

REAL ESTATE TAX AND SPECIAL ASSESSMENT COLLECTION
FOR LAND ACQUIRED FOR PUBLIC PURPOSE



RIGHT OF WAY BUREAU

(Revision September 2019)

OUTLINE

	<u>Page</u>
<u>1. Iowa Code Section 427.2. Taxable property acquired through eminent domain</u>	3
<u>2. Varying tax impact for public purpose acquisition and transactions</u>	4
a. Transactions that are not impacted	
b. Transactions that are impacted	
<u>3. Tax collection assistance when land is acquired through negotiated agreement</u>	4
a. Right of way or land purchase agreement language	
b. Purchase agreement copies may be furnished to the treasurer	
c. Treasurer as payee on warrant in payment for property	
d. Notice of surrender of possession	
<u>4. Tax collection assistance when land is acquired through an eminent domain proceeding</u>	5
a. Notice of Condemnation	
b. Treasurer as payee on compensation commission award warrant	
c. Notice of deposit of compensation commission award	
d. Notice of appeal of award of compensation commission	
<u>5. Tax collection assistance when land is sold</u>	6
<u>6. DOT payment of special assessments</u>	7
<u>7. Abatement of taxes</u>	7
<u>8. Transaction Examples</u>	8
<u>Forms</u>	
Purchase Agreement Notification Letter	11
Closing Letter	12
Possession Notification Postcard	13
Notice of Condemnation	14
Condemnation Deposit of Award Letter	16
Application for Payment of Taxes & Special Assessments	17
Order of the District Court	19
<u>Iowa Code Sections</u>	
427.2 Taxable property acquired through eminent domain	21
427.1 Exemptions	22
307.45 State-owned lands - assessment	22
445.63 Abatement of Taxes	22

1. Iowa Code Section 427.2. Taxable property acquired through eminent domain.

When public authorities acquire land for public use or public projects, they are required to assist in the collection of property taxes and special assessments on that land. This makes it easier for taxing authorities to collect real estate taxes payable for the year in which land is acquired. The Iowa Department of Transportation (DOT) and all state agencies, cities, and counties acquiring land through the exercise of the power of eminent domain for public purposes are affected.

Land owners are required to pay real estate taxes on a property acquired by a public authority that become due and payable for the year the land is acquired and adjusted for the period of time that the owner retains possession. As a result, the county treasurer is required to cancel the remainder of the taxes for that year. When part but not all of a property is acquired for public purposes, taxing authorities may collect taxes and special assessments the property owner is obligated to pay from the remaining property. Taxes may also include mobile home taxes.

When a property is acquired in total by a public authority, but the land is worth less than the amount of taxes due, the taxing authorities are required to accept the amount of just compensation paid for the acquisition of the property as full payment. When only part of a property is acquired and the amount of taxes due exceeds the amount paid as just compensation for the acquisition of the property, the taxing authority must collect taxes from the remaining property.

When an entire property is acquired, the property owner is obligated to pay in full all special assessments which have been levied and spread against the property. Levied and spread special assessments are those that have been certified to the county treasurer for collection prior to the acquiring authority's possession date.

Real estate occupied by a public road, and rights of way for established public levees and rights of way for established, open, public drainage improvements are not taxable. Similarly, for so long as the acquiring public authority is the owner of the land, taxing authorities are instructed not to certify any special assessment for collection. There is a provision for the collection of taxes and special assessments when land no longer needed for public purposes is sold. The new owner is obligated to pay property taxes for the year in which the property is purchased. In addition, once the land is sold by the public authority, special assessments may be certified to the county treasurer for collection from the new owner. A special assessment originally levied during public ownership may, upon the sale of the property, be certified to the county treasurer by the assessing authority. It would be prorated on the basis of when the buyer takes possession of the property.

2. Varying tax impact for public purpose acquisitions and transactions.

a. Transactions that are not impacted.

If a public authority acquires only a temporary easement or a temporary right to enter upon land, for example, to install or rehabilitate a street or highway entrance, the work has no impact on the tax parcel's value. The land has the same value both before and after the acquisition of such temporary rights. The acquisition of tenant interests in month-to-month or annual agricultural lease situations similarly have no value or tax impact.

