings

CLH:yle

enclosure

P.S. I just ran across the enclosed forms in the pocket part to "California Forms of Pleading and Practice," Volume 6.



## EXHIBIT 3

Code Civ. Proc. § 1250.250. Subdivision (b) should be revised to read:

(b) The lien for ad valorem taxes is extinguished as a matter of law upon the acquisition of property that ~~is exempt from taxation~~ becomes exempt property as defined in Section 5081 of the Revenue and Taxation Code .

Code Civ. Proc. § 1260.250. Subdivisions (a)-(c) should be revised to read:

(a) The court ; on the date it issues an order for possession, on or before the date set for trial; or on or before the date of entry of judgment; whichever occurs first; shall by order give the tax collector the legal description of the property sought to be taken and direct the tax collector to certify to the court the ~~following information:~~ information required by subdivision (c), and the tax collector shall promptly certify the required information to the court.

(b) The court order shall be made on or before the earliest of the following dates:

(1) The date the court makes an order for possession.

(2) The date set for trial.

(3) The date of entry of judgment.

(c) The court order shall require certification of the following information:

(1) The current assessed value of the property together with its assessed identification number.

(2) All unpaid taxes ; penalties; and costs on the property, and any penalties and costs that have accrued thereon while on the secured roll, levied for prior tax years that constitute a lien on the property.

(3) All unpaid taxes ; penalties; and costs on the property, and any penalties and costs that have accrued thereon while on the secured roll, levied for the current tax year that constitute a lien on the property prorated to, but not including, the date of acquisition as determined pursuant to Section 5082 of the Revenue and Taxation Code or the date of trial, whichever is earlier. If the amount of the current taxes is not ascertainable at the time of proration, the amount shall be estimated and computed based on the ~~current~~ assessed value for the current assessment year and the tax rate levied on the property for the immediately prior tax year.

(4) The actual or estimated amount of taxes on the property that are or will become a lien on the property in the next succeeding tax year prorated to, but not including, the date of acquisition as determined pursuant to Section 5082 of the Revenue and Taxation Code or the date of trial, whichever is earlier. Any estimated amount of taxes shall be ~~promised~~ computed upon the assessed value of the ~~pareed~~ property for the current assessment year and the tax rate levied on the property for the current ~~fiscal~~ tax year.

(5) The amount of the taxes, penalties, and costs allocable to one day of the current tax year, and where applicable, the amount allocable to one day of the next succeeding tax year, hereinafter referred to as the "daily prorate."

(6) The total of paragraphs (2), (3), and (4) ; plus the applicable daily prorate .

(b) (d) If the property sought to be taken does not have a separate valuation on the assessment roll, the information required by this section shall be for the larger parcel of which the property is a part.

(c) On or before the date set for trial or on or before the date of entry of judgment, whichever occurs first, the tax collector shall certify the required information to the court.

Code Civ. Proc. § 1268.410. Section 1268.410 should be revised to read:

1268.410. As between the plaintiff and defendant, the plaintiff is liable for any ad valorem taxes, penalties, and costs upon property acquired by eminent domain that would be subject to cancellation under Chapter 4 (commencing with Section 4986) of Part 9 of Division 1 of the Revenue and Taxation Code if the plaintiff were a public entity and if such taxes, penalties, and costs had not been paid; whether or not the plaintiff is a public entity prorated from and including the date of acquisition of the property as determined pursuant to Section 5082 of the Revenue and Taxation Code .

Comment. Section 1268.410 is amended for clarity. It prescribes the apportionment between the plaintiff and defendant of taxes, penalties, and costs on property acquired by eminent domain. This apportionment applies whether or not the property becomes exempt from taxation, but affects only the relationship between plaintiff and defendant. Collection of taxes is not governed by Section 1268.410 but by the relevant provisions of the Revenue and Taxation Code. See, e.g., Rev. & Tax. Code § 5090.

Code Civ. Proc. § 1268.420. Subdivision (a)(2) of Section 1268.420 should be revised to read:

(2) If the acquisition of property by eminent domain will not make the property exempt from taxation, the plaintiff shall be deemed to be the assessee for the purposes of collection of any ad valorem taxes, penalties, and costs on the property for which the plaintiff is liable pursuant to Section 1268.410 shall be collectible from the plaintiff. The plaintiff shall be deemed to be the assessee for the purposes of collection .

Rev. & Tax. Code § 135. The references to "real estate" should be changed to "real property", and reference made to "taxes required to be transferred to the unsecured roll".

Rev. & Tax. Code § 5082. Subdivision (a) should read, "The date the conveyance to the public entity or the final order of condemnation is recorded."

Rev. & Tax. Code § 5085. Section 5085 should be revised to refer to cancellation of "the amount of taxes for that fiscal year".

