

Memorandum 85-69

Subject: Study L-830 - Probate Code (Proration of Estate Taxes--staff
draft of tentative recommendation)

Attached to this memorandum is the staff draft of the statute relating to proration of estate taxes, prepared in the form of a tentative recommendation. The draft incorporates decisions made by the Commission at the June 1985 meeting.

In addition to technical changes, we have included three new substantive provisions, at the suggestion of Ken Klug, that the Commission should be aware of.

(1) Section 970.020 (transitional provision) limits application of the new law to estates of decedents who die after the operative date of the new law. The section also makes clear that no inferences as to old law should be drawn from enactment of the new law.

(2) Section 971.070 (where property not in possession of personal representative) deals with the situation where the personal representative is unable to collect an estate tax allocated to a beneficiary. In this situation, the missing amount is satisfied first out of the decedent's residuary estate, and if that is insufficient, the amount remaining due is apportioned among the other beneficiaries. This solution is drawn from the Uniform Estate Tax Apportionment Act.

(3) Also drawn from the Uniform Act is Section 972.060 (reciprocity of enforcement), which also deals with the problem of collecting the estate tax allocated to a non-resident. Section 972.060 seeks to aid collection by California personal representatives from non-resident beneficiaries by granting reciprocal rights to non-resident personal representatives against resident beneficiaries.

(4) Comparable changes (except for reciprocity) are made in the generation-skipping tax proration provisions.

If this draft is acceptable, we will circulate it for comment with the objective of legislation on this subject for the 1986 legislative session.

Respectfully submitted,

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8/14/85

Revised Staff Draft

TENTATIVE RECOMMENDATION

Relating to

PRORATION OF ESTATE TAXES

The California statute governing proration of estate taxes among the beneficiaries of a decedent's estate were enacted in 1943.¹ Despite major changes in the federal and state estate and gift tax laws since that time, there have been no significant amendments to the California statute, other than in 1984 to recognize enactment of the California estate tax.² As a result, the proration statute is now obsolete in many respects and is in substantial need of modernization.

The California Law Revision Commission recommends revision of the statute in the manner described below. In addition, the revised statute incorporates numerous minor and technical improvements that are noted in the Comments following the text of the revised provisions.

Time of proration. Existing law requires that the estate tax be actually paid before a proration may be made.³ Federal law allows for deferral of payment of estate taxes for up to 15 years in certain cases. Once the amount of tax is determined, the proration should be

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1. Prob. Code §§ 970-977, enacted 1943 Cal.Stats. ch. 894, § 1.
 2. 1984 Cal.Stats. ch. 1711.
 3. Prob. C. § 970.

made, even though the tax hasn't yet been paid. This will enable settlement and closing of estates expeditiously without later disruption. The revised statute permits proration of an estate tax that has been imposed whether or not actually paid at the time of proration.

Proration by personal representative. Existing law requires the court to order the proration of estate taxes.⁴ There is no reason to involve the court in making the proration if all the persons interested in the estate agree on the proration. This is a matter within the purview of the personal representative. The revised statute eliminates mandatory court involvement and provides an optional procedure for obtaining a court determination of proration in the event of a dispute.

Modification of proration order. Where there is a court order for proration, the order may be rendered incorrect by a subsequent adjustment of the estate tax after the return is filed. This may be done as a result of audit, or as a result of filing an amended estate tax return upon locating additional property or discovering additional deductions. In this event, the court should modify the proration order, and the revised statute provides for this. Although there is a potential for the modification to occur many years after the estate is closed, the Commission does not recommend a limitation period for modification. Rather, the matter is left to the doctrine of laches and other judicial equitable powers in the circumstances of each case.

4. Prob. C. § 971.

Uncollectable proration. A practical problem arises where the estate tax prorated against a person proves to be uncollectable, whether because the person or property is not subject to the jurisdiction of the court or for other reasons. In this situation, the proposed law provides that the uncollectable amount is to be satisfied first out of the decedent's residuary estate, and if that is insufficient, then it is to be apportioned among the remaining beneficiaries. This rule is drawn from Section 7 of the Uniform Estate Tax Apportionment Act (1964).

Treatment of specially valued qualified real property. Under federal law an election may be made to specially value certain qualified real property.⁵ The special value may be as much as $\$3/4$ million less than the fair market value of the qualified real property, with the result of a substantial estate tax savings. If the election is made, the persons who receive the real property must continue to use the real property as a farm or other trade or business for ten years. If they dispose of the property or cease the qualified use, then the estate tax savings resulting from the special value are lost, and an additional tax is imposed, for which the persons receiving the property are personally liable. In this situation, the reduction of estate taxes resulting from the special valuation should be allocated entirely to the persons receiving the qualified real property, and any additional tax imposed as a result of cessation of a qualified use should be imposed entirely on them.

