



STATE OF CALIFORNIA

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August 2, 1999

Attorney At Law
By Facsimilie:

Re: Change in Ownership-Open Space Property Restricted and Non-Restricted

Dear Mr. Redacted:

This is in further response to your phone request on July 14, 1999 concerning the valuation of open space properties restricted under Williamson Act contracts pursuant to Cal. Constitution Art. XIII, Section 8, and unrestricted properties (not under contract) under Art. XIII A (Proposition 13) upon a transfer resulting in change in ownership. As hereinafter explained, the assessor **does** process any change in ownership on such a restricted property and calculate its new base year value, but the assessor does not enroll that value or the subsequent factored base year values until the contract is cancelled.¹ (Assessor's Handbook 521, Part II, pages 1-6 and 44-50.)

Revenue and Taxation Code Section 52 (a) requires that all property which is enforceably restricted pursuant to Art. XIII, Section 8 (Williamson Act contract) must be valued pursuant to Revenue and Taxation Code Section 421 et seq. Section 423 states the factors to be considered in the valuation and provides for an optional method of placing a ceiling upon the value to be enrolled. Under the limitations of subdivision (d), **unless a party to the contract expressly prohibits such a valuation**, the current section 423 value cannot exceed the lesser of (1) the current fair market value calculated pursuant to section 110; or (2) the base year of factored base year value calculated pursuant to section 110.1 as if the property was not subject to an enforceable restriction in the base year. We are not aware of any county in which this valuation comparison is prohibition.

Therefore, in practice, county assessors are tracking the base year value of enforceably restricted properties, annually comparing the base year or factored base year value of each such property with the property's restricted and current market values, and enrolling the lowest of the three as the taxable value. The following example illustrates typical value calculations for a property where the land and vines are under contract:

¹ Typically, the new base year value and subsequent factored base year values are greater than the restricted value.

Factored Base Year Values (Section 110.1)

Land:	\$100,000
Vines	\$200,000
Non-living Improvements*	\$75,000

Total	\$375,000
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Current Market Values (Section 110)

Land:	\$200,000
Vines	\$300,000
Non-living Improvements	\$125,000

Total	\$625,000
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Restricted Value (Section 423 capitalization of income method)

Land:	\$50,000
Vines (restricted under contract)	\$75,000
Non-living Improvements*	\$75,000

Total	\$200,000
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*(In this scenario the non-living improvements are not restricted under contract; therefore, the correct value for the non-living improvements to be included with the restricted land value and restricted improvements value for purposes of determining the total “restricted value” is the lower of factored base year value or current market value - - - see AH 521, Part II, pages 44-50.)

Since the total restricted value is the lowest of the above three values, this is the value to be enrolled as the “taxable value.” Each year the assessor goes through the above calculations in order to determine the correct value to enroll. If a property changes ownership, then the assessor will determine the fair market value of the property at that time and this will become the new base year value for the property for purposes of the above calculations for the lien date following the change in ownership.

Supplemental Assessment

Since however, supplemental assessment procedures do not apply to enforceably restricted property – see Section 75.14 – there is no supplemental assessment levied against the portion of the property that is restricted upon a change in ownership. On the other hand, the non-restricted portion of the property will receive a supplemental assessment. If the property in the

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above example changes ownership, the land and vines would not receive a supplemental assessment, although there would be a supplemental assessment in the amount of \$50,000 levied against the non-living improvements (\$125,000 current market value less \$75,000 enrolled value).

By comparison, if the property were not enforceably restricted, there would be a supplemental assessment in the amount of \$250,000 upon the change in ownership (\$625,000 current market value less the \$375,000 factored base year value that would have been enrolled absent an enforceable restriction on the property).

The views expressed in this letter are advisory only; they represent the analysis of the Legal staff of the Board based on present law and facts set forth herein, and are not binding upon any person or public entity.

Very Truly Yours,

/s/Kristine Cazadd

Kristine Cazadd
Senior Tax Counsel

KEC:lg
property/precedent/restric/99/02kec

cc: Mr. Richard Johnson MIC: 63
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Annotation – Change in Ownership

220.40000 Open Space Property

The assessor must process any change in ownership of open space property under Williamson Act contract and calculate its new base year value, but does not enroll that value or the subsequent factored base year values until the contract is cancelled; therefore, no supplemental assessments are issued. As to non-restricted portions of the property (e.g., structures, nonliving improvements), a new base year value is enrolled and supplemental assessments are levied based upon the date of the change in ownership. **C 8/2/99**