



**STATE BOARD OF EQUALIZATION**

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BURTON W. OLIVER  
Executive Director

No. 95/42

TO COUNTY ASSESSORS:

**Transfer of Personal Property Assessment to Unsecured Roll**

Chapter 229 of the Statutes of 1994 (Senate Bill 1662, Greene) among other things amended Section 2189 of the Revenue and Taxation Code. The effective date of the amendment is January 1, 1995. As amended, Section 2189 now reads:

"(a) A tax on personal property is a lien on any real property on the secured roll also belonging to the owner of the personal property, if the personal property is located upon that real property on the lien date, and if the fact of the lien is shown on the secured roll opposite the description of the real property. However, if that real property is transferred or conveyed to a bona fide purchaser for value after the lien date, but prior to the date upon which that assessment on the personal property is made, and the purchaser of that property did not own, claim, possess, or control the personal property at any time from the lien date until the date upon which the assessment was made, the taxes on the personal property shall be placed on the unsecured roll and shall not be a lien on the real property.

(b) Any failure or omission to show the fact of a lien as described in subdivision (a) for personal property taxes on the secured roll opposite the description of real property shall not operate to invalidate those personal property taxes, but in that case the tax shall be collected in the same manner as taxes on the unsecured roll. However, if the fact of lien is erroneously entered on the secured roll opposite the description of real property belonging to someone other than the owner of the personal property on the lien date, then the delinquency penalty provided for in Chapter 4 of Part 5 shall not attach until December 10 at 5 p.m. or, if December 10th falls on Saturday, Sunday, or a holiday at 5 p.m. on the next business day."

Under existing law, when an assessee owns both personal property and the real property upon which the personal property is located, the assessor can secure the personal property assessment to the real property parcel. The assessor can also secure the assessment of personal property located at another location that is not owned by the assessee to real property in the same county owned by the assessee under certain conditions (Section 2188.1).

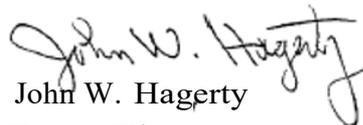
As a result of this practice, situations can occur where a person who purchases real property to which a personal property assessment was secured can become liable for the taxes due on the personal property even though the new owner never acquired the personal property. Normally, when the sale of real property occurs after the assessment roll is completed, the escrow company would discover the personal property tax assessment and would prorate property taxes appropriately during escrow. However, when the real property, to which a personal property assessment was attached on March 1, sells after March 1 but before the assessment roll is delivered, the escrow company and the new owner are unaware of a pending personal property assessment.

When taxpayers affected by this situation receive their regular tax bill in November, they then discover they are liable for taxes on property they never owned. This window period creates a situation where the purchaser of the real property is liable for the personal property assessments on property the purchaser never owned, claimed, possessed, or controlled, nor did the person have any lawful means of discovering the existence of the assessment since the assessment roll was not completed at the time the property was purchased.

Previously, there was no provision in the law authorizing an assessor or appeals board to either cancel the personal property assessment or transfer the assessment to the owner of the personal property on the lien date. Although these personal property assessments were valid when made, it is inequitable to the new owners of the real property to be saddled with a prior owner's personal property assessment. This amendment provides the authority for the assessor to transfer the secured personal property assessment to the unsecured roll in the name of the assessee on the lien date.

If you have any questions concerning this amendment, please contact our Business Property Technical Services Section at (916) 445-4982.

Sincerely,



John W. Hagerty  
Deputy Director  
Property Taxes Department

JWH:kmc