STAFF DRAFT

## RECOMMENDATION

relating to

## AD VALOREM PROPERTY TAXES IN EMINENT DOMAIN PROCEEDINGS

The provisions governing the determination, apportionment, and payment of ad valorem property taxes on property subject to eminent domain proceedings have developed haphazardly and are dispersed in the Code of Civil Procedure and the Revenue and Taxation Code.<sup>1</sup> They are intermingled with provisions governing taxes in acquisitions other than by eminent domain.<sup>2</sup> They are unduly lengthy and deal with a number of unrelated subjects.<sup>3</sup>

The Commission recommends that these provisions be reorganized and redrafted for clarity. The tax collector should be assured that past taxes will be paid when property becomes exempt from taxation. To this end, the Commission recommends that taxes be collectible from the acquiring entity if not paid from the award,<sup>4</sup> and that the amount paid in a partial taking serve as security for taxes due on the remainder. However, future taxes on property that will become exempt from taxation should not be collectible; this will eliminate the collection effort for taxes that ultimately must be refunded. Several minor substantive and

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1. See, e.g., Code Civ. Proc. §§ 1265.220, 1268.410-1268.430; Rev. & Tax. Code §§ 4986, 4986.1, 4986.9, 5096.3.
  2. See, e.g., Rev. & Tax. Code §§ 4986, 4986.1 (prescribing both general principles relating to acquisition of exempt property and special rules applicable only in eminent domain proceedings).
  3. Revenue and Taxation Code Section 4986.9, for example, deals not only with certification of tax information by the tax collector in eminent domain proceedings but also with payment of taxes out of the award, naming parties, and transfer of the tax lien whether in eminent domain or negotiated purchase.
  4. The former owner remains ultimately liable for past taxes, and the acquiring entity would be entitled to reimbursement from the former owner for any past taxes collected from the acquiring entity.

technical improvements should also be made.<sup>5</sup> These changes will help end the confusion that surrounds ad valorem tax questions in eminent domain proceedings and simplify the resolution of such questions.<sup>6</sup>

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The Commission's recommendation would be effectuated by enactment of the following measure:

An act to amend Section 1268.410 of, to add Sections 1250.250, 1260.250, 1268.420, 1268.440, and 1268.450 to, and to repeal Section 1268.420 of the Code of Civil Procedure, and to amend Sections 134, 2921.5, 2922, 4986, 4986.2, and 5096.7 of, to add Article 5 (commencing with Section 5081) to Chapter 4 of Part 9 of Division 1 of, and to repeal Sections 4986.1, 4986.7, 4986.9, and 5096.3 of the Revenue and Taxation Code, relating to ad valorem property taxes on property subject to eminent domain proceedings or acquired by public entities.

The people of the State of California do enact as follows:

Code of Civil Procedure § 1250.250 (added). Holder of tax lien need not be named defendant

SECTION 1. Section 1250.250 is added to the Code of Civil Procedure, to read:

1250.250. (a) If the only interest of the county or other taxing agency in the property described in the complaint is a lien for ad valorem taxes, the county or other taxing agency need not be named as a defendant.

(b) The lien for ad valorem taxes is extinguished as a matter of law upon the acquisition of property that is exempt from taxation.

Comment. Section 1250.250 continues the substance of former Revenue and Taxation Code Section 4986.9(c). In the case of exempt property, the lien for ad valorem taxes, when extinguished, immediately transfers and attaches to the proceeds constituting the award pursuant

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5. The specific changes recommended by the Commission are noted in the Comments that follow the sections in the recommended legislation.
  6. This recommendation does not address problems of determining, apportioning, or paying ad valorem property taxes in inverse condemnation actions; these are separate matters that the Commission has not considered. Nor does this recommendation deal with fixed assessment liens on property subject to eminent domain proceedings; the Commission is engaged in a separate study of this problem.

to Section 5083 of the Revenue and Taxation Code. The taxes may be collected from the award (Section 1260.250(d)) or transferred to the unsecured roll for collection (Rev. & Tax. Code § 5087). See also Rev. & Tax. Code §§ 5084 (delinquent taxes), 5086 (current taxes).

09034

Code of Civil Procedure § 1260.250 (added). Determination and payment of property taxes

SEC. 2. Section 1260.250 is added to the Code of Civil Procedure, to read:

1260.250. (a) The court, on the date it issues an order for possession, on or before the date set for trial, or on or before the date of entry of judgment, whichever occurs first, shall give the tax collector the legal description of the property sought to be taken and direct the tax collector to certify to the court the following information:

(1) The current assessed value of the property together with its assessed identification number.

(2) All unpaid taxes, penalties, and costs levied for prior tax years that constitute a lien on the property.

(3) All unpaid taxes, penalties, and costs levied for the current tax year that constitute a lien on the property prorated to, but not including, the date of acquisition as determined pursuant to Section 5082 of the Revenue and Taxation Code or the date of trial, whichever is earlier. If the amount of the current taxes is not ascertainable at the time of proration, the amount shall be estimated and computed based on the current assessed value and the tax rate levied on the property for the immediately prior year.

(4) The actual or estimated amount of taxes that are or will become a lien on the property in the next succeeding tax year prorated to, but not including, the date of acquisition as determined pursuant to Section 5082 of the Revenue and Taxation Code or the date of trial, whichever is earlier. Any estimated amount of taxes shall be premised upon the assessed value of the parcel for the current assessment year and the tax rate levied on the property for the current fiscal year.

(5) The amount of the taxes, penalties, and costs allocable to one day of the current tax year, and where applicable, the amount allocable

to one day of the next succeeding tax year, hereinafter referred to as the "daily prorate."

(6) The total of paragraphs (2), (3), and (4), plus the applicable daily prorate.

(b) If the property sought to be taken does not have a separate valuation on the assessment roll, the information required by this section shall be for the larger parcel of which the property is a part.

(c) On or before the date set for trial or on or before the date of entry of judgment, whichever occurs first, the tax collector shall certify the required information to the court.