Generally, the acquisition of a small portion of a property does not require any special procedure or assistance in property tax collection. In some cases the cost incurred to compute the amount of tax and special assessment for a small acquisition would equal or exceed the amount of tax sought to be collected. [See Examples A & B] When only a small portion of a property is acquired, both taxes and future installments of a special assessment will be collected from the value of the remaining property, and the remaining property will continue to be security for their payment.

Sometimes a property owner is paid for damages or the cost to cure damages to the remaining property caused by a project. One example is the cost to repair a fence or a driveway. These payments are made to preserve or restore the value of the remaining property and are not intended as compensation for a transfer of land.

b. Transactions that are impacted.

The law does affect the collection of property taxes and special assessments when a property is acquired in total. Likewise, it also has an impact when the acquisition of part of a property for a public road or other public purpose causes a substantial reduction in the value of the remaining property. In these cases, it may be necessary for taxes and special assessments to be collected, if they are to be collected at all, from the proceeds of the acquisition agreement at the time of closing. [See Examples C & D]

3. Tax collection assistance when land is acquired through negotiated agreement.

a. Right of way or land purchase agreement language.

DOT right of way purchase agreements for acquisition of property, either in total or in part, for public road purposes will include the seller's tax payment responsibilities. Sellers agree to pay all liens and assessments against the property including all taxes and special assessments payable to the date of the surrender of possession.

- b. Purchase agreement copies may be furnished to the treasurer.

A copy of the right of way purchase agreement is furnished to the treasurer by the DOT when use of the proceeds may be required for payment of real property taxes and special assessments. A copy is furnished when an entire property is acquired. Also, a copy is furnished when the DOT's acquisition area is over 25% of the total property owned by the Seller (including all contiguous parcels), or when the DOT's acquisition area is under 25%, but includes most of the buildings contributing to the value of the property. A sample notification letter is attached - see Page 11.

A copy of the purchase agreement is not provided if the DOT's acquisition area is under 25% of the total property owned by the Seller. In these cases, unpaid property taxes and special assessments will be collected from the landowner's remaining property.

- c. Treasurer as payee on warrant in payment for property.

Unless a property owner furnishes proof of payment, the county treasurer is named as a payee on warrants to pay for public land acquisitions when a copy of the agreement has been furnished to the treasurer.

- d. Notice of surrender of possession.

The treasurer is furnished notice of the surrender of possession of properties acquired. This notice will generally be either through receipt of a copy of the closing letter with survey plat or graphic exhibit attached or by postcard. A sample closing letter and a sample postcard are attached - see Pages 12 and 13. In these cases, the treasurer has an opportunity to collect the taxes and special assessments in consideration for the treasurer's endorsement of the warrant.

4. Tax collection assistance when land is acquired through an eminent domain proceeding.

Real estate taxes and special assessments may be collected by taxing authorities from the proceeds of compensation commission awards.

- a. Notice of Condemnation.

Taxing authorities are notified of a DOT condemnation action through the service of a "Notice of Condemnation" on the county auditor. If the property is located within a city, the "Notice of Condemnation" is also served on the city clerk. A sample Notice is attached - see Pages 14 and 15.

- b. Treasurer as payee on compensation commission award warrant.

Compensation commission award warrants include the county treasurer as a payee unless the property owner provides proof that taxes and special assessments are paid.

- c. Notice of deposit of compensation commission award.

So that taxing authorities can compute taxes and special assessments due, treasurers are informed when the DOT has the right of possession. A sample notification letter is attached - see Page 16. Taxes and special assessments are due the taxing authority until the acquiring authority has the right to obtain physical possession of property acquired by condemnation. Generally, the acquiring authority has the right to obtain possession when the award is deposited with the sheriff in accord with Iowa Code Section 6B.25. Iowa Code Section 6B.26 applies if an acquired property includes an owner-occupied residence, outbuildings in proximity to the residence, an orchard or garden. In those circumstances the DOT has the right of possession when the damages have finally been determined and paid or after 180 days, whichever is earlier. If a compensation commission award has been deposited with the sheriff and no appeal is taken to the district court, damages have been finally determined and paid.

- d. Notice of appeal of award of compensation commission.

The Special Assistant Attorney General handles appeals from compensation commission awards for the DOT acquisitions. The treasurer may not be a payee on warrants in settlement of cases in appeal unless the taxing authority files an appearance and claim for their payment. Inquiries concerning parcels for which an appeal has been filed should be directed to the Special Assistant Attorney General, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

A template for an "Application for the Payment of Taxes and Special Assessment" and "Order of the District Court" are attached - see Pages 17-20.

