

QUESTIONS AND ANSWERS PERTAINING TO  
POSSESSORY INTEREST APPRAISALS

1. QUESTION: Do concessionaires, who have contracts with public schools, community colleges, state colleges, and state universities and who provide food service to students on school properties have taxable possessory interests?

ANSWER: Historically, the Board has taken the position that concessionaires providing food service, i.e., restaurants, cafeterias, vending facilities, and on-campus catering to public schools, have taxable possessory interests. However, property used exclusively for public schools, community colleges, state colleges, and state universities is exempt from property taxation under Article XIII, Section 3(d) of the Constitution. Because of several recent court decisions, we now conclude that property used by concessionaires exclusively for providing food service to public schools, etc., is eligible for that exemption.

2. QUESTION: Are nongovernment-owned improvements located on tax-exempt, government-owned lands subject to reappraisal under Revenue and Taxation Code Section 61(b) when possessory interests in the lands are created, renewed, subleased, or assigned?

ANSWER: Under Section 61(b), a change of ownership requiring reappraisal occurs upon the creation, renewal, sublease, or assignment of a taxable possessory interest in tax-exempt real property. Where improvements are privately owned and do not revert to the government, only the possessory interests in the lands are to be reappraised.

3. QUESTION: Do tenants of government-owned, "low-income housing" projects have taxable possessory interests?

ANSWER: No. The courts have determined that no taxable possessory interests exist in the use of government-owned housing by low-income persons residing therein.

4. QUESTION: Do blind vendors who operate vending facilities in public buildings have taxable possessory interests?

ANSWER: In our opinion no taxable possessory interests exist in the use of public buildings by blind vendors who operate the vending facilities. The legal interest granted is a mere license to operate a vending facility, and in Mattson v. County of Contra Costa (1968), 258 Cal. App. 2d 205, the Court implied that a mere license is not a possessory interest.