(d) The court, as part of the judgment, shall separately state the amount certified pursuant to this section and order that the amount be paid to the tax collector from the award. If the amount so certified is prorated to the date of trial, the order shall include, in addition to the amount so certified, an amount equal to the applicable daily prorate multiplied by the number of days commencing on the date of trial and ending on and including the day before the date of acquisition as determined pursuant to Section 5082 of the Revenue and Taxation Code.

(e) Notwithstanding any other provision of this section, if the board of supervisors prescribes the procedure set forth in Section 5087 of the Revenue and Taxation Code, the court shall make no award of taxes in the judgment.

Comment. Subdivisions (a), (c), and (d) of Section 1260.250 continue the substance of subdivisions (a)-(b) of former Section 4986.9. Subdivision (b) is added so that, in a partial taking, the award is security for taxes due on the whole parcel. Subdivision (e) continues the second sentence of subdivision (b) of former Section 4986.1.

Taxes on exempt property not paid from the award pursuant to subdivision (d) may be transferred to the unsecured roll for collection. See Rev. & Tax. Code §§ 5084, 5086, 5087. For the rules governing reimbursement for taxes subject to cancellation, and liability for taxes after the date of acquisition, see Article 5 (commencing with Section 1268.410) of Chapter 11.

09030

Code of Civil Procedure § 1268.410 (technical amendment)

SEC. 3. Section 1268.410 of the Code of Civil Procedure is amended to read:

1268.410. As between the plaintiff and defendant, the plaintiff is liable for any ad valorem taxes, penalties, and costs upon property

acquired by eminent domain that would be subject to cancellation under Chapter 4 (~~commencing with Section 4986~~) Article 5 (commencing with Section 5081) of Chapter 4 of Part 9 of Division 1 of the Revenue and Taxation Code if the plaintiff were a public entity and if such taxes, penalties, and costs had not been paid; whether or not the plaintiff is a public entity property were exempt from taxation, whether or not it is so exempt .

Comment. Section 1268.410 is amended to reflect the enactment of Article 5 (commencing with Section 5081) of Chapter 4 of Part 9 of Division 1 of the Revenue and Taxation Code relating to cancellation of taxes on exempt property.

968/653

Code of Civil Procedure § 1268.420 (repealed)

SEC. 4. Section 1268.420 of the Code of Civil Procedure is repealed.

~~1268.420. If property acquired by eminent domain does not have a separate valuation on the assessment roll; any party to the eminent domain proceeding may, at any time after the taxes on such property are subject to cancellation pursuant to Section 4986 of the Revenue and Taxation Code, apply to the tax collector for a separate valuation of such property in accordance with Article 3 (commencing with Section 2821) of Chapter 3 of Part 5 of Division 1 of the Revenue and Taxation Code notwithstanding any provision in such article to the contrary.~~

Comment. The substance of former Section 1268.420 is continued in Section 1268.450.

15/638

Code of Civil Procedure § 1268.420 (added). Collection of taxes

SEC. 5. Section 1268.420 is added to the Code of Civil Procedure, to read:

1268.420. (a) Except as provided in subdivision (b):

(1) If the acquisition of property by eminent domain will make the property exempt from taxation, any ad valorem taxes, penalties, or costs on the property for which the plaintiff is liable pursuant to Section 1268.410 shall not be collectible.

(2) If the acquisition of property by eminent domain will not make the property exempt from taxation, any ad valorem taxes, penalties, and



costs on the property for which the plaintiff is liable pursuant to Section 1268.410 shall be collectible from the plaintiff. The plaintiff shall be deemed to be the assessee for the purposes of collection.

(b) To the extent there is a dismissal or partial dismissal of the eminent domain proceeding or a final judgment that the plaintiff cannot acquire all or a portion of the property sought to be acquired, the amount of any unpaid ad valorem taxes, penalties, and costs on the property for which the plaintiff is liable pursuant to Section 1268.410 shall be awarded to the defendant. The amount awarded shall be paid to the tax collector from the award or, if unpaid for any reason, shall be collectible from the defendant.

Comment. Section 1268.420 is new. The taxes, penalties, and costs for which the plaintiff is liable referred to in the section are those accruing after the date of acquisition. See Rev. & Tax. Code § 5082 (date of acquisition of exempt property). In the case of a partial taking, a separate valuation may be necessary in order to make taxes, penalties, and costs collectible, whether on the part taken or on the remainder. Cf. Section 1268.450 (application for separate valuation of property). Property taken by eminent domain may become exempt from taxation, depending upon whether the condemnor is a public entity or a private person. See Rev. & Tax. Code § 5081 ("exempt property" defined).

Subdivision (a)(1) places a moratorium on collection of taxes on property that it appears will become exempt from taxation. Cf. Rev. & Tax. Code § 5090 (notice of proposed acquisition of property that will become exempt). If the eminent domain proceeding is ultimately abandoned or otherwise dismissed, the moratorium ends and collection may thereafter be made from the award or from the defendant. See subdivision (b).

Subdivision (a)(2) makes clear that taxes on property that will not become exempt are collectible from the plaintiff, notwithstanding the fact that the final order of condemnation vesting title in the plaintiff has not yet been made or recorded. In the case of abandonment or other dismissal, unpaid taxes for which the plaintiff is liable must be awarded to the defendant, and are collectible either from the award or from the defendant. See subdivision (b).