5. Tax collection assistance when land is sold.

In some cases, an acquiring authority purchases a total property or a property larger than is actually needed to accomplish the public works project. This generally occurs because of significant damages caused by the project to the remainder of the property.

Iowa Code Section 6B.54(8) requires acquiring agencies to offer to acquire uneconomic remnants or remainders of parcels. The DOT is authorized in Iowa Code Section 306.22 to sell land no longer needed for highways. It also requires that the property sold be listed on the tax rolls and taxed to the purchaser.

Iowa Code Section 427.2 requires county treasurers to cancel all taxes and special assessments certified against a property acquired by the acquiring authority as of the date of possession, and for the period of public ownership. If the property is sold, the new buyer will be responsible for any special assessment levied after the acquiring authority sells the property, and for those levied during public ownership and certified to the county treasurer for collection on a prorated basis. Neither taxes nor special assessments are paid by the acquiring authority during its period of ownership. Once a property is sold, the new buyer will be responsible for tax payments and special assessment responsibilities prorated from the date of the purchase.

Land acquired by the DOT in excess of highway needs is often sold and returned to the tax rolls. The buyer must pay taxes in the same manner as if it were a sale between two private individuals. Taxing authorities are authorized to appraise, assess, and collect taxes from the property sold, for the year in which the property was sold. It is not necessary for taxing authorities to wait 18 months to go through the assessment process before the first taxes are collected on such property. Also, unpaid installment payments for special assessments must be paid. [See Example E]

Inquiries concerning land in excess of highway needs should be directed to Property Management, Right of Way Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

6. DOT payment of special assessments.

Pursuant to Iowa Code Section 427.1, property owned by the state is not taxable. However, state-owned property, other than right of way, is subject to special assessments for public improvements which benefit that property. The property referred to generally consists of maintenance facilities, garages, scale sites, materials storage areas, and property that is not required right of way. See Iowa Code Section 307.45.

7. Abatement of taxes.

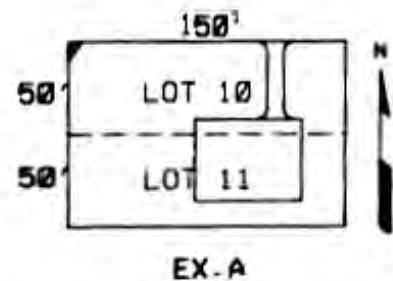
Iowa Code Section 445.63 sets forth the procedure for the disposition of mobile home taxes, regular property taxes and special assessments which were due and payable prior to property being acquired by the state or a political subdivision for public purposes or projects that remain unpaid after the acquisition.

8. **Examples.** The following facts will be used for all examples:

Mr. A owns Lots 10 & 11, Block 1, Any town, Iowa. It is an improved property on which Mr. A claims homestead. It is taxed as one parcel. The assessed value of the land is \$17,500 and the assessed value of the residence is \$55,000. Special assessment for paving is spread. Mr. A has paid the 2019 installment of specials leaving 6 installments unpaid in the total amount of \$3,510. The 2018/2019 real estate taxes payable in 2019/2020 are \$1800 and Mr. A has paid the first installment. The DOT takes possession on October 30, 2019.

Example A: (See Page 4-Transactions that are not impacted)

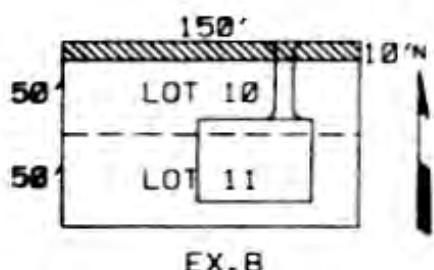
The DOT acquires 200 sq. ft. in the NW Corner of Lot 10 for road purposes. In this example the DOT acquisition is a very small portion of the total property (200 sq. ft./15,000 sq. ft. = 1.333%). Mr. A would pay the total tax installment due in March 2020. In September 2020, Mr. A would pay 4/6ths of the original tax amount due plus 2/6ths of the adjusted tax amount due based on the reduction in value to the remaining parcel. Future statements will be for the reduced parcel.



For the special assessments, no adjustment would be made and Mr. A would continue to pay the annual installments as they become due.

