

REAL ESTATE LAW

Proration of property taxes often misunderstood

Although an important part of the closing process for buying and selling land, property tax prorations are one of the most misunderstood activities that take place at closing. The purpose of this article is to help provide buyers and sellers of land with a better understanding of why and how property taxes are prorated at the closing of a land transaction (this article assumes a title company is involved in the land transaction).

When a buyer purchases land, the buyer should pay property taxes on the land only from the date in which the buyer owns the land. Conversely, the seller should not be responsible for the payment of property taxes on the land after the date in which the land has been conveyed to the buyer.

Therefore, the buyer and seller should prorate, or divide and distribute proportionately, the property taxes at the closing of the land transaction. Accordingly, the buyer and seller generally will provide a provision in their land acquisition contract stating the property taxes will be prorated.

If their land acquisition contract fails to refer to property tax prorations, then the title company could inquire as to whether the buyer and seller want the title company to prorate the property taxes. Typically, the buyer and seller will agree to have the title company prorate the property taxes.

The Texas Tax Code (the "Tax Code") states "the assessor shall mail tax bills by Oct. 1 or as soon thereafter as practicable." The Tax Code goes on to state property taxes are due "on receipt of the tax bill and are delinquent if not paid before Feb. 1 of the year following the year in which imposed."

In other words, payment by Feb. 1, 2008, of a property tax bill mailed on Oct. 1, 2007, essentially is payment for property taxes for the year 2007.

If a buyer and seller are closing a land transaction, before the property tax assessor sends out final property tax notices, the buyer and seller should agree on the date of proration.

the land's property tax rate and valuation from the prior year, estimate the property taxes due on the land being sold.

Subsequently, the title company will prorate that estimate by the amount of days that have gone by in the current year.

That amount of prorated property taxes will be deducted from the seller and credited to the buyer on the closing statement to be signed by both parties.

The buyer will then be responsible for payment of prop-

erty taxes for the entire year.

What if the buyer and seller are closing a land transaction after the property tax assessor has sent out property tax notices (i.e. the closing takes place in November or December)?

In that instance, title compa-

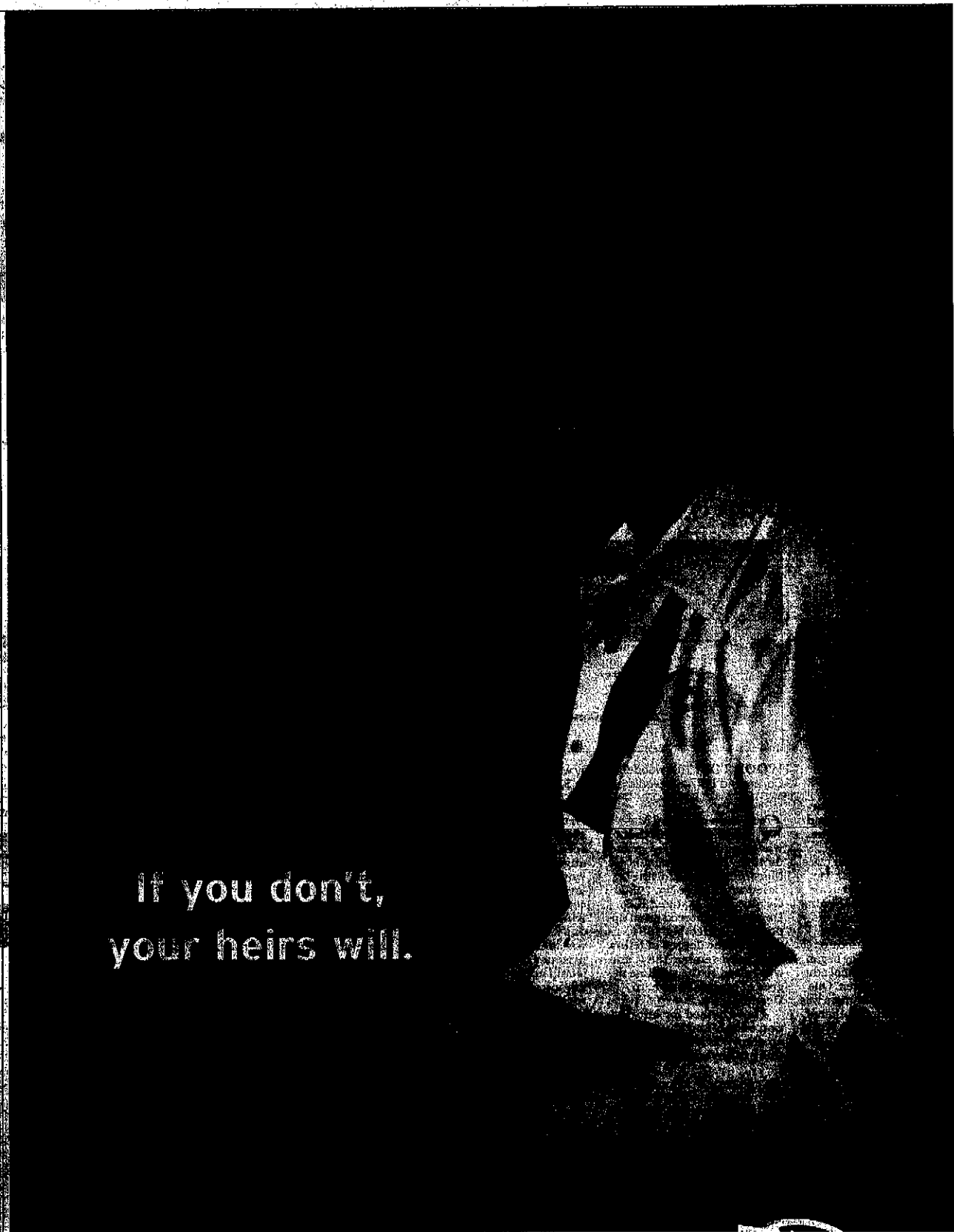
nies may typically charge each party their prorata property tax amount and pay the taxing authorities directly.

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practice focuses on commercial and residential real estate. The information contained in this article is not intended as legal advice but to provide a general understanding of the law. Read with legal problems, including those whose questions are addressed here, should consult attorneys for advice on their particular circumstances.



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If you don't,
your heirs will.

GIMME SHELTER

Use care when borrowing against primary residence

While the off-season may be a terrific time to sell your home, a significant portion of the debt you incur when you borrow against your primary residence...