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TO COUNTY ASSESSORS:

CHAPTER 1222, STATUTES OF 1994
(SENATE BILL 1431)

The Board's housekeeping bill, Senate Bill 1431, was signed by the Governor (Chapter 1222 of the Statutes of 1994) and will become effective on January 1, 1995. Since it amended multiple sections of the Revenue and Taxation Code (all statutory references are to the Revenue and Taxation Code unless otherwise indicated), we will discuss each section separately.

SECTION 69.5 - OVER 55/DISABLED PERSONS EXCLUSION

Under the provisions of Section 69.5, subdivision (e), a base year value transfer is not allowed unless the transfer of the original property is a change in ownership which either (1) subjects the property to reappraisal at its current fair market value or (2) results in a base year value determined in accordance with Section 69.5 or Section 69. Thus, if those two conditions are not met, then the seller(s) of the original property would be precluded from transferring the base year value to their replacement dwelling.

The amendment to Section 69.5 adds a reference to Section 69.3 to the second condition. Claimants for the Section 69.5 relief can now qualify if this original property is being used as a replacement property under Section 69.3.

This legislation amended paragraph 2 of Section 69.5, subdivision (e) (changes denoted by italics), relating to the sale of the original property, to read:

"This section shall not apply unless the transfer of the original property is a change in ownership which either (1) subjects that property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803 or (2) results in a base year value determined in accordance with this section, Section 69, *or Section 69.3* because the property qualifies under this section, Section 69, *or Section 69.3* as a replacement dwelling *or property.*"

For example, a flood destroyed C's original property. C purchases a qualifying replacement property in another county from B and transfers the base year value from the original property under Section 69.3. B wishes to transfer the base year value under Section 69.5 (C's replacement property under Section 69.3 is B's original property under Section 69.5). B is eligible to transfer

the base year value of his original property because its new base year value is determined in accordance with Section 69.3.

SECTION 480 - CHANGE IN OWNERSHIP STATEMENTS

Section 480 provides generally that a change in ownership statement be filed within 45 days of a change in ownership. In the case of death, if the decedent's property is subject to probate, then the personal representative of the decedent shall file a change in ownership statement at the time the inventory and appraisal is filed with the clerk. Where the decedent's property is not subject to probate, the general filing period of 45 days after the date of death is applicable. However, existing laws are not specific with respect to the change in ownership filing requirements of property held in trust.

Since probated estates normally take at least a minimum of about five months to file an inventory and appraisal with the court clerk (the process includes filing a change in ownership statement), Section 480 was amended to allow a similar period (150 days) for all other decedent's property other than those that are part of a probated estate.

The amendments to Section 480 focused on three areas:

1. Requires a trustee to file a change in ownership statement upon the death of a trust beneficiary with the county recorder or assessor in each county where the trust owned real property. This statement must be filed within 150 days after the death of the beneficiary.
2. Requires that where a change in ownership of an interest in real property occurs by reason of death, the person entitled to succeed to that interest shall, within 150 days after the date of death, file a change in ownership statement with the county recorder or assessor in each county where the real property is located.
3. Requires that a change in ownership statement must be filed at the time the inventory and appraisal is filed with the courts in cases of probate.

Section 480, subdivision (b) was amended to read:

"The personal representative shall file a change in ownership statement with the county recorder or assessor in each county in which the decedent owned real property at the time of death that is subject to probate proceedings. The statement shall be filed prior to or at the time the inventory and appraisal is filed with the court clerk. In all other cases in which an interest in real property is transferred by reason of death, including a transfer through the medium of a trust, the change in ownership statement or statements shall be filed by the trustee (if the property was held in trust) or the transferee with the county recorder or assessor in each county in which the decedent owned an interest in real property within 150 days after the date of death."

These provisions apply to changes of ownership resulting from deaths for which change in ownership statements have not been filed, regardless of when the death occurred. Arguments have been made that this chapter was intended to be prospective only, i.e., for all changes in ownership occurring on or after January 1, 1995. However, Section 480(b) provides that "the change in ownership statement shall be filed by the trustee...within 150 days after the date of death." (Emphasis added.) The Legislature could have easily provided for a commencement date in Section 480(b) but did not.