Example B: (See Page 4-Transactions that are not impacted)

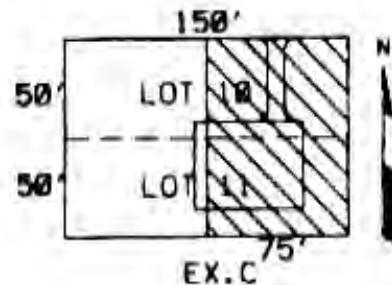
The DOT acquires the North 10 ft. of Lot 10 (1500 sq. ft.), or 10% of the total parcel area (1500/15000) for road purposes. Mr. A would pay the total tax installment due in March 2020. In September 2020, Mr. A would pay 4/6ths of the original tax amount due plus 2/6ths of the adjusted tax amount due based on the reduction in value to the remaining parcel. Future statements will be for the reduced parcel.



For the special assessments, no adjustment would be made and Mr. A would continue to pay the annual installments as they become due.

Example C: (See Page 4-Transactions that are impacted)

The DOT acquires the east half of the total property, including the house, for road purposes. Because the DOT's acquisition area is 50% of the total property, the Treasurer would be named as payee on the DOT's warrant. When Mr. A presents the warrant to the Treasurer for endorsement, the following taxes and specials should be collected:



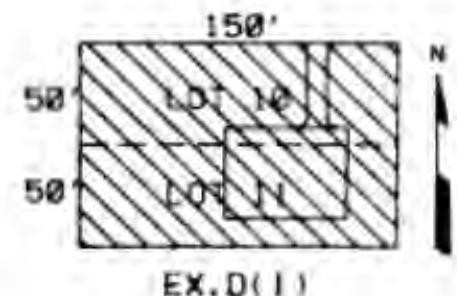
- a. all of the tax installment due in March 2020, and
- b. 4/6ths of the taxes computed to be payable in September 2020, estimated based on the levy currently in effect, and
- c. all installments of specials spread and payable.

Future statements will be for the reduced parcel. No tax statement should be issued for the parcel acquired by the DOT.

Likewise, future special assessments would be levied and spread against the remaining property owned by Mr. A. Any future specials levied and spread against the property acquired by the DOT would be canceled.

Example D: (See Page 4 -Transactions that are impacted)

The DOT acquires the entire parcel. The Treasurer would be named as payee on the DOT's warrant. When Mr. A presents the warrant to the Treasurer, the following taxes and specials should be collected:



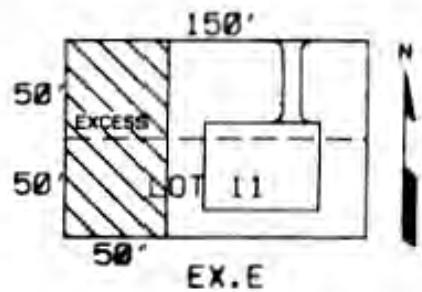
- a. all of the tax installment due in March 2020, and
- b. 4/6ths of the tax computed to be payable in September 2020, estimated based on the levy currently in effect, and
- c. all installments of specials spread and payable.

The Treasurer would then cancel the remaining taxes payable in 2020/2021. Any future taxes would be abated. Until the excess land (if any) has been sold by Patent, real estate taxes are to be canceled.

During the period of time the property is held by the DOT, the taxing authorities shall not certify a special assessment to the Treasurer for collection, and the Treasurer shall cancel any special assessments certified for collection while the land is in public ownership.

Example E: (See Pages 6 & 7 - Tax collection assistance when land is sold)

Excess land acquired by the DOT in Example D is sold to ABC Corp. with possession on 1/15/2021. A special assessment had been levied against said parcel on 4/1/2020 (after the DOT's acquisition) in the total amount of \$2,600, but was not certified to the Treasurer. The prorated amount of 2019/2020 taxes payable in 2020/2021 not paid by Mr. A in Example D should have been canceled by the Treasurer.



The Treasurer receives notice of the sale to ABC Corp. via recorded land Patent in January 2021. At that time there should be no unpaid taxes due; there would be nine installments due on the special assessment. When taxes payable in 2021/2022 are levied and spread on or about July 1, 2021, the Treasurer should cancel 7/12ths and send a revised statement to ABC Corp. for the remaining 5/12ths. The assessing authority may certify the special assessment, prorated on the basis of when the buyer takes possession of the property. In that event, 11/12ths of the special assessment would be certified and the Treasurer would send a statement to ABC Corp. for the installment due July 1, 2020, and payable September 2020.