405/808

Code of Civil Procedure § 1268.440 (added). Refund of taxes

SEC. 6. Section 1268.440 is added to the Code of Civil Procedure, to read:

1268.440. (a) If taxes have been paid on property that is acquired by a public entity by eminent domain after the lien date, the amount of the taxes that would have been subject to cancellation under Article 5 (commencing with Section 5081) of Chapter 4 of Part 9 of Division 1 of

the Revenue and Taxation Code if unpaid shall be deemed to be erroneously collected and shall be refunded to the person who paid the taxes in the manner provided in Article 1 (commencing with Section 5096) of Chapter 5 of Part 9 of Division 1 of the Revenue and Taxation Code.

(b) For the purposes of Article 1 (commencing with Section 5096) of Chapter 5 of Part 9 of Division 1 of the Revenue and Taxation Code, except Section 5096.7, the public entity shall be deemed to be the person who paid the taxes if the public entity reimbursed the defendant for the taxes pursuant to Section 1268.430 under a cost bill filed in the eminent domain proceeding. A claim for refund of taxes filed by a public entity pursuant to this section shall contain a copy of the cost bill under which taxes were reimbursed or a declaration under penalty of perjury by the public entity that the taxes were reimbursed under a cost bill.

(c) Refunds pursuant to this section shall be applicable to taxes paid on either the secured or unsecured rolls.

Comment. Section 1268.440 continues the substance of former Section 5096.3 of the Revenue and Taxation Code. The term "lien date" is defined in Revenue and Taxation Code Section 117; the terms "secured roll" and "unsecured roll" are defined in Revenue and Taxation Code Section 109.

34/273

Code of Civil Procedure § 1268.450 (added). Separate valuation

SEC. 7. Section 1268.450 is added to the Code of Civil Procedure, to read:

1268.450. If property acquired by eminent domain does not have a separate valuation on the assessment roll, any party to the eminent domain proceeding may, at any time after the taxes on the property are subject to cancellation under Article 5 (commencing with Section 5081) of Chapter 4 of Part 9 of Division 1 of the Revenue and Taxation Code, apply to the tax collector for a separate valuation of the property in accordance with Article 3 (commencing with Section 2821) of Chapter 3 of Part 5 of Division 1 of the Revenue and Taxation Code notwithstanding any provision in that article to the contrary.

Comment. Section 1268.450 continues the substance of former Section 1268.420. It is revised to reflect the enactment of Article 5 (commencing with Section 5081) of Chapter 4 of Part 9 of Division 1 of

the Revenue and Taxation Code relating to cancellation of taxes on exempt property.

968/664

Revenue & Taxation Code § 134 (technical amendment)

SEC. 8. Section 134 of the Revenue and Taxation Code is amended to read:

134. "Unsecured property" is property:

(a) The taxes on which are not a lien on real property sufficient, in the opinion of the assessor, to secure payment of the taxes.

(b) The taxes on which were secured by real estate on the lien date and which real estate was later acquired by the United States of America, the State, state, or by any county, city, school district or other public agency entity and the taxes transferred to the unsecured roll pursuant to Section 4986 of this code. Article 5 (commencing with Section 5081) of Chapter 4 of Part 9.

Comment. Section 134 is amended to reflect the enactment of Article 5 (commencing with Section 5081) of Chapter 4 of Part 9 relating to cancellation of taxes on exempt property.

968/667

Revenue & Taxation Code § 2921.5 (technical amendment)

SEC. 9. Section 2921.5 of the Revenue and Taxation Code is amended to read:

2921.5. Taxes (a) Except as provided in subdivision (b), taxes on unsecured property as defined in subdivision (b) of Section 134, subparagraph (b) of this code shall be transferred from the "secured roll" to the "unsecured roll" of the corresponding year by the county auditor on order of the board of supervisors with the written consent of the district attorney county legal adviser pursuant to Section 4986 of this code Article 5 (commencing with Section 5081) of Chapter 4 of Part 9 at the same time the taxes are canceled on the real estate, and shall be collected in the same manner as other delinquent taxes on the "unsecured roll"; provided, that no roll."

(b) No delinquent penalty shall attach to such taxes so transferred; transferred pursuant to subdivision (a), except to those taxes which carried delinquent penalty on the secured roll at the time the real estate property involved was acquired by a public agency; entity.

Comment. Section 2921.5 is amended to reflect the enactment of Article 5 (commencing with Section 5081) of Chapter 4 of Part 9 relating to cancellation of taxes on exempt property and to conform to the language of Section 4986.

968/668

Revenue & Taxation Code § 2922 (technical amendment)

SEC. 10. Section 2922 of the Revenue and Taxation Code is amended to read:

2922. (a) Taxes on the unsecured roll as of July 31st if unpaid are delinquent August 31st at 5 p.m., and thereafter a delinquent penalty of 6 percent attaches to them. Taxes added to the unsecured roll after July 31st, if unpaid are delinquent at 5 p.m. on the last day of the month succeeding the month in which the assessment was added to the unsecured roll and thereafter a delinquent penalty of 6 percent attaches to them, except that taxes transferred to the unsecured roll pursuant to ~~Section 4986 of this code~~ Article 5 (commencing with Section 5081) of Chapter 4 of Part 9 to which penalties had attached while on the secured roll and also were transferred shall be subject only to the additional penalties prescribed by subdivision (b). If August 31st or the last day of any month falls on Saturday, Sunday or a legal holiday, and if payment is received by 5 p.m. of the next business day, the 6 percent penalty shall not attach.

