

[Senate Bill 434](#) (Allen)

Date: 05/20/15

Program: Property Tax

Sponsor: Los Angeles County Assessor's Office

RTC Sections 5801, 5802, 5826 and Government Code Section 18119

Effective January 1, 2016

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**Summary:** Allows transfers of a manufactured home subject to in-lieu taxation (ILT) to local property taxation (LPT) if the assessor finds that the former manufactured home has been rebuilt to the substantial equivalent of a new residential structure that is no longer transportable.

**Purpose:** To address the tax loophole resulting from the dismantling of a manufactured home (except for the original steel chassis) and building a home on-site that surrounds the chassis to maintain ILT.

**Fiscal Impact Summary:** Potential revenue gain if the Department of Housing and Community (HCD) grants building permits allowing this type of construction in the future.

**Existing Law:** The Constitution<sup>1</sup> authorizes the Legislature, with a 2/3 vote of each house, to classify personal property for differential taxation. The Legislature has exercised this authority with respect to manufactured homes, taxing them under different methods as discussed below.

**Tax Method.** California law imposes an annual tax on manufactured homes (MHs). The MHs are subject to either (1) the LPT<sup>2</sup> administered by the county assessor or (2) an ILT<sup>3</sup> in the form of a license fee<sup>4</sup> administered by HCD.<sup>5</sup>

All MHs first sold new after July 1980 are subject to LPT. MHs first sold new before July 1, 1980 are subject to ILT unless (1) the owner requests voluntary conversion to LPT, (2) the owner's license fees were delinquent between 1980 and 1984, or (3) the owner installed the MH on a permanent foundation.

The difference in tax liability between the two tax methods can be significant.

- The LPT tax rate is 1% of a MHs assessed value. The assessed value is reset to current value any time the MH is sold. For example, a MH valued at \$50,000 results in a tax bill of about \$500.
- The ILT tax rate is 0.65% of the pre-1980 MH value depreciated according to a statutory schedule and usually totals between \$16 and \$80.

**Improvements.** The law requires a MH owner to obtain a [building permit](#) from HCD, rather than the local building department, for any alteration to the MH's structural, fire safety, electrical, plumbing or mechanical components. The [permitting process](#) applies irrespective of the way the MH is taxed.

Under LPT, the law<sup>6</sup> requires that improvements made to a MH that qualify as new construction be added to the MH assessment as of the completion date. Under ILT, no change in tax basis occurs due to improvements.

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<sup>1</sup> Section 2 of Article XIII of the California Constitution.

<sup>2</sup> Revenue and Taxation Code Section 5801.

<sup>3</sup> Health and Safety Code Section 18115 and 18116.

<sup>4</sup> Prior to Vehicle License Fee (VLF) through the Department of Motor Vehicles (DMV).

<sup>5</sup> Health and Safety Code Section 18075.5.

<sup>6</sup> RTC 5802(a)

## Proposed Law:

This bill authorizes the assessor to transfer an ILT MH to LPT when the assessor finds that the prior MH at the site has been rebuilt to the substantial equivalent of a new residential structure and deems that the MH is no longer transportable in one or more sections.<sup>7</sup> The assessor must notify the assessee, legal owner, and HCD of this finding. Once notified, HCD must transfer the ILT manufactured home to LPT.

**Assessment.** The bill requires the assessor to assign a base year value for the new residential structure equivalent to its value as new construction on the completion date.<sup>8</sup> The value of the new construction would be subject to supplemental assessment.

**Prospective Application.** These provisions are limited to new residential structures first constructed on or after January 1, 2016.

**In General** The laws regarding MH taxation have evolved to reflect the changing role of MH's from primarily vehicles to primarily stationary housing. Since major MH taxation legislation was enacted in 1979 and 1980, new MHs are treated very much like conventional homes with respect to property tax liability. Over time, most MHs occupied as residences will be subject to LPT rather than ILT. However, those pre-existing MHs were allowed to continue under the prior taxation structure. For these homes, the prior vehicle license fee rate structure and depreciation schedules remain unchanged today.

MHs first sold new on or after July 1, 1980 are subject to LPT. Except as noted below, MHs first sold new prior to July 1, 1980 are subject to ILT. MHs (i.e., resales) that are sold continue to be taxed under the tax system that applied to the MH before the sale (ILT or LPT). MHs are generally classified as personal property, but special provisions in law provide the Proposition 13 benefits that real property receives (i.e., base year values, change in ownership exclusions, and base year value transfers, etc.).

