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No. 84/33

March 16, 1984

TO COUNTY ASSESSORS:

QUESTIONS AND ANSWERS REGARDING SUPPLEMENTAL ASSESSMENTS

Here is the third letter in our series on supplemental assessments under Senate Bill 813 and Assembly Bill 399.

Sincerely,

Verne Walton, Chief
Assessment Standards Division

VW:wpc
AL-04B-0631A

Question 1: What is the period for filing an appeal of the supplemental assessment?

Answer 1: The appeal must be filed within 60 days of the date that the supplemental assessment notice was mailed. If the sixtieth day falls on a Saturday, Sunday or legal holiday, the assessee has until the next business day to file.

Question 2: Subdivision (c) of Section 75.31 requires the assessor to notify the assessee of the right to appeal the supplemental assessment. When an appeal is filed, is the assessee appealing the supplemental assessment or the new base-year value?

Answer 2: The new base-year value is the subject of appeal. The assessee may not appeal on the basis that the taxable value is too low and, therefore, the supplemental assessment is too large.

Question 3: If the assessee fails to file an appeal within the 60-day period, what recourse is available?

Answer 3: The assessee may appeal during the next regular filing period for assessment appeals (i.e., July 2, through September 15). As in item two, the value being appealed is the new base-year value. Should a reduction in value be won, it would be effective only for the regular roll, and no refund would be due for payment of supplemental taxes since a timely appeal of the supplemental assessment (i.e., within 60 days of the notice) was not filed.

Example

A property transfers on April 15, 1984 generating two supplemental assessments - one for 1983-84 and one for 1984-85. A notice of supplemental assessment is mailed June 1, 1984. The assessee may appeal the supplemental assessment (i.e. new base year value) within 60 days of June 1, 1984. If the assessee does not file a timely appeal of the supplemental assessment, the new base year value may be appealed between July 2, and August 15, 1985. This is because the new base year value is enrolled on the regular roll for the first time on March 1, 1985. The value as of March 1, 1985 will also reflect the inflationary index since the property transferred between March 1 and June 30.

Question 4: If a supplemental assessment appeal is timely filed and the appeal heard, can the assessee file another appeal during the regular filing period?

Answer 4: The assessee cannot appeal the base-year value again since the value established as a result of the original appeal is conclusively presumed to be the base-year value. However, the assessee may file an appeal based on the contention that the property's current full cash value is less than the taxable value (i.e. the base-year value appropriately factored).

Question 5: What should happen when a property owner fails to respond to a change in ownership statement within 45 days from the date of a written request pursuant to Section 480 et seq.?

Answer 5: Section 482(a) in the Revenue and Taxtion Code states:

"482. (a) If a person or legal entity required to file a statement described in Section 480 fails to do so within 45 days from the date of a written request by the assessor, a penalty of either: (1) one hundred dollars (\$100), or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property or mobilehome, whichever is greater, but not to exceed two thousand five hundred dollars (\$2,500) if such failure to file was not willful, shall, except as otherwise provided in this section, be added to the assessment made on the roll. The penalty shall apply for failure to file a complete change in ownership statement notwithstanding the fact that the assessor determines that no change in ownership has occurred as defined in Chapter 2 (commencing with Section 60) of Part 0.5 of Division 1. The penalty may also be applied if after a request the transferee files an incomplete statement and does not supply the missing information upon a second request."

As this indicates, the property is to be reappraised and a penalty of 10 percent of the taxes, or one hundred dollars, whichever is greater is to be applied. The new base-year value would be established and a supplemental assessment would be enrolled. As the section indicates, the penalty applies even if you later determine that no change in ownership occurred. If after enrollment, you find out that no change in ownership occurred, you should correct the supplemental roll under Section 4831; and, if the taxes have been paid, a refund should be granted under Section 5096. However, no refund of the penalty would be made.

Question 6: Section 75.12(b)(3) requires the application of the penalty of the amount specified in Section 482 when the owner fails to notify the assessor of: (1) an unrecorded change in ownership, (2) the property being rented or leased, or (3) the property being occupied and the occupancy of the property is other than as a model home or incidental to an offer for a change in ownership. Would this penalty be placed on the supplemental roll or the regular roll?

Answer 6: The penalty would be enrolled on the regular roll in the name of the applicant for the exemption. The supplemental assessment would, of course, be placed on the supplemental roll and should be billed to the new owner.

Question7: When a property that transfers between March 1, 1983 and July 1, 1983 (the effective date of the legislation) has new construction, a swimming pool for example, completed after July 1, 1983, how should the supplemental assessment be handled?

Answer 7: In this case, the triggering event is the completion of new construction. The "new base-year value" of the newly constructed property (i.e., swimming pool) would be subject to supplemental assessment (Section 75.10). Since the new construction was completed after June 1 (in this instance after July 1 which was the effective date of the legislation) and before the succeeding March 1, there will be only one supplemental assessment for the new construction alone. The supplemental assessment amount is the value added by the new construction. The language in Section 75.11 is being amended to clarify the method of calculating supplemental assessments.

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