(b) If taxes on the unsecured roll are unpaid by 5 p.m. of the last day of the second succeeding month after the 6 percent penalty attaches pursuant to subdivision (a), an additional penalty of 1 percent attaches to them on the first day of each month thereafter to the time of payment or to the time a court judgment is entered for the amount of the unpaid taxes and penalties, whichever occurs first. If the last day of any month falls on Saturday, Sunday or a legal holiday, the additional penalty of 1 percent shall attach after 5 p.m. on the next business day.

Comment. Section 2922 is amended to reflect the enactment of Article 5 (commencing with Section 5081) of Chapter 4 of Part 9, relating to cancellation of taxes on exempt property.

968/669

Revenue & Taxation Code § 4986 (amended)

SEC. 11. Section 4986 of the Revenue and Taxation Code is amended to read:

4986. (a) All or any portion of any tax, penalty, or costs, heretofore or hereafter levied, ~~may,~~ shall on satisfactory proof, be canceled by the auditor on order of the board of supervisors with the written consent of the county legal adviser if it was levied or charged:

(1) More than once.

(2) Erroneously or illegally.

(3) On the canceled portion of an assessment that has been decreased pursuant to a correction authorized by Article 1 (commencing with Section 4876) of Chapter 2 ~~of this part~~ .

(4) On property which did not exist on the lien date.

(5) On property annexed after the lien date by the public entity owning it.

(6) On property acquired ~~prior to September 18, 1959,~~ by the United States of America , the state, or by any county, city, school district or other political subdivision and which, because of such public ownership, became not subject to sale for delinquent taxes; public entity, to the extent provided in Article 5 (commencing with Section 5081).

(b) On property acquired after the lien date by the United States of America; if such property upon such acquisition becomes exempt from taxation under the laws of the United States; or by the state or by any county, city, school district or other public entity; and because of such public ownership becomes not subject to sale for delinquent taxes; no cancellation shall be made in respect of all or any portion of any such unpaid tax, or penalties or costs; but such tax, together with such penalties and costs as may have accrued thereon while on the unsecured roll, shall be paid through escrow at the close of escrow or, if unpaid for any reason, they shall be collected like any other taxes on the unsecured roll. If unpaid at the time set for the sale of property on the secured roll to the state, they shall be transferred to the unsecured roll pursuant to Section 2921.5; and collection thereof shall be made and had as provided therein; except that the statute of limitations on any suit brought to collect such taxes and penalties shall commence to run from the date of transfer of such taxes, penalties and costs to the unsecured roll; which date shall be entered on the roll by the auditor

opposite the name of the assessee at the time such transfer is made. The foregoing toll of the statute of limitations shall apply retroactively to all such unpaid taxes and penalties so transferred, the delinquent dates of which are prior to the effective date of the amendment of this section at the 1959 Regular Session.

If any property described in this subdivision is acquired by a negotiated purchase and sale, gift, devise, or eminent domain proceeding after the lien date but prior to the commencement of the fiscal year for which current taxes are a lien on the property, the amount of such current taxes shall be canceled and neither the person from whom the property was acquired nor the public entity shall be liable for the payment of such taxes. If, however, the property is so acquired after the commencement of the fiscal year for which the current taxes are a lien on the property, that portion only of such current taxes, together with any allocable penalties and costs thereon, which are properly allocable to that part of the fiscal year which ends on the day before the date of acquisition of the property shall be paid through escrow at the close of escrow, or if unpaid for any reason, they, shall be transferred to the unsecured roll pursuant to Section 2921.5 and shall be collectible from the person from whom the property was acquired. The portion of such taxes, together with any penalties and costs thereon, which are allocable to that part of the fiscal year which begins on the date of the acquisition of the property, shall be canceled and shall not be collectible either from the person from whom the property was acquired nor from the public entity.

In no event shall any transfer of unpaid taxes, penalties or costs be made with respect to property which has been tax deeded to the state for delinquency.

For purposes of this subdivision, if proceedings for acquisition of the property by eminent domain have not been commenced, the date of acquisition shall be the date that the conveyance is recorded in the name of the public entity or the date of actual possession by the public entity, whichever is earlier. If proceedings to acquire the property by eminent domain have been commenced and an order for possession prior to judgement obtained prior to acquisition of the

property by deed; the date of acquisition shall be the date upon or after which the plaintiff may take possession as authorized by the order for possession prior to judgment.

(b) No cancellation under paragraph (2) of subdivision (a) of this section shall be made in respect to all or any portion of any tax, or penalties or costs attached thereto, collectible by county officers on behalf of a ~~municipal corporation~~ city without the written consent of the city attorney or other officer designated by the city council unless the city council, by resolution filed with the board of supervisors, has authorized the cancellation by county officers. The resolution shall remain effective until rescinded by the city council. For the purpose of this section and Section 4986.9, the date of possession shall be the date after which the plaintiff may take possession as authorized by order of the court or as authorized by a declaration of taking.

Comment. Section 4986 is amended to delete the provisions relating to cancellation of taxes on property acquired by public entities. These provisions are superseded by Article 5 (commencing with Section 5081). The language of Section 4986 is made mandatory, rather than permissive, to reflect existing law. Cf. 2 Ops. Cal. Atty. Gen. 526 (1943), 6 Ops. Cal. Atty. Gen. 72 (1945) (relating to Section 4986.2).

Note. This section is drafted based on the amendment of 1978 Cal. Stats., Ch. 294 § 10.

