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Revenue and Taxation

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Revenue and Taxation

Revenue and Taxation; administration--taxpayer relief

Government Code § 15606.5 (new); 15702 (amended); Public Resources Code § 3421 (new); Revenue and Taxation Code §§ 7657.1, 7658.5, 8879, 11408, 12636, 30284, 32257, 38454, 40104, 41098, 43159, 45157, 50112.5 (new)
SB 1898 (Garamendi); 1990 STAT. Ch. 987

Under existing law, if the State Board of Equalization (Board) finds that a person's failure to file a timely tax return or make a payment is due to that person's reasonable reliance¹ on written advice from the Board, the person may be relieved of the taxes and any related penalty or interest.² Chapter 987 adds similar provisions allowing tax relief under several other sections of the Revenue and Taxation Code, including, but not limited to those sections relating to the cigarette tax law,³ the alcoholic beverage tax law,⁴ and the hazardous substances tax law.⁵

TDB

1. *See* CAL. REV. & TAX. CODE § 6596(b)(1)-(4) (West 1987) (specified conditions constituting reasonable reliance).

2. *See id.* §§ 6596 (provisions of the Sales and Use Tax Law providing tax and penalty relief under specified circumstances); 21012 (West Supp. 1990) (similar provisions applicable to Personal Income Tax Law and the Bank and Corporation Tax Law). *See also id.* § 21003 (applicability of section 21012).

3. *See id.* § 30284 (enacted by Chapter 987) (relief provisions of the Cigarette Tax Law).

4. *See id.* § 32257 (enacted by Chapter 987) (similar provisions of the Alcoholic Beverage Tax Law).

5. *See id.* §§ 43159 (enacted by Chapter 987) (similar provisions of the Hazardous Substances Tax Law); 45157 (enacted by Chapter 987) (similar provisions of the Solid Waste Disposal Site Cleanup and Maintenance Fee Law); 50112.5 (enacted by Chapter 987) (similar provisions of the Underground Storage Tank and Maintenance Fee Law); 7657.1 (enacted by Chapter 987) (similar provisions of the Motor Vehicle Fuel License Tax Law); 8879 (enacted by Chapter 987) (similar provisions of the Use Fuel Tax Law); 11408 (enacted by Chapter 987) (similar provisions of the Private Railroad Car Act); 38454 (enacted by Chapter 987) (similar provisions of the Timber Yield Tax Law); 40104 (similar provisions of the Energy Resources Surcharge); 41098 (similar provisions of the Emergency Telephone Users Surcharge).

Revenue and Taxation; property taxation

Revenue and Taxation Code §§ 75.54, 97.35, 276, 1608, 1637, 2922, 3693.1, 3712, 4336, 4337, 4673.1, 4837.5, 4985.2, 5140 (amended).
SB 2791 (Garamendi); 1990 STAT. Ch. 992

DELINQUENCY

Under existing law, delinquent property taxes on the unsecured roll¹ are subject to penalties.² Chapter 992 allows tax collectors³ to recover the delinquent taxes plus penalties, as well as actual costs incurred by the county in bringing suits to recover the delinquent taxes.⁴

Under existing law, penalties, costs, and other charges resulting from the delinquency may be canceled by the tax collector⁵ if certain conditions are met.⁶ Chapter 992 allows the cancellation to be ordered by a local, state, or federal court.⁷

Under existing law, an individual who pays the delinquent property taxes may bring an action to recover the taxes paid.⁸ Chapter 992 requires this action be brought in the superior court.⁹

1. See CAL. REV. & TAX. CODE § 109 (West 1987) (definition of unsecured roll).

2. *Id.* § 2922(a)-(f) (amended by Chapter 992). The penalties include a delinquency penalty of 10%, plus 1.5% per month if taxes remain unpaid. *Id.*

3. See CAL. GOV'T CODE § 27400 (West 1988) (definition of tax collector).

4. CAL. REV. & TAX. CODE § 2922(c) (amended by Chapter 992).

5. *Id.* § 4985.2 (amended by Chapter 992) (the penalties, costs and other charges may also be canceled by an auditor). See *id.* § 22 (West 1987) (definition of auditor).

6. *Id.* § 4985.2 (amended by Chapter 992). The conditions are met if the failure to make a timely payment was due to a reasonable circumstance, or if there was an inadvertent error in the amount of payment. *Id.* § 4985.2(a)-(b) (amended by Chapter 992).

7. *Id.* § 4985.2(c) (amended by Chapter 992).

8. *Id.* § 5140 (amended by Chapter 992).

9. *Id.*

TAX-DEFAULTED PROPERTY

Under existing law, when tax-defaulted property¹⁰ is sold for more than \$5,000, the sale may be made for cash or credit.¹¹ A down payment¹² must be made with the balance being due ninety days after the sale of the property.¹³ Chapter 992 allows the balance to be paid in negotiable paper.¹⁴

Under existing law, when the tax-defaulted property is sold, the deed conveyed to the purchaser is free of all encumbrances existing before the time of sale, with specified exceptions.¹⁵ Chapter 992 creates an additional exception that requires a purchaser to take the property subject to any lien for the installment of taxes and special assessments after the date of the sale of the property.¹⁶

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10. *See id.* § 126 (West 1987) (definition of tax-defaulted property).

11. *Id.* § 3693.1 (amended by Chapter 992).

12. The down payment must be equal to \$5,000 or 10% of the purchase price, whichever is greater. *Id.*

13. *Id.*

14. *Id.* Negotiable paper may be used only when specified by the tax collector. *Id.*

15. *See id.* § 3712(a)-(g) (amended by Chapter 992) (specifying those encumbrances which will be attached to the deed conveyed to the purchaser).