Form-Purchase Agreement Notification Letter



May 31, 2019

When corresponding, refer to:

Any County
Project: ARCD-123-4(56)7-2R-23
Parcel No. 1

Any County Treasurer
123 Any Street
Anytown, IA 12345

The Iowa Department of Transportation, acting for the State of Iowa, is acquiring real estate from John Public for public road purposes. Enclosed is a copy of the approved and recorded Purchase Agreement. We expect to take possession on or before August 16, 2019.

The seller is to pay all liens and assessments, including taxes payable until surrender of possession. The Any County Treasurer will be named as a joint payee on the State Comptroller's Possession Warrant.

Our Property Management Section will notify you when the Possession Warrant is delivered to the seller and possession is surrendered. You should then collect the taxes and assessments due and owing from the seller pursuant to Iowa Code Section 427.2 when the warrant is presented for your endorsement.

Please contact me if you have any questions.

Sincerely,

Katie A. Johnson, Agent
Fiscal & Title Section
Right of Way Bureau

Enc.
c. Property Owner

515-230-1633

515-239-1247 (fax)

katherine.johnson@iowadot.us

www.iowadot.gov

Address:
800 Lincoln Way, Ames, IA 50010



August 20, 2019

When corresponding, refer to:
Any County
Project: ABCD-123-4(56)7-2R-23
Parcel No. 1

John Public
345 Any Street
Anytown, IA 12345

Dear Mr. Public:

This transaction is considered closed. Your check in the amount of \$1 000.00 was mailed to you on August 12, 2019. The following documents are enclosed:

- **Closing Statement** to be signed, dated and returned in the envelope provided. Only one seller's signature is required. The copy is for your records.
- **Property Owner Survey** to be completed and returned in the envelope provided.

You are responsible for payment of real estate taxes on the property acquired by deed to the State's date of possession. The county taxing authority shall prorate the real estate taxes based on the possession date of August 15, 2019. To avoid late penalties, payments should be made when they are due even though the County may not send a tax statement.

Thank you for your cooperation in this highway improvement project. Please contact me if you have any questions.

Sincerely,

Katie A. Johnson

Katie A. Johnson, Agent
Fiscal & Title Section
Right of Way Bureau

Enc.

c. Any County Treasurer w/plat(s)

515-239-1633

515-233-7850 (fax)

katherine.johnson@iowadot.us

www.iowadot.gov

Address:
800 Lincoln Way, Ames, IA 50010

Form-Possession Notification Postcard

Form 635001
(07-98)

County & Project No. _____

Parcel No. _____

Date of Possession _____

Seller _____

Possession Warrant delivered in person on this date.

Possession Warrant to be mailed directly to payee.

SIGNED _____

SIGNED _____

(File Copy)

Date _____

County & Project No. _____

Parcel No. _____

Date of Possession _____

Seller _____

Possession Warrant delivered in person on this date.

Possession Warrant to be mailed directly to payee.

You should collect the taxes/special assessments due from Seller when the warrant is presented for your endorsement.

SIGNED _____

Iowa DOT Representative

(Treasurer's Copy)

County & Project No. _____

Parcel No. _____

Possession Warrant delivered in person on this date.

Possession Warrant to be mailed directly to payee.

Warrant must be endorsed by all payees before it is cashed.

You are responsible for payment of real estate taxes prorated to _____
Date of Possession _____

The Treasurer will collect the taxes according to State law when the warrant is presented for endorsement.

Signed _____ Date _____
Iowa DOT Representative

(Seller's Copy)

In the Matter of the Condemnation of
Certain Rights in Land
by the Iowa Department of Transportation
for the Improvement of

NOTICE

Primary Road No. IA 123

in the City of Anytown

located in Any County, Iowa

Project No. ABCD-123-4(56)7-2R-23

Group "A"

TO:

John Public, 345 Any Street, Anytown, IA 12345

Jane Public, 345 Any Street, Anytown, IA 12345

Mortgage Company, 12345 Lender Street, Anytown, IA 12345

City of Anytown, Iowa, c/o City Clerk, 100 Main Street, Anytown, IA 12345

Any County, Iowa, c/o County Auditor, 123 Any Street, Anytown, IA 12345

and to all other persons, companies or corporations having any interest in or owning any of the following described real estate: Part of Lot 1, Block 1, Original Town of Anytown, Any County, Iowa.