405/805

Revenue & Taxation Code § 4986.1 (repealed)

SEC. 12. Section 4986.1 of the Revenue and Taxation Code is repealed.

~~4986.1. (a) The board of supervisors of any county may pre-~~  
~~scribe that where the amount of unpaid taxes, penalties and costs~~  
~~to be transferred to the unsecured roll pursuant to Section 4986~~  
~~is less than ten dollars (\$10), such taxes, penalties and costs shall~~  
~~be canceled rather than transferred to the unsecured roll.~~

~~(b) The board of supervisors of any county may provide that~~  
~~all delinquent taxes, penalties and costs and a pro rata share of~~  
~~current taxes, penalties and costs as may be accrued thereon while~~  
~~on the secured roll which are computed in accordance with subdivision~~  
~~(2)(b) of Section 4986 shall be transferred to the unsecured roll~~  
~~and collected pursuant to Section 2921.5. In the event the board~~

of supervisors of any county prescribes the procedure herein set forth; the court shall make no award of taxes in the eminent domain proceeding. The date for proration of current taxes and penalties shall be the date specified in subdivision ~~(2)~~(b) of Section 4986.

Comment. Subdivision (a) of former Section 4986.1 is continued in Section 5088. Subdivision (b) is continued in Section 5086, with the exception of the second sentence, which is continued in Code of Civil Procedure Section 1260.250(d).

405/803

Revenue & Taxation Code § 4986.2 (technical amendment)

SEC. 13. Section 4986.2 of the Revenue and Taxation Code is amended to read:

4986.2. All or any portion of uncollected city taxes, penalties or costs may shall be canceled on any of the grounds specified in Section 4986. If the city taxes are collected by the county, the procedure outlined in Section 4986 for the cancellation of taxes, penalties or costs shall be followed, except that the consent of the city attorney, in lieu of the consent of the ~~district attorney~~, county legal adviser, is necessary before cancellation. If the taxes are collected by the city, the taxes, penalties, or costs shall be ~~canceled~~ canceled by the officer having custody of the records thereof on order of the governing body of the city, with the written consent of the city attorney.

Comment. Section 4986.2 is amended to conform to the language of Section 4986. The language of this section is made mandatory, rather than permissive, to reflect existing law. See, e.g., 2 Ops. Cal. Atty. Gen. 526 (1943); 6 Ops. Cal. Atty. Gen 72 (1945).

100/944

Revenue & Taxation Code § 4986.7 (repealed)

SEC. 14. Section 4986.7 of the Revenue and Taxation Code is repealed.

~~4986.7. Whenever a public agency proposes to acquire private property or properties for public use, and where such public use will make the property or properties exempt from taxation, the public agency shall notify the county tax collector and any other public agencies whose taxes are not collected by the county tax collector but who at that time exercised the right of assessment and taxation of the approximate extent of the proposed public project and the~~



estimated time of completion of all acquisitions necessary therefor. Said notice shall be provided within a reasonable period of time following the initial budgeting of funds for the proposed acquisition or acquisitions.

The provisions of this section create no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

Comment. The substance of former Section 4986.7 is continued in Section 5091.

405/911

Revenue & Taxation Code § 4986.9 (repealed)

SEC. 15. Section 4986.9 of the Revenue and Taxation Code is repealed.

~~4986.9. (a) In an action in eminent domain, the court, either on the date it issues an order for possession or on or before the date set for trial relative to a particular parcel, whichever is earlier, shall direct the tax collector to certify to the court the following information:~~

~~(1) The current assessed value of the parcel together with its assessed identification number.~~

~~(2) All unpaid taxes, penalties and costs levied for prior tax years and constituting a lien upon such parcel.~~

~~(3) All unpaid taxes, penalties and costs levied for the current tax year which constitute a lien on such parcel prorated to, but not including, the date of possession as such date of possession is determined pursuant to Section 4986. If the amount of the current taxes is not ascertainable at the time of proration, the same shall be estimated and computed based upon the current assessed value and the tax rate levied on the property for the immediate prior year.~~

~~(4) If no order for possession has issued relative to such parcel, all unpaid taxes, penalties and costs levied for the current tax year which constitute a lien on such parcel prorated to, but not including, the date of trial, plus the amount of such taxes, penalties and costs allocable to one day of the tax year, hereinafter referred to as the "daily prorator." If the amount of the current taxes is~~

not ascertainable at the time of proration; the same shall be estimated and computed based upon the current assessed value and the tax rate levied on the property for the immediate prior year.

(5) The actual or estimated amount of taxes which are or will become a lien on such parcel in the next succeeding tax year prorated to, but not including, the date of possession or the date of trial whichever is earlier plus, where applicable, a daily prorate of such taxes. Any estimated amount of taxes shall be premised upon the assessed value of the parcel for the current assessment year and the tax rate levied on the property for the current fiscal year.

(6) The total of paragraphs (2), (3), and (5) of this subdivision or the total of paragraphs (2), (4), and (5) of this subdivision, plus the applicable daily prorate.

A legal description of the parcel shall accompany the order.

(b) On or before the date set for trial, the tax collector shall, on a form approved by the board, certify such information to the court; and the court, as part of its judgment in eminent domain, shall order that the amounts so certified be paid to the tax collector from the award. In the event no order for possession has issued relative to such parcel, the court's order shall require an amount to be paid which shall be a sum certain to, but not including, the date of trial, plus an amount equal to the appropriate daily prorate multiplied by the number of days commencing on the date of trial and ending on and including the day before the date the final order of condemnation is recorded.