16. *Id.* § 3712(a) (amended by Chapter 992).

Revenue and Taxation; property taxation--filing for welfare exemption

Revenue and Taxation Code § 254.5 (amended).
AB 2654 (Hunter); 1990 STAT. Ch. 718

Under existing law, applications for a welfare exemption from property taxation¹ must be filed on or before March 15 of each year with the appropriate assessor.² The assessor then makes a recommendation to the State Board of Equalization (Board)³ for the approval or denial of the applications.⁴

Existing law also requires that owners of property⁵ granted the welfare exemption refile for the exemption on an annual basis.⁶ Under Chapter 718, owners of property leased to a governmental entity⁷ that has been granted the welfare exemption are excused from the obligation of annually refile for that exemption.⁸

1. See CAL. REV. & TAX. CODE § 214(a) (West Supp. 1990) (providing for a welfare exemption). Property owned by a nonprofit entity which is used exclusively for religious, hospital, or charitable purposes, the net earnings of which are not held on behalf of some private stockholder or individual, are exempt from property taxation. *Id.* See *Cedars of Lebanon Hosp. v. County of Los Angeles*, 35 Cal. 2d 729, 736, 221 P.2d 31, 37-38 (1950) (holding that the term "hospital" refers to a modern hospital facility, not to a facility of only limited capability); CAL. REV. & TAX. CODE § 214.9 (West Supp. 1990) (stating that the term "hospital" includes specific outpatient clinics). See also *Stockton Civic Theatre v. Board of Supervisors*, 66 Cal. 2d 13, 20, 423 P.2d 810, 815, 56 Cal. Rptr. 658, 663 (1967) (holding that the term "charitable" refers to activities which benefit the community as a whole or at least some unascertainable or indefinite portion thereof).

2. CAL. REV. & TAX. CODE § 254.5(a) (amended by Chapter 718). The application must include affidavits and financial statements from the property owners showing that both the owner and the property satisfy the criteria for the welfare exemption. *Id.* See *id.* § 259.5 (West 1987) (specifying the required contents of the affidavit to be filed by the property owner). All provisions of existing law and Chapter 718 discussed in this analysis also apply to the filing requirements for the veteran's organization exemption. *Id.* § 245.5(a) (amended by Chapter 718). See *id.* § 215.1 (West Supp. 1990) (veteran's organization exemption).

3. The assessor must forward the recommendation no later than April 1 of each year. *Id.* § 254.5(a) (amended by Chapter 718). See generally CAL. GOV'T CODE §§ 15600-15625 (West 1980 & Supp. 1990) (powers and duties of the Board).

4. See CAL. REV. & TAX. CODE § 254.5(a)-(b) (amended by Chapter 718) (procedure to be followed by the Board in determining whether a welfare exemption is to be awarded).

5. See *English v. Alameda County*, 70 Cal. App. 3d 226, 240, 138 Cal. Rptr. 634, 643 (1977) (holding that the term "property" encompasses all property rights including possessory interests).

6. CAL. REV. & TAX. CODE § 254 (West Supp. 1990).

7. See *id.* § 231(e) (definition of governmental entity).

8. *Id.* § 254.5(c) (amended by Chapter 718).

Chapter 718 requires those owners who are excused from refileing to notify the assessor if the owner or the property ceases to qualify for the welfare exemption.⁹

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Revenue and Taxation; sales and use taxes-- acquisition sale and leaseback

Revenue and Taxation Code § 6010.65 (new and repealed).
AB 3382 (Baker); 1990 STAT. Ch. 558

Under existing law, a state sales tax¹ or use tax² is imposed upon the sale or use of tangible personal property³ in the state,⁴ unless the property is exempt from these taxes.⁵ Also, under existing law the terms "sale"⁶ and "purchase"⁷ are defined for the purpose of imposing sales and use taxes, and the applicability of these terms is limited to specific events.⁸

Chapter 558 further limits the applicability of the terms "sale" and "purchase."⁹ Under Chapter 558, the terms may not include

9. *Id.* The applicant must notify the assessor of his or her ineligibility by March 15. *Id.*

1. *See* CAL. REV. & TAX. CODE §§ 6051-6094.5 (West 1987 & Supp. 1990) (rules and regulations governing the imposition of a sales tax).

2. *See id.* §§ 6201-6249 (rules and regulations governing the imposition of a use tax).

3. *See id.* §§ 6016, 6016.3, 6016.5 (West 1987) (definition of tangible personal property).

4. *See id.* § 6017 (definition of "in the state").

5. *See id.* §§ 6001-7176 (West 1987 & Supp. 1990) (general provisions of and rules and regulations governing the California Sales and Use Tax Law).

6. *See id.* § 6006 (West Supp. 1990) (definition of sale).

7. *See id.* § 6010 (definition of purchase).

8. *See id.* § 6010.6 (specifying the events which are not to be included as a sale or a purchase for the purposes of imposing sales and use taxes).

9. *See id.* § 6010.65 (enacted by Chapter 558).

any transfer of title to, or any lease of, tangible personal property that is made in an acquisition sale and leaseback.¹⁰

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10. *Id.* § 6010.65(a) (enacted by Chapter 558). *See id.* § 6010.65(a)(1)-(2) (enacted by Chapter 558) (definition of acquisition sale and leaseback). The terms "sale" and "purchase" include, for the purposes of imposing sales and use taxes, the transfer of title to a lessee upon the termination of an acquisition sale and leaseback. *Id.* § 6010.65(b) (enacted by Chapter 558).