You, and each of you, are hereby notified that the State of Iowa desires certain rights in land more specifically described as follows and shown with reference to their location as to land affected on the Acquisition Plat Exhibit "A" attached hereto and to the Application filed with the Chief Judge of the Judicial District containing Any County, Iowa, and in the Office of the Sheriff of Any County, Iowa, to which you are referred:

The title in fee simple sought to be appropriated is in land described as follows:

A parcel of land located in Lot 1, Block 1, Original Town of Anytown, Any County, Iowa, as shown on the Acquisition Plat Exhibit "A" attached hereto and by reference made a part hereof.

Said parcel is described as follows:

The North Ten (10) feet of the West Thirty-five (35) feet of Lot 1, Block 1, Original Town of Anytown, Any County, Iowa.

Any County Project No. ABCD-123-4(56)7-2R-23

John Public (Parcel 1)

Continued on next page

Page 1

In connection with this condemnation proceeding it is specifically provided as follows:

1. Any and all improvements, including fences, if any, located wholly within the land sought in fee simple title, are condemned in their entirety.
2. Condemnor hereby gives notice of condemnee's five-year right to renegotiate construction or maintenance damages not apparent at the time of the condemnation as required by the Code of Iowa, Section 6B.52.

Form-Condemnation Deposit of Award Letter



August 20, 2019

When corresponding, refer to:

Any County
Project: ABCD-123-4(56)7-2R-23
Parcel No. 1

Any County Treasurer
123 Any Street
Anytown, IA 12345

Iowa Code 427.2 requires the Iowa Department of Transportation to assist the taxing authority in the collection of property taxes and special assessments. Taxes must be paid on property condemned for highway purposes up to the date of possession of the real estate. The attached plat(s) indicates the area condemned.

To assist you in the collection of these taxes and special assessments, we have included your name as co-payee on the condemnation award warrant.

As you can see by the enclosed copy of our letter to your county sheriff, we have deposited the condemnation award warrant with the sheriff as required by Iowa Code Sec. 6B.25 and may take possession of the land.

If the property condemned includes the landowner's residence, dwelling house, outbuilding(s), orchard or garden, the condemner (Iowa DOT) may not, at this time, have the right of possession in accord with Iowa Code Sec. 6B.26.

Sincerely,

Katie A. Johnson, Agent
Fiscal & Title Section
Right of Way Bureau

Enc.

📞 | 515-239-1633
📠 | 515-233-7859 (fax)

✉️ | katherine.johnson@iowadot.us
🌐 | www.iowadot.gov

📍 | Address:
800 Lincoln Way, Ames, IA 50010

Form-Application for the Payment of Taxes and Special Assessment

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

JOE DOE,

* NO. _____

Plaintiff,

* APPLICATION & CLAIM OF
* COUNTY TREASURER FOR
* PAYMENT OF PROPERTY TAX
* & SPECIAL ASSESSMENTS
* FROM THE AWARD OF
* COMPENSATION TO BE
* ADJUDICATED IN THIS CAUSE.

v.

IOWA DEPARTMENT OF TRANSPORTATION
and _____ COUNTY, IOWA,

Defendants.

*

*

* APPLICATION & CLAIM OF
* COUNTY TREASURER FOR
* PAYMENT OF PROPERTY TAX
* & SPECIAL ASSESSMENTS
* FROM THE AWARD OF
* COMPENSATION TO BE
* ADJUDICATED IN THIS CAUSE.

*

The Claimant, Treasurer of _____ County, Iowa, states as follows:

1. That on the _____ day of _____, 20 __, the _____,
(*Iowa DOT, City or County*)

acquired certain rights in land for road purposes through condemnation proceedings from

the above captioned plaintiff who is the owners or interest holder thereof.

2. The award of the compensation commission was in the sum of _____

Dollars (\$_____) for which sum a warrant has been deposited with the Sheriff of

_____ County, Iowa, on the _____ day of _____, 20 __, made

payable to _____

_____,
Pursuant to Section 6B.26, Code of Iowa, the _____ has the right to
(*Iowa DOT, City or County*)

obtain possession of the property condemned (or will have the right to obtain possession of
the property condemned on the _____ day of _____, 20 __, or on the day

the owner surrenders possession of the property to the _____
(*Iowa DOT, City or County*)

whichever day is earlier).