Please note that Section 482 penalties for violation of this law cannot be applied unless the assessor sends a written request for a change in ownership statement.

In addition, Chapter 1200 of the Statutes of 1994 (Senate Bill 469) amended Section 480, subdivision (h) to add a reference to limited liability companies. In the case of a limited liability company, the change in ownership statement must be signed by an officer, partner, manager, or an employee or agent who has been designated by that limited liability company.

SECTION 2188.11 - SEPARATE ASSESSMENTS

Sections 2188.3 through 2188.10 provide for separate assessment of various types of property. Section 2188.11 was added to provide a cross reference to Section 2801. This addition was designed to make the Revenue and Taxation Code more user friendly by providing guidance in the location of provisions relating to the separate assessment of undivided interests. This section has no substantive effect; it simply informs the reader that the provisions for the assessment of undivided interests may be found at Section 2801, and following.

SECTION 5802 - MANUFACTURED HOMES

The amendment to Section 5802 establishes the basis for determining the base year value of a manufactured home converted from taxation under the vehicle license fee to local property taxation.

Subdivisions (c) and (d) were renumbered to (d) and (e), respectively. New subdivision (c) was added and reads:

"The base year value of a manufactured home converted pursuant to Section 18119 of the Health and Safety Code from taxation under Part 5 (commencing with Section 10701) of Division 2 to taxation under this part shall be its full cash value on the lien date for the fiscal year in which that manufactured home is first enrolled."

Health and Safety Code Section 18119 provides that the Department of Housing and Community Development shall transfer a manufactured home which is subject to the vehicle license fee to local property taxation upon a request for the transfer by the manufactured home owner. However, previously property tax law was silent with respect to the basis for establishing a base year value for a manufactured home converted from the vehicle license fee to local property tax.

In Letter to Assessors 83/128 (dated December 6, 1983), the Board advised that the base year value for manufactured homes converted to local property taxation is its fair market value on the ensuing lien date.

Section 5802 as amended reaffirms that advice to provide that the base year value of a manufactured home converted from taxation under the vehicle license fee shall be its full cash value on the lien date for the fiscal year in which that manufactured home is first enrolled. For example, if a manufactured home was converted to local property taxation in September 1994, it would be first enrolled on July 1, 1995, for the 1995-96 fiscal year. The base year value to be enrolled would be its full cash value as of March 1, 1995.

If a manufactured home changes ownership between the date of the conversion and the date the value is enrolled, it would still be first enrolled on the ensuing July 1 following the conversion. No supplemental assessments would be issued for the change in ownership since the manufactured home is not yet on the roll. Even if the change in ownership occurred between March 1 and June 1, no supplemental assessments would be issued since the manufactured home is not yet enrolled. Any change in ownership after the enrollment on July 1 would trigger appropriate supplemental assessment(s).

In addition, the word, "mobilehomes," in Sections 61, subdivision (c), and 75.5 was changed to "manufactured homes."

OTHER CHANGES

Amendments to the following sections are discussed in recently-issued letters to assessors:

- Section 63.1 (parent/child exclusion): Letter to Assessors 94/59 (October 20, 1994)
- Sections 75.21, 273.5, and 276 (exemptions): Letter to Assessors 94/63 (November 16, 1994)
- Section 38204 and Government Code Section 51142 (Timber): Letter to Assessors 94/65 (November 22, 1994)

Amendments to Section 69.3 (intercounty transfers of base year value for single family residences damaged or destroyed in a Governor-declared disaster) and Section 170 (reconstruction, repair, and restoration of damaged property) will be discussed in separate upcoming letters to assessors.

Chapter 1222 also eliminated provisions that are ineffective as a result of court decisions. Section 32, nonsubversive declarations, was declared unconstitutional in 1958 (*Speiser v. Randall*, 357 U.S. 513). Section 107.4, possessory interests, was declared unconstitutional in 1977 (*Lucas v. Monterey*, 65 Cal.App.3d 947).