### Pre-1980 MH Exceptions:

- **Voluntary Conversion.** A MH owner can voluntarily convert from ILT to LPT. Once an owner makes this election, the MH cannot revert back to ILT. Most often, a MH owner converts from ILT to LPT to help market the pending sale of their MH. By switching to LPT prior to the sale, the new buyer does not incur sales tax liability associated with the purchase of MH.
- **License Fee Delinquency.** At one time, license fee payment delinquency triggered transfer to LPT. This is no longer the case. Since 1986, the law makes the Franchise Tax Board (FTB) responsible for collecting delinquent MH-related license fees. Specifically, MHs subject to ILT with lapsed registration for 120 days or more between July 1, 1980 and October 1, 1984, and for which reinstatement to the ILT system was not requested by December 31, 1986, were automatically subject to the LPT.
- **Permanent Foundation.** Installing a MH on a permanent foundation system pursuant to Health and Safety Code 18551, which outlines a precise administrative procedure, affixes the MH to land and requires a real property classification.<sup>9</sup> These MHs are no longer subject to the special provisions of Part 13 "Taxation of Manufactured Homes" (RTC Sections 5800-5842).

**Registration and Titling.** The law<sup>10</sup> requires annual registration and license fees if a MH is subject to ILT. For MHs subject to LPT, the law requires registration fees only at the time of original registration and upon any subsequent sale, resale, or transfer of title. Since January 1, 1981, HCD assumed responsibility for MH registration and titling. Previously the DMV performed this function, but to better promote MHs as affordable housing the state agency was changed to HCD. The agency's Division of Codes and

<sup>7</sup> Proposed RTC 5826

<sup>8</sup> RTC 5802 (e)

<sup>9</sup> RTC 5801(b)(1))

<sup>10</sup> Health and Safety Code Sections 18114 – 18119

Standards administers numerous programs related to MHs. Related to this bill, the Registration and Titling Program maintains title and registration records, collects fees and taxes on MHs, and issues and approves building permits. This program offers online registration renewal, online title search/escrow notice, and other online transactions which can be accessed on HCD's web site at [www.hcd.ca.gov](http://www.hcd.ca.gov).

### Commentary:

1. **Emerging trend designed to avoid tax increase.** Los Angeles County Assessor's Office noticed a practice in certain mobilehome parks located in high land value areas, whereby a MH subject to the ILT would be torn down and replaced with a newly built conventional home surrounding the original steel chassis in a contrived fashion. While investigating this issue, the assessor discovered that these new homes could not be assessed in the same manner as any other new manufactured home placed on the site. There was no authority to assess the home while it remained subject to ILT. Additionally, HCD had no authority to remove the home from ILT. As a result, these new homes are being taxed as if they are still a fully depreciated traditional mobile home that is more than 35 years old. These owners pay annual taxes of under \$20, thereby avoiding thousands of dollars per year in property tax that any other new MH on the site would incur.
2. **This bill is consistent with the legislative directive that all new MHs are subject to the LPT.** By taking advantage of an irregularity associated with issuance of a building permit, the owners were able to keep the new home grandfathered under ILT intended for pre-1980 MHs. The law requires a building permit from HCD if any alterations are made to the structure of a manufactured home. Apparently, some HCD field offices had been approving building permits for these full teardowns, provided the original chassis was left in place. HCD acknowledges that issuing building permits for an entirely new structure under the umbrella of an "alteration" to a pre-existing structure was an improper aberration that since has been corrected.
3. **Bill corrects inequity among park residents with new homes located in MH parks.** Park residents without the resources to build an on-site structure in a conventional manner must purchase a traditional MH from a dealer to replace their prior MH. These residents cannot avoid the LPT.
4. **Proposed authority to remove a MH from ILT is narrow.** The assessor must find the home has been completely rebuilt to the substantive equivalent of a new residential structure that is no longer transportable. After making this determination, the assessor would notify HCD, which would in turn remove the former MH from the ILT. By specifying that the assessor "may" transfer the home, this bill allows the assessor discretion to allow the home to stay on ILT on a case-by-case basis.
5. **"Residential Structure."** The bill uses the phrase "residential structure" rather than "manufactured home" to better reflect that these replacement homes are not manufactured homes.
6. **Prospective Application.** This bill only affects newly constructed homes completed on or after January 1, 2016. Thus, homeowners who took advantage of the prior situation will remain eligible to retain ILT at their current level. This bill allows taxing authorities to address similar situations in the future by authorizing the assessor to transfer entirely new homes to the LPT and assess the property as new construction. To address the inequities created without impacting current homeowners, the Legislature may wish to amend the bill to include provisions to transfer these homes to LPT after any sale to a new owner.
7. **The Legislature has the discretion to determine the method to tax personal property, such as manufactured homes.** Previously, the Legislature directed that MHs be transferred to the LPT whenever the owner was tax delinquent. Likewise, this bill directs that MHs be transferred to the LPT whenever the specified conditions are met.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

**Administrative Costs:** The BOE would incur absorbable costs to update publications to reflect the new law and address any implementation questions.

**Revenue Impact:** This bill is estimated to have minimal impact because its changes are only prospective and HCD indicates that its administrative practices were revised to no longer approve these building permits.