5. Int. Rev. C. § 2032A.

6. See. e.g., Int. Rev. C. §§ 6163-6166.

Treatment of extended estate tax. Federal law allows payment of a portion of the estate tax attributable to the specified property (such as a closely held business or a remainder interest) to be extended.⁶ The present California proration statute does not require that the extended tax follow the property. The revised statute makes it clear that where tax attributable to a closely held business is extended, the privilege to pay the tax in installments goes to the person who receives the closely held business.

Conflict of state and federal law. In some cases, the manner of proration required by the California statute may conflict with the proration prescribed by federal law. For example, federal law provides that the tax on a Qualified Terminable Interest Property trust will be at the highest incremental bracket, with the effect that the other property of a decedent's estate is taxed at the lower brackets.⁷ This conflicts with the present California statute. In such a situation, federal law should control, and the revised statute so provides.

Reciprocity. The Uniform Estate Tax Apportionment Act deals with the problem of collecting an estate tax apportioned to a non-resident by granting reciprocal enforcement rights by non-residents in the state. The proposed law adopts this uniform provision.

7. Int. Rev. C. § 2207A.

Proration of taxes on generation-skipping transfers. Existing federal law imposes personal liability on the distributee for the generation-skipping tax, not exceeding the value of the property received by the distributee.⁸ The present California proration statute does not deal with equitable proration of the generation-skipping tax among trust beneficiaries. The Commission recommends, and the revised statute includes, generation-skipping tax proration provisions, comparable to the estate tax proration provisions. The Commission recognizes the possibility that the generation-skipping tax may be repealed or restructured by Congress in the immediate future. However, a proration statute is important in the interim.

8. Int. Rev. C. § 2603.

The Commission's recommendations would be effectuated by enactment of the following measure.

An act to amend the heading of Article 5 (commencing with Section 980) of Chapter 15 of, to add Chapter 15.3 (commencing with Section 970.010) and Chapter 15.5 (commencing with Section 975.010) to, and to repeal Article 4a (commencing with Section 970) of Chapter 15 of, Division 3 of the Probate Code, relating to proration of taxes.

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

Prob. Code §§ 970-977 (repealed). Payment of federal estate tax

SECTION 1. Article 4a (commencing with Section 970) of Chapter 15 of Division 3 of the Probate Code is repealed.

Comment. Sections 970-977 are superseded by Sections 970.010-972.060 (proration of estate taxes). Comparable provisions of the old and new law are listed below.

<u>OLD LAW</u>	<u>NEW LAW</u>
970	971.010
971	971.020
972	971.030
973	971.040
975	971.070
976	972.040
977	970.010

Prob. Code §§ 970.010-972.060 (added). Proration of estate taxes

SEC. 2. Chapter 15.3 (commencing with Section 970.010) is added to Division 3 of the Probate Code, to read:

Chapter 15.3. Proration of Estate Taxes

Article 1. General Provisions

§ 970.010. Definitions

970.010. Except where the context otherwise requires, as used in this chapter:

(a) "Estate tax" means a tax imposed by any federal or California estate tax law, now existing or hereafter enacted.

(b) "Person interested in the estate" means any person, including a personal representative, guardian, conservator, or trustee, entitled to receive, or who has received, from a decedent while alive or by reason of the death of a decedent any property or interest therein.

(c) "Property" means all property included in the gross estate for federal estate tax purposes.

(d) "Value" means fair market value as determined for federal estate tax purposes.

Comment. Section 970.010 supersedes former Section 977. The definition of "gross estate" in former Section 977(b) erroneously had the effect of prorating taxes to adjusted taxable gifts.

§ 970.020. Transitional provision

970.020. (a) This chapter applies to the estate of a decedent who dies on or after January 1, 1987.

(b) Notwithstanding the repeal of any provision by this act, the applicable law in effect before January 1, 1987, remains in effect and applicable to the estate of a decedent who dies before January 1, 1987. No inference as to the applicable law in effect before January 1, 1987, shall be drawn from the enactment of this chapter.

Article 2. Proration

§ 971.010. Proration among persons interested in estate

971.010. (a) Except as provided in subdivision (b), any estate tax, and interest on any deficiency, shall be equitably prorated among the persons interested in the estate in the manner prescribed in this article.