(c) Where the only interest of the county or any other taxing agency in the property being condemned is a lien for ad valorem taxes, the county or such other agency need not be named as a party in the eminent domain proceeding; but such lien shall be extinguished as a matter of law upon the acquisition of such property by the condemning agency.

(d) In any instance where real property is acquired either by negotiated purchase or in an action in eminent domain by the United States or any public entity in this state and because of such acquisition the lien for ad valorem taxes against such property is

extinguished, such lien shall immediately transfer and attach to the proceeds constituting the purchase price or award.

Comment. Former subdivisions (a)-(b) of Section 4986.9 are continued in Code of Civil Procedure Section 1260.250. Former subdivision (c) is continued in Code of Civil Procedure Section 1250.250. Former subdivision (d) is continued in Revenue and Taxation Code Section 5083.

101/146

Revenue & Taxation Code §§ 5081-5090 (added)

SEC. 16. Article 5 (commencing with Section 5081) is added to Chapter 4 of Part 9 of Division 1 of the Revenue and Taxation Code, to read:

Article 5. Cancellation of Taxes on Exempt Property

§ 5081. "Exempt property" defined

5081. As used in this article, "exempt property" means:

(a) Property acquired by the United States, if the property becomes exempt from taxation under the laws of the United States.

(b) Property acquired by the state or by a county, city, school district, or other public entity, if the property becomes exempt from taxation under the laws of the state.

Comment. Section 5081 continues the first portion of former subdivision (b) of Section 4986 except that the requirement that the property be "not subject to sale for delinquent taxes" is replaced by the requirement that the property be "exempt from taxation under the laws of the state."

368/240

§ 5082. Date of acquisition of exempt property

5082. For purposes of this article, the date of acquisition of exempt property is the earliest of the following times:

(a) The date the conveyance is recorded in the name of the public entity.

(b) The date of actual possession by the public entity.

(c) The date upon or after which the public entity may take possession as authorized by an order for possession or by a declaration of taking.

Comment. Section 5082 supersedes the portion of former subdivision (b) of Section 4986 that defined the date of acquisition. Section 5082 makes clear that the date of acquisition is the earliest of the times listed, regardless whether an eminent domain proceeding has been commenced or an order for possession prior to judgment has been obtained.

§ 5083. Transfer of lien

5083. If because of the acquisition of exempt property either by negotiated purchase or eminent domain the lien for ad valorem taxes on the property is extinguished, the lien immediately transfers and attaches to the proceeds constituting the purchase price or award.

Comment. Section 5083 continues the substance of subdivision (d) of former Section 4986.9. The term "exempt property" is defined in Section 5081.

§ 5084. Delinquent taxes, penalties, and costs

5084. (a) No cancellation shall be made of all or any portion of any unpaid taxes, or of any penalties or costs that have accrued thereon while on the secured roll, levied for prior tax years that constitute a lien at the time of acquisition of exempt property.

(b) Such unpaid taxes, penalties, and costs shall be paid through escrow at the close of escrow or from the award in eminent domain, or if unpaid for any reason, shall be transferred to the unsecured roll pursuant to Section 5090 and shall be collectible from either the person from whom the property was acquired or the public entity that acquired the property.

Comment. Section 5084 continues the substance of the first sentence of former subdivision (b) of Section 4986, with the addition in subdivision (b) of provisions for collection of unpaid amounts from the public entity. This will help assure that the public entity notifies the tax collector so taxes are paid from the funds available at the time of acquisition of the property. The term "exempt property" is defined in Section 5081. For collection and cancellation of current taxes on exempt property, see Sections 5085 and 5086.

§ 5085. Taxes prior to commencement of fiscal year

5085. If exempt property is acquired by negotiated purchase and sale, gift, devise, or eminent domain after the lien date but prior to the commencement of the fiscal year for which taxes are a lien on the property, the amount of the taxes shall be canceled and neither the person from whom the property was acquired nor the public entity that acquired the property is liable for the payment of the taxes.

Comment. Section 5085 continues the substance of the first sentence of the second paragraph of former subdivision (b) of Section 4986. The term "exempt property" is defined in Section 5081.

101/178

§ 5086. Taxes, penalties, and costs after commencement of fiscal year

5086. If exempt property is acquired by negotiated purchase and sale, gift, devise, or eminent domain after commencement of the fiscal year for which the current taxes are a lien on the property:

(a) The portion of the current taxes, together with any penalties and costs that have accrued thereon while on the secured roll, that is allocable to the part of the fiscal year that ends on the day before the date of the acquisition of the property shall be paid through escrow at the close of escrow or from the award in eminent domain, or if unpaid for any reason, shall be transferred to the unsecured roll pursuant to Section 5090 and shall be collectible from either the person from whom the property was acquired or the public entity that acquired the property.

(b) The portion of the current taxes, together with any penalties and costs that have accrued thereon while on the secured roll that is allocable to the part of the fiscal year that begins on the date of the acquisition of the property, shall be canceled and shall not be collectible either from the person from whom the property was acquired or from the public entity that acquired the property.

Comment. Section 5086 continues the substance of the second and third sentences of former subdivision (b) of Section 4986, with the addition in subdivision (a) of provisions for collection of unpaid amounts from the public entity. This will help assure that the public entity notifies the tax collector so taxes are paid from the funds available at the time of acquisition of the property. The term "exempt property" is defined in Section 5081. The "date of acquisition" of exempt property is defined in Section 5082.

