

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 237

October 27, 1959

TAX LIENS – EFFECT OF TRUSTEE’S SALE UNDER A DEED OF TRUST ON A JUNIOR TAX LIEN

Syllabus:

A trustee's sale of property under a deed of trust extinguishes a junior tax lien issued under Sections 18882 or 26161 of the Revenue and Taxation Code.

The Franchise Tax Board filed Certificate of Lien under Section 18882 against X and received from the trustee under a deed of trust a Notice of Default and Election to Sell Property owned by the taxpayer.

In the recent case of Wayland v. State, 161 C.A.2d 679, the 3rd District Court of Appeal held that a trustee's sale under CC 2921 extinguished a junior tax lien filed by the Department of Employment and that the purchaser was entitled to quiet title to the property.

Upon receipt of the trustee's Notice of Election to Sell the Franchise Tax Board will (1) ascertain whether the deed of trust is prior to the tax lien; (2) ascertain whether the sale produces a surplus which should be applied to the tax lien.