(b) This section does not apply in any of the following cases:

(1) Where a testator directs otherwise by will.

(2) Where by written instrument executed inter vivos direction is given for apportionment within the fund of taxes assessed upon the specific fund dealt with in the inter vivos instrument.

(3) Where federal law directs otherwise.

Comment. Section 971.010 continues former Section 970 without substantive change, but recognizes that federal law may provide for a different means of proration. Section 971.010 allows proration of an extended estate tax prior to actual payment of the tax. Section 971.060 (proration of extended estate tax). Cf. Int. Rev. C. § 2207A.

CROSS-REFERENCES

Definitions

Estate tax § 970.010(a)

Person interested in the estate § 970.010(b)

§ 971.020. Manner of proration

971.020. The proration required by this article shall be made in the proportion, as near as may be, that the value of the property received by each person interested in the estate bears to the total value of all property received by all persons interested in the estate.

Comment. Section 971.020 continues former Section 971 without substantive change, but does not require a court order to make the proration. Cf. Sections 972.010-972.060 for optional court procedure to determine proration. The proration is based on fair market value as determined for federal estate tax purposes, even though the estate tax may be based on a special value.

CROSS-REFERENCES

Definitions

Person interested in the estate § 970.010(b)

Property § 970.010(c)

Value § 970.010(d)

§ 971.030. Allowance for credits, deductions, and other adjustments

971.030. (a) In making a proration of the federal estate tax, allowances shall be made for credits allowed for state or foreign death taxes in determining the federal tax payable and for exemptions and deductions allowed for the purpose of determining the taxable estate.

(b) In making a proration of the California estate tax, allowances shall be made for (1) credits (other than the credit for state death taxes paid) allowed by the federal estate tax law and attributable to property located in this state, and (2) exemptions and deductions allowed by the federal estate tax law for the purpose of determining the taxable estate and attributable to property located in this state.

Comment. Section 971.030 continues former Section 972 without substantive change. Although the federal estate tax exemption is replaced by a unified tax credit and other credits are allowed, subdivision (a) also refers to exemptions in anticipation of future enactment of exemptions.

§ 971.040. Trusts and temporary interests

971.040. If a trust is created, or other provision made whereby a person is given an interest in income, or an estate for years, or for life, or other temporary interest in any property or fund, the estate tax on both the temporary interest and on the remainder thereafter shall be charged against and paid out of the corpus of the property or fund without apportionment between remainders and temporary estates.

Comment. Section 971.040 continues former Section 973 without substantive change.

CROSS-REFERENCES

Definitions

Estate tax § 970.010(a)

§ 971.050. Proration of additional tax on certain qualified real property

971.050. (a) As used in this section, "qualified real property" means qualified real property as defined in Section 2032A of the Internal Revenue Code.

(b) If an election is made pursuant to Section 2032A of the Internal Revenue Code, the proration shall be based upon the amount of federal estate tax that would be payable but for the election. The amount of the reduction in federal estate tax resulting from an election pursuant to Section 2032A of the Internal Revenue Code shall be attributed to the qualified real property to which the election applies, to the extent of the federal estate tax that would have been prorated against that qualified real property but for the election.

(c) If additional federal estate tax is imposed under Section 2032A(c) of the Internal Revenue Code by reason of early disposition or cessation of qualified use, the additional tax shall be a charge against the portion of the qualified real property to which the additional tax is attributable, and shall be equitably prorated among the persons interested in that portion of the qualified real property in proportion to their interests.

Comment. Section 971.050 is new and deals with specially valued real property. Where an election is made to specially value qualified real property under Internal Revenue Code Section 2032A, the qualified heirs who receive the qualified real property receive the entire benefit of the estate tax reduction resulting from the election, and are likewise liable for the entire amount of any additional tax subsequently imposed on the property. For example, assume an estate in which, absent a special valuation election, each beneficiary receives property of equal value and shares equally in the prorated estate taxes. If one beneficiary makes a special valuation election that reduces the total estate tax, the amount of the reduction must be allocated entirely to that beneficiary, and the others must pay the amount they would have been liable for absent the special valuation election.

To illustrate the operation of Section 971.050, assume the decedent dies in 1986, leaving an estate consisting of \$500,000 cash and real property having a fair market value of \$500,000 (and a value under Internal Revenue Code Section 2032A of \$250,000). The decedent's will leaves the real property to A and the cash to B.