3. Pursuant to Section 427.2, Code of Iowa, the owner of the property acquired for
road purposes shall pay all property taxes and property special assessments for the
property acquired which are due and payable and also those which will become due and

payable for the fiscal year in which the property is acquired until the _____
(*Iowa DOT, City or County*)
either obtains possession of the property or the right to obtain possession of the property
as authorized by Section 6B.26, Code of Iowa, and such property taxes and special
assessments may be paid from the proceeds of the condemnation award as finally
adjudicated by this Court.

4. Property taxes and special assessments required to be paid are:

WHEREFORE, the Claimant respectfully requests this Court to enter an Order instructing
a warrant be prepared and delivered payable to the Treasurer of _____
County, Iowa, in the amount of \$_____ as full and final payment of all property
taxes and special assessments due and payable on the _____ day of _____,
20____, the day the warrant in payment of the award of the compensation commission was
deposited with the Sheriff (and in the amount of \$_____ for each month
thereafter until the owner of the land acquired surrenders possession of the property to the
_____ or until the _____ has the
(*Iowa DOT, City or County*) (*Iowa DOT, City or County*)
right to obtain possession of the property as authorized by Section 6B.26 of the Code of
Iowa, whichever is earlier).

Treasurer _____ (Type/Print Name)
County, Iowa.

County Attorney, _____ (Type/Print Name)
County, Iowa.

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

JOE DOE,

* NO. _____

Plaintiff,

*

v.

*

IOWA DEPARTMENT OF TRANSPORTATION
and _____ COUNTY, IOWA,

* ORDER FOR PAYMENT OF
* PROPERTY TAX & SPECIAL
* ASSESSMENTS FROM THE
* AWARD OF COMPENSATION
* IN THIS CAUSE.

Defendants.

*

NOW on this _____ day of _____, 20____, the Application and Claim of the
Treasurer of _____ County for the payment of property tax and special
assessments from the award of compensation to be (or as) finally adjudicated in this cause
comes before this Court wherein the Claimant requests the disbursement of a portion of
certain funds now held by the _____ of _____ County in the
(*Sheriff, Clerk of Court, Treasurer*)
above entitled action.

After reviewing this Application and the Court file and hearing statements of counsel,
this Court finds that the award of the compensation commission was in the sum of
\$_____ for which a warrant is presently on deposit with the _____
(*Sheriff, Clerk of Court, Treasurer*)
(or has been deposited with the Treasurer as condemnation funds as required by Section

331.656, Code of Iowa). Plaintiff has made application for an order for disbursement of a
portion of that award to the property owners without prejudice to or effect upon the right of
any of the parties herein as authorized by Section 6B.25, Code of Iowa. This cause has
been duly tried (or The terms and conditions for the settlement of this cause have been
agreed to by the parties and approved by this Court) and the final award of just
compensation has been determined to be \$_____.

The Treasurer of _____ County has made application and claim for the payment of property taxes from the award of compensation in this cause as authorized by Section 427.2, Code of Iowa. This Court finds that the Plaintiff is obligated to pay \$ _____ in property taxes and special assessments for the property acquired and that the same should be and is hereby ordered to be paid to the Treasurer of _____ County from the award of compensation in this cause.

The Court further finds that the _____ of _____ County
(*Sheriff or Clerk of Court*)
should be and is hereby authorized to return the warrant in the amount of \$ _____
to the _____; that the _____ should be and
(*Iowa DOT, City or County*)
is hereby authorized to issue two warrants in lieu thereof in the amounts of \$ _____
and \$ _____ payable to the Treasurer of _____ County and the
_____.
(*condemnees or interest holders*)

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the right to
possession of the property condemned herein on the part of the _____
(*Iowa DOT, City or County*)
shall remain and continue as provided by law.

Judge, _____ Judicial District of Iowa.

Copies to:

IOWA DEPARTMENT OF TRANSPORTATION
800 Lincoln Way
Ames, IA 50010

_____ COUNTY ATTORNEY

Anywhere, IA _____

427.2 Taxable property acquired through eminent domain.

1. Real estate occupied as a public road, and rights-of-way for established public levees and rights-of-way for established, open, public drainage improvements shall not be taxed.

2. When land or rights in land are acquired in connection with or for public use or public purposes, the acquiring authority shall assist in the collection of property taxes and special assessments. However, assistance in the collection of the property taxes does not require the payment of property taxes on the property acquired which exceed the amount of just compensation offered as required by [section 6B.45](#) for the acquisition of the property.

