(916) 445-6414

February 27, 1985

Honorable Malcolm A. Nicolson
Yolo County Assessor
625 Court Street, Room 104
Woodland, California 95696

Supplemental Assessments On Homes
Repossessed By The DVA

Dear Mr. Nicolson:

This letter is in response to Verne Walton's request that we advise you concerning the responsibility of the Department of Veterans Affairs to pay supplemental assessments on homes it has repossessed.

When a qualified veteran selects a home, the department purchases the home and enters into a long-term installment contract of sale with the veteran. (Military and Veterans Code, Section 987.50 et. seq.) The contract provides that the veteran pays sums to the department for property taxes and insurance and these charges are then paid by the department on the veteran's behalf. An issue has arisen concerning the liability of the department to pay property taxes on a home which it has repossessed. The department has assumed responsibility for taxes on the regular 601 assessment role, but refuses to pay supplemental assessments triggered by a repossession. The department's position is that as a state agency, it is not legally bound to pay any property taxes; the responsibility which it assumes for taxes on the regular assessment roll is voluntary and it wants no further responsibility for supplemental assessments. You ask this office to define the law and responsibilities regarding payment of supplemental assessments in this situation.

Article XIII, Section 3(a), of the State Constitution provides that property belonging to the State is exempt from taxation. When property is sold to a veteran by the Department of Veterans Affairs under an installment contract, the department holds legal title to the property as security until the purchase price has been paid in full, but the beneficial interest in the property has passed to the veteran in possession; therefore, the property is not exempt from taxation. (Eisley v. Mohan, 31 Cal. 2d 637 (1948).) Thus, when a veteran enters into a contract with the department, there is a change of ownership and the veteran is liable

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for property taxes. (Eisley v. Mohan, supra; Revenue and Taxation Code, Section 60.) If a veteran fails to make installment payments or otherwise breaches the contract, the department may cancel the contract, force a forfeiture, and repossess the property. (Military and Veterans Code, Section 987.77.) At that time, the department again becomes the owner of the property. Unless the department voluntarily agrees to pay taxes, the property is exempt.

If you have any questions or wish to discuss this further, please contact me.

Very truly yours,

Michele F. Hicks
Tax Counsel

MFH:mw

cc: Mr. Howell Y. Jackson
Chief Attorney, Dept. of Veterans Affairs

Mr. Verne Walton