405/835

§ 5087. Optional transfer to unsecured roll

5087. The board of supervisors of a county may provide that all unpaid taxes, penalties, and costs and the allocable portion of current taxes, penalties, and costs computed in accordance with this article shall not be paid through escrow at the close of escrow or from the award in eminent domain, but shall be transferred to the unsecured roll

pursuant to Section 5090 and shall be collectible from the person from whom the property was acquired.

Comment. Section 5087 continues the substance of former Section 4986.1, with the exception of the provision relating to eminent domain which is continued in Code of Civil Procedure Section 1260.250(d).

045/169

§ 5088. Tax deeded property

5088. Notwithstanding any other provision of this article, unpaid taxes, penalties, or costs shall not be transferred to the unsecured roll with respect to property that has been tax deeded to the state for delinquency.

Comment. Section 5088 continues the substance of the third paragraph of former subdivision (b) of Section 4986.

405/904

§ 5089. Cancellation of nominal amounts

5089. The board of supervisors of a county may prescribe that, where the amount of unpaid taxes, penalties, and costs to be transferred to the unsecured roll pursuant to this article is less than ten dollars (\$10), such taxes, penalties, and costs shall be canceled rather than transferred to the unsecured roll.

Comment. Section 5089 continues the substance of former Section 4986.1(a).

34/274

§ 5090. Collection on unsecured roll

5090. (a) If taxes, penalties, and costs that are not subject to cancellation pursuant to this article are unpaid at the time set for the sale of property on the secured roll to the state, they shall be transferred to the unsecured roll pursuant to Section 2921.5, and collection shall be made as provided therein. The statute of limitations on any suit brought to collect such taxes, penalties, and costs shall commence to run from the date of transfer to the unsecured roll, which date shall be entered on the unsecured roll by the auditor opposite the name of the assessee at the time the transfer is made.

(b) The amount of taxes, penalties, and costs collectible on the unsecured roll from a public entity pursuant to this article shall not

exceed the amount paid for the property or awarded in the proceeding. As between the person from whom property was acquired and the public entity that acquired the property, the person from whom the property was acquired is liable for any taxes, penalties, and costs collected on the unsecured roll.

Comment. Subdivision (a) of Section 5090 continues the substance of the second sentence of former Section 4986(b). Subdivision (b) is new; it implements the provisions of Sections 5084 and 5086 permitting collection on the unsecured roll from the acquiring entity, but makes clear that the property owner is liable to the public entity for the taxes, penalties, and costs so collected.

405/919

§ 5091. Notice of proposed acquisition of property

5091. (a) If a public entity proposes to acquire property for a public use that will make the property exempt from taxation, the public entity shall give notice to all of the following:

(1) The county tax collector.

(2) Any other public entities whose taxes are not collected by the county tax collector but who at the time exercise the right of assessment and taxation.

(b) The notice shall be given within a reasonable time following the initial budgeting of funds for the proposed acquisition, and shall state all of the following:

(1) The approximate extent of the proposed project.

(2) The estimated time of completion of all acquisitions necessary for the proposed project.

(c) This section creates no rights or liabilities and does not affect the validity of any property acquisitions by purchase or eminent domain.

Comment. Section 5091 continues the substance of former Section 4986.7.

405/907

Revenue & Taxation Code § 5096.3 (repealed)

SEC. 17. Section 5096.3 of the Revenue and Taxation Code is repealed.

~~5096-3- If taxes have been paid on property which is acquired by eminent domain after the lien date by the state or by any county,~~

city, school district or other public agency of this state, the amount of such taxes which would have been subject to cancellation under Section 4986 if unpaid shall be deemed to be erroneously collected and shall be refunded to such public agency. For the purposes of this article, except Section 5096.7, such public agency shall be deemed to be the person who paid the taxes if such public agency reimbursed the condemnee for such taxes through payment under a cost bill filed in the eminent domain action. A claim for refund of taxes filed by a public agency pursuant to this section shall contain a copy of the cost bill under which taxes were reimbursed or a declaration under penalty of perjury by the public agency that such taxes were reimbursed under a cost bill.

Refunds under this section shall be applicable to taxes paid on either the secured or unsecured rolls.

Comment. The substance of former Section 5096.3 is continued in Section 1268.440 of the Code of Civil Procedure.

405/908

Revenue & Taxation Code § 5096.7 (technical amendment)

SEC. 18. Section 5096.7 of the Revenue and Taxation Code is amended to read:

5096.7. If taxes have been paid on property acquired by negotiated purchase by any public entity designated in ~~subdivision (b)~~ of Section 4986 Section 5081 after the commencement of the fiscal year for which the taxes are a lien on the property, the portion of such taxes which are allocable to that part of the fiscal year which begins on the date of the acquisition of the property and made uncollectible if unpaid by virtue of Section 4986; 5086, shall be deemed erroneously collected and shall be refunded to ~~such~~ the person who has paid the tax, where ~~such~~ the person was not otherwise reimbursed for ~~such~~ that portion of the taxes by the public entity which acquired the property.

Refunds under this section shall be applicable to taxes paid on either the secured or unsecured rolls.

Comment. Section 5096.7 is amended to reflect the enactment of Article 5 (commencing with Section 5081) of Chapter 4 relating to cancellation of taxes on exempt property.