3. The property owner shall pay all property taxes which are due and payable when the property owner surrenders possession of the property acquired and also those which become due and payable for the fiscal year the property is acquired in an amount equal to one-twelfth of the taxes due and payable on the property acquired for the preceding fiscal year multiplied by the number of months in the fiscal year in which the property was acquired which elapsed prior to the month in which the property owner surrenders possession, and including that month if the surrender of possession occurs after the fifteenth day of a month. For purposes of computing the payments, the property owner has surrendered possession of property acquired by eminent domain proceedings when the acquiring authority has the right to obtain possession of the acquired property as authorized by law. When all of the property is acquired for public use or public purposes, the property owner shall pay all special assessments in full which have been certified to the county treasurer for collection before the possession date of the acquiring authority. When part but not all of the property is acquired for public use or public purposes, taxing authorities may collect property taxes and special assessments which the property owner is obligated to pay, in accordance with [chapter 446](#), from that part of the property which is not acquired. The county treasurer shall collect and accept the payment received on property acquired for public use or public purposes as full and final payment of all property tax on the property.

4. For that portion of the prorated year for which the acquiring authority has possession of the property or part of the property acquired in connection with or for public use or public purposes, all taxes shall be canceled by the county treasurer.

5. From the date of possession by the acquiring authority for land or rights in land acquired in connection with or for public use or public purposes, and for as long as ownership is retained by the acquiring authority, a special assessment shall not be certified to the county treasurer for collection while under public ownership. However, the assessment may be certified for collection to the county treasurer upon the sale of the acquired property by the acquiring authority to a new owner on a prorated basis. Special assessments certified to a county treasurer for collection while under public ownership shall be canceled by the county treasurer.

6. Upon sale of the acquired property by the acquiring authority to a new owner, the new owner shall pay all property taxes which become due and payable or would have become due and payable but for the acquisition by the acquiring authority for the fiscal year the property is acquired by the new owner in an amount equal to one-twelfth of the taxes multiplied by the number of months in the fiscal year in which the new owner acquired the property which occurred after the month in which the new owner acquired the property.

[C73, §809; C97, §1344; C24, 27, 31, 35, 39, §6945; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §427.2; [82 Acts, ch 1183, §1](#)]

[86 Acts, ch 1153, §1](#); [87 Acts, ch 40, §1](#); [2016 Acts, ch 1011, §121](#)

427.1 Exemptions.

The following classes of property shall not be taxed:

1. *Federal and state property.*

a. The property of the United States and this state, including state university, university of science and technology, and school lands, except as otherwise provided in [this subsection](#). The exemption herein provided shall not include any real property subject to taxation under any federal statute applicable thereto, but such exemption shall extend to and include all machinery and equipment owned exclusively by the United States or any corporate agency or instrumentality thereof without regard to the manner of the affixation of such machinery and equipment to the land or building upon or in which such property is located, until such time as the Congress of the United States shall expressly authorize the taxation of such machinery and equipment.

307.45 State-owned lands — assessment.

1. Cities and counties may assess the cost of a public improvement against the state when the improvement benefits property owned by the state and under the jurisdiction and control of the department. The director shall pay from the primary road fund the portion of the cost of the improvement which would be legally assessable against the land if privately owned.

2. Assessments against property under the jurisdiction of the department shall be made in the same manner as those made against private property, except that the city or county making the assessment shall cause a copy of the public notice of hearing to be mailed to the director by certified mail.

3. Assessments against property owned by the state and not under the jurisdiction and control of the department shall be made in the same manner as those made against private property and payment shall be subject to authorization by the executive council. There is appropriated from moneys in the general fund not otherwise appropriated an amount necessary to pay the expense authorized by the executive council.

[86 Acts, ch 1244, §40; 91 Acts, ch 268, §511; 2009 Acts, ch 179, §77; 2011 Acts, ch 131, §33, 158; 2015 Acts, ch 123, §13](#)
[Referred to in §212.2, 212.4, 212.4, 264.56](#)

445.63 Abatement of taxes.

When taxes are owing against a parcel owned or claimed by the state or a political subdivision of this state and the taxes were owing before the parcel was acquired by the state or a political subdivision of this state, the county treasurer shall give notice to the appropriate governing body which shall pay the amount of the taxes due. If the governing body fails to immediately pay the taxes due, the board of supervisors shall abate all of the taxes.

[87 Acts, ch 126, §1; 91 Acts, ch 191, §57](#)