



1971

Taxation

University of the Pacific, McGeorge School of Law

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Taxation

Taxation; inheritance, joint tenancy account of husband and wife

Revenue and Taxation Code §13671 (amended).
AB 1268 (Murphy); STATS 1971, Ch 1205

Section 13671 of the Revenue and Taxation Code, relating to inheritance tax liability on joint tenancy bank or savings accounts under a survivorship, is amended by the addition of a provision which applies this section to a husband/wife joint tenancy account.

As amended, when a husband and wife deposit property in a bank or a savings and loan association in their joint names as joint trustees, and where such trust is revocable by either the husband or the wife, and is subject to payment to either or the survivor, then upon the death of the first spouse, such property will be treated in the same manner as any joint tenancy account for purposes of inheritance taxation.

Previously this section did not expressly apply to husband/wife accounts. It provided that when a survivor's right to immediate ownership or possession accrued upon the death of a joint tenant in a bank account, such transfer of ownership is subject to inheritance taxation, except to the extent such survivor can show that some part of the benefits originally belonged to him or that it was not acquired by the survivor from the decedent for less than full consideration. In such exceptional case this amount will not be subject to taxation.

There has been no change to these previous provisions of §13671.

See Generally:

- 1) 3 WITKIN, SUMMARY OF CALIFORNIA LAW, *Taxation* §114 (1960).

Taxation; inheritance tax on life insurance proceeds

Revenue and Taxation Code §13724 (amended).
AB 1731 (Moorhead); STATS 1971, Ch 1420

Section 13724 of the Revenue and Taxation Code is amended to include within the \$50,000 exemption from inheritance tax, the proceeds of an insurance policy payable to a trustee of either an inter-

vivos trust or a trust created under the last will of the insured, except to the extent that the proceeds are used for the benefit of the estate.

COMMENT

The purpose of this amendment is apparently to clarify existing law and to avoid any confusion which may exist by conforming §13724 to §183 of the Probate Code, which provides that the proceeds of an insurance policy when collected by a trustee shall not be subject to inheritance tax to any greater extent than if the proceeds were payable to the beneficiaries of the trust as named beneficiaries of the policy.

Taxation; residence requirement for senior citizens

Revenue and Taxation Code §19502.5 (new).

SB 62 (Marks); STATS 1971, Ch 910

(Effective July 1, 1971)

Section 19502.5 is added to the Revenue and Taxation Code to provide that a claimant shall not lose his residence for purposes of Part 10.5 (Senior Citizens Property Tax Assistance Law), if he or she is temporarily confined to a hospital or medical institution for medical reasons "where the homestead was the principal place of residence of the claimant immediately prior to such confinement."

This section defines "medical institution" as a facility operated by, or licensed by, the United States, one of the several states, a political subdivision of a state, the State Department of Public Health, the State Department of Mental Hygiene, or exempt from such licensure pursuant to subdivision (c) of Section 1415 of the Health and Safety Code.

See Generally:

- 1) 3 WITKIN, SUMMARY OF CALIFORNIA LAW, *Taxation* §130 (7th ed. 1960).

Taxation; common areas in planned developments

Revenue and Taxation Code §2188.5 (new).

AB 1083 (Gonsalves); STATS 1971, Ch 1129

Under the provisions of §2188.5 of the Revenue and Taxation Code, subject to the limitations set forth below, whenever real property has been divided into planned developments (*see* Business and Professions Code §11003 *et seq.*), the interests therein shall be presumed to be the value of the separately owned lot, parcel or area, and such assessment shall reflect such value which includes the following:

1) The assessment attributable to the value of the separately owned lot, parcel or area and the improvements thereon; and

2) The assessment attributable to the share in the common area reserved as an appurtenance of the separately owned lot, parcel or area.

For purposes of this section, "common area" means the land and improvements within a parcel, the beneficial use and enjoyment of which is reserved in whole or in part as an appurtenance either held in common or by shares of stock or membership in an owner's association as defined in Section 11003.1 of the Business and Professions Code.

Section 2188.5 provides that the tax on each separately owned parcel shall constitute a lien solely upon it and upon the proportionate interest in the common area appurtenant thereto.

Tax assessments described in this section will apply only to those planned developments which are located within a single tax code area, in which the separately owned parcels are used for residential purposes by the owner, tenant, lessee, invitee or licensee, and in which the entire beneficial ownership of the common area is reserved as an appurtenance to the separately owned parcels.

Taxation; notice of proposed tax sale

Revenue and Taxation Code §§3365, 3701 (amended).

AB 281 (Cory); STATS 1971, Ch 1121

Section 3365 of the Revenue and Taxation Code, which requires the tax collector to send notice by registered mail to the last assessee of property about to be deeded to the state for unpaid taxes, is amended to provide that the tax collector shall make a reasonable effort to ascertain the address of the last assessee of the tax-sold property. Such an effort shall include, but is not limited to, an examination of the assessment of the property on the rolls beginning with the year of delinquency to and including that of the last equalized roll, an examination of the most recent telephone books in the county in which the tax-sold property is located, and an examination of the telephone book covering the area of the last known address of the last assessee.

Section 3701, which requires the tax collector to send notice of the proposed sale of tax-deeded property, is similarly amended to require the tax collector to make a reasonable effort to ascertain the address of the last assessee of such property.

The failure of the tax collector to make a reasonable effort to ascer-

tain the address of the last assessee as required by either Section 3365 or 3701 shall not effect the validity of the deed to the state nor of the sale.