If no election is made under Section 2032A, the taxable estate is \$1,000,000. The estate tax is \$190,000, which is prorated \$95,000 to A and \$95,000 to B.

If an election is made under Section 2032A, the taxable estate is \$750,000. The estate tax is \$92,500; the reduction in estate tax is \$97,500. A is credited with \$95,000 against the fair market value proration. (This represents the amount of the reduction in tax resulting from the election, to the extent of the tax that would be attributable to the qualified real property but for the election.) A pays no tax and B pays the full tax of \$92,500.

Subdivision (b) ensures that A receives the benefit of the tax relief under Section 2032A, up to the amount of tax that would have been prorated to the fair market value of the qualified real property. B may also benefit from the election, but no further compensating adjustment is required.

Subdivision (c) provides that any additional tax under IRC § 2032A(c) will be imposed only upon those who received the qualified real property and benefited from the election. If A causes the full additional tax to be assessed under Internal Revenue Code Section 2032A(c), the entire additional tax of \$97,500 will be prorated to A. This is true even though B also may have benefited from the election under Section 2032A.

§ 971.060. Proration of extended estate tax

971.060. Where the payment of any portion of the federal estate tax is extended under the provisions of the federal estate tax law, the amount of extended tax and interest thereon shall be a charge against the specific property that gives rise to the extension.

Comment. Section 971.060 ensures that the persons who receive property that gives rise to the extension of estate tax are the persons who benefit from the extension privilege and from any favorable interest rate on the extended tax. Section 971.060 makes it clear that where a decedent's estate consists of a closely held business with respect to which the estate taxes may be extended, the deferred tax and interest thereon follow the business.

§ 971.070. Where property not in possession of personal representative

971.070. (a) If property does not come into the possession of the personal representative, the personal representative is entitled, and has the duty, to recover from the persons interested in the estate the proportionate amount of the estate taxes with which the persons interested in the estate are chargeable under the provisions of this article.

(b) If the personal representative or other person required to pay the tax cannot collect from any person interested in the estate the amount of tax apportioned to the person, the amount not recoverable shall be paid from the residuary estate. To the extent that the residuary estate is not adequate, the balance shall be equitably prorated among the other persons interested in the estate who are subject to proration.

Comment. Subdivision (a) of Section 971.070 continues former Section 975 without substantive change. The court may by order direct payment of the amount of taxes owed by a person to the personal representative. Section 872.040 (court order to effectuate proration). Subdivision (b) is drawn from Section 7 of the Uniform Estate Tax Apportionment Act (1964).

CROSS-REFERENCES

Definitions

Person interested in the estate § 970.010(b)

Property § 970.010(c)

Article 3. Judicial Proceedings

§ 972.010. Who may commence proceedings

972.010. (a) The personal representative or any person interested in the estate may commence proceedings to have a court determine the proration pursuant to this article.

(b) If proceedings for the administration of the decedent's estate are pending, proceedings under this article shall be combined with the administration proceedings. If proceedings are commenced at any time before final distribution, there shall be no additional filing fee.

(c) Subject to subdivision (b), proceedings under this article shall be commenced in the superior court of the county of which the decedent was a resident at the time of death or in the superior court of any county in which the property is situated.

Comment. Sections 972.010 to 972.060 supersede a portion of former Section 971, requiring court proration, and a portion of former Section 975, providing for a court order for payment.

CROSS-REFERENCES

Definitions

Person interested in the estate § 970.010(b)

Property § 970.010(c)

§ 972.020. Petition

972.020. Proceedings under this article shall be commenced by filing a verified petition that sets forth all of the following information:

(a) The jurisdictional facts.

(b) Other facts necessary for the court to determine the proration of estate taxes.

Comment. See Comment to Section 972.010.

CROSS-REFERENCES

Definition

Estate tax § 970.010(a)

§ 972.030. Notice of hearing

972.030. At least 10 days before the hearing the petitioner shall:

(a) Cause notice of the hearing and a copy of the petition to be mailed to each person interested in the estate against whom prorated amounts may be charged pursuant to subdivision (a) of Section 972.040.

(b) Cause summons and a copy of the petition to be served on each person interested in the estate who may be directed to make payment of prorated amounts pursuant to subdivision (b) of Section 972.040.

Comment. See Comment to Section 972.010.

CROSS-REFERENCES

Definition

Person interested in the estate § 970.010(b)

§ 972.040. Court order to effectuate proration

972.040. The court, upon making a determination as provided in this article, shall make an order:

(a) Directing the personal representative or other fiduciary to charge the prorated amounts against the persons against whom the estate taxes have been prorated insofar as the personal representative or other fiduciary is in possession of any property or interests of the persons against whom the charge may be made.

(b) Summarily directing all other persons against whom estate taxes have been prorated to make payment of the prorated amounts to the personal representative or other fiduciary.

Comment. Section 972.040 continues former Section 976 without substantive change. See also Comment to Section 972.010.

CROSS-REFERENCES

Definition

Estate tax § 970.010(a)

§ 972.050. Modification of court order

972.050. Upon petition by the personal representative or any person interested in the estate, the court shall modify an order made pursuant to this article whenever it appears that the amount of estate tax as actually determined is different from the amount of estate tax on which the court based the order.

Comment. Section 972.050 provides for the possibility that subsequent to the making of an order, the taxes may be adjusted as a result of audit or the filing of an amended return. Section 972.050 does not apply to any additional tax under Internal Revenue Code Section 2032A(c) resulting from a disposition or cessation of qualified use of specially valued property. Cf. Section 971.050 (proration of additional tax on certain qualified real property). See also Comment to Section 972.010. Section 972.050 does not provide a limitation period for modification of a proration order; the matter is left to laches and other equitable doctrines within the discretion of the court.

CROSS-REFERENCES

Definitions

Estate tax § 970.010(a)

Person interested in the estate § 970.010(b)

§ 972.060. Reciprocity of enforcement

972.060. (a) Subject to subdivision (c), a personal representative or other fiduciary acting in another state or a person required to pay the estate tax who is resident in another state may commence an action in this state and may recover any of the following from a person interested in the estate who is either resident in this state or who owns property in this state:

- (1) A proportionate amount of the federal estate tax.
- (2) An estate tax payable to another state.
- (3) A death duty due by the decedent's estate to another state.

(b) For the purposes of the action the determination of apportionment by the court having jurisdiction of the administration of the decedent's estate in the other state is prima facie correct.

(c) This section applies only if the state in which the determination of apportionment was made provides a substantially similar remedy.

Comment. Section 972.060 is drawn from Section 8 of the Uniform Estate Tax Apportionment Act (1964).

CROSS-REFERENCES

Definitions

Person interested in the estate § 970.010(b)

Prob. Code §§ 975.010-977.050 (added). Proration of taxes on generation-skipping transfers

SEC. 3. Chapter 15.5 (commencing with Section 975.010) is added to Division 3 of the Probate Code, to read:

Chapter 15.5. Proration of Taxes on Generation-Skipping Transfers

Note. This article is tentative, pending the outcome of federal legislation affecting taxes on generation-skipping transfers.

Article 1. General Provisions

§ 975.010. Definitions

975.010. Except where the context otherwise requires, as used in this chapter:

(a) "Generation-skipping transfer tax" means a tax imposed by any federal or California generation-skipping transfer tax law, now existing or hereafter enacted.

(b) "Property" means all property on which a generation-skipping transfer tax is imposed.

(c) "Transferee" means any person who receives, who is deemed to receive, or who is the beneficiary of, any property that is subject to a generation-skipping transfer tax.

(d) "Trustee" means any person who is a trustee within the meaning of the federal generation-skipping tax law.

(e) "Value" means fair market value as determined for generation-skipping transfer tax purposes.

Comment. Section 975.010 to 977.050 parallel comparable provisions of Article 4.5 (commencing with Section 970.010) (proration of estate taxes).

§ 975.020. Transitional provision

975.020. (a) This chapter applies to the estate of a decedent who dies on or after January 1, 1987.

(b) No inference as to the applicable law in effect before January 1, 1987, shall be drawn from the enactment of this chapter.

Article 2. Proration

§ 976.010. Proration among transferees

976.010. (a) Except as provided in subdivision (b), any generation-skipping transfer tax, and interest on any deficiency, shall be equitably prorated among the transferees in the manner prescribed in this article.

(b) This section does not apply in any of the following cases:

(1) Where the written instrument that makes the transfer directs otherwise.

(2) Where federal law directs otherwise.

Comment. See Comment to Section 975.010.

CROSS-REFERENCES

Definitions

Generation-skipping transfer tax § 975.010(a)

Transferee § 975.010(c)

§ 976.020. Manner of proration

976.020. The proration required by this article shall be made in the proportion, as near as may be, that the value of the property received by each transferee bears to the total value of all property received by all transferees.

Comment. See Comment to Section 975.010.

CROSS-REFERENCES

Definitions

Property § 975.010(b)

Transferee § 975.010(c)

Value § 975.010(e)

§ 976.030. Allowance for credits and deductions

976.030. In making a proration required by this article, allowances shall be made for credits, exemptions, and deductions allowed for the purpose of determining the tax payable.

Comment. See Comment to Section 975.010.

§ 976.040. Trusts and temporary interests

976.040. If a trust is created, or other provision made whereby a transferee is given an interest in income, or an estate for years, or for life, or other temporary interest in any property or fund, the tax on both the temporary interest and on the remainder thereafter shall be charged against and paid out of the corpus of the property or fund without apportionment between remainders and temporary estates.

Comment. See Comment to Section 975.010.

CROSS-REFERENCES

Definitions

Property § 975.010(b)

Transferee § 975.010(c)

§ 976.050. Where property not in possession of trustee or transferee

976.050. (a) If property does not come into the possession of the trustee or other person required to pay the tax, the trustee or other person is entitled to recover from the person in possession, or from each transferee, the proportionate amount of the tax with which the transferee is chargeable under the provisions of this chapter.

(b) If the trustee or other person required to pay the tax cannot collect from any transferee the amount of tax apportioned to the transferee, the amount not recoverable shall be paid from the residuary estate. To the extent that the residuary estate is not adequate, the balance shall be equitably prorated among the other transferees who are subject to proration.

Comment. See Comment to Section 975.010.

CROSS-REFERENCES

Definitions

Property § 975.010(b)
Transferee § 975.010(c)
Trustee § 975.010(d)

Article 3. Judicial Proceedings

§ 977.010. Who may commence proceedings

977.010. (a) The trustee or any transferee may commence a proceeding to have a court determine the proration pursuant to this article.

(b) Proceedings under this article shall be commenced in the superior court of the county in which the decedent was a resident at the time of death or in the superior court of any county in which the property is situated.

Comment. See Comment to Section 975.010.

CROSS-REFERENCES

Definitions

Transferee § 975.010(c)
Trustee § 975.010(d)

§ 977.020. Petition

977.020. Proceedings under this article shall be commenced by filing a verified petition that sets forth all of the following information:

(a) The jurisdictional facts.

(b) Other facts necessary for the court to determine the proration of the generation-skipping transfer tax.

Comment. See Comment to Section 975.010.

CROSS-REFERENCES

Definition

Generation-skipping transfer tax § 975.010(a)

§ 977.030. Notice of hearing

977.030. At least 10 days before the hearing the petitioner shall:

(a) Cause notice of the hearing and a copy of the petition to be mailed to each transferee against whom prorated amounts may be charged pursuant to subdivision (a) of Section 977.040.

(b) Cause summons and a copy of the petition to be served on each transferee who may be directed to make payment of prorated amounts pursuant to subdivision (b) of Section 977.040.

Comment. See Comment to Section 975.010.

CROSS-REFERENCES

Definition

Transferee § 975.010(c)

§ 977.040. Court order to effectuate proration

977.040. The court, upon making a determination as provided in this article, shall make an order:

(a) Directing the trustee to charge the prorated amounts against the transferees against whom the generation-skipping transfer tax has been prorated insofar as the trustee is in possession of any property or interests of the transferee against whom the charge may be made.

(b) Summarily directing all other transferees against whom the generation-skipping transfer tax has been prorated to make payment of the prorated amounts to the trustee or petitioning transferee.

Comment. See Comment to Section 975.010.

CROSS-REFERENCES

Definitions

Generation-skipping transfer tax § 975.010(a)

Transferee § 975.010(c)

Trustee § 975.010(d)

§ 977.050. Modification of court order

977.050. Upon petition by the trustee or any transferee, the court shall modify an order made pursuant to this article whenever it appears that the amount of generation-skipping transfer tax as actually determined is different from the amount of tax on which the court based the order.

Comment. See Comment to Section 975.010.

CROSS-REFERENCES

Definitions

Generation-skipping transfer tax § 975.010(a)

Transferee § 975.010(c)

Trustee § 975.010(d)

Prob. Code § 980 (amended). Apportionment of debts (heading)

SEC. 4. The heading of Article 5 (commencing with Section 980) of Chapter 15 of Division 3 of the Probate Code is amended to read:

~~Article 5~~ Chapter 15.7. Apportionment of Debts

Comment. This amendment is technical.