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March 14, 2002

No. 2002/014

TO COUNTY ASSESSORS:

STATUTE OF LIMITATIONS
FOR SUPPLEMENTAL AND ESCAPE ASSESSMENTS

Revenue and Taxation Code sections 75.11 and 532 were amended by the Legislature in 2001. Senate Bill 1181 (Chapter 407 of the Statutes of 2001) amended section 75.11¹ to revise the statute of limitations for supplemental assessments, and Senate Bill 1184 (Chapter 613 of the Statutes of 2001) amended section 532 to revise the statute of limitations for escape assessments. Specifically, these bills:

- Revise the limitations periods for assessments that are subject to penalty for willful concealment of tangible personal property from six years to eight years for both supplemental assessments and escape assessments.
- Revise the commencement date of the four-year and eight-year supplemental limitation periods to July 1 of the assessment year in which the event occurred.
- Add the phrase “or change in control” for technical precision with respect to the unlimited period for making an escape assessment for changes in control of legal entities for which no change in ownership statement is filed.

These changes became effective on January 1, 2002.

SUPPLEMENTAL ASSESSMENTS

A supplemental assessment is the difference between a new base year value established for a change in ownership or completion of new construction and the taxable value on the assessment roll. Depending on the time of year in which the event occurs, either one or two supplemental assessments may be generated for that event: one for the current roll (prorated for the portion of the year remaining after the event date), and one for the roll being prepared (for events that occur between January 1 and May 31).

Effective January 1, 2002, Chapter 407 increases from six years to eight years the limitations period in subparagraph (d)(2) of section 75.11 for supplemental assessments that are subject to the section 504 penalty (willful concealment of tangible personal property). In addition, Chapter

¹ All statutory references are to the Revenue and Taxation Code unless otherwise noted.

407 changes the commencement date of the limitations period contained in subparagraphs (d)(1) and (d)(2) of section 75.11 from July 1 of the assessment year in which a change in ownership statement or a preliminary change of ownership report was filed, to July 1 of the assessment year in which the event occurred. With this change, the commencement date of the limitation periods contained in subparagraphs (d)(1), (d)(2), and (d)(3) now coincide.

“Assessment year” is defined in section 118 as the period beginning with a lien date and ending immediately prior to the succeeding lien date. Under current law, since the lien date is January 1, the assessment year is synonymous with the calendar year. Under the new law regarding supplemental assessments, “July 1 of the assessment year in which the event giving rise to the supplemental assessment occurred” is, for example, July 1, 1998, for reappraisable changes in ownership and completed new construction that occurred in 1998. In this example, supplemental assessments that are subject to the four-year limitations period of subparagraph (d)(1) must be enrolled² by July 1, 2002, to be valid.

ESCAPE ASSESSMENTS

An escape assessment is a retroactive assessment intended to rectify an omission or error that caused taxable property to be underassessed (or not assessed at all). In most cases, once such an omission or error occurs, the property escapes assessment *each year* thereafter until the underassessment is discovered and corrected. If property escapes assessment, the assessor is required to value the property upon discovery for the appropriate valuation date, enroll the appropriate value on the roll being prepared, process any necessary corrections to the current roll, and process appropriate escape assessments for prior years within the statute of limitations.

Chapter 613 increases from six years to eight years the limitations period in subparagraph (b)(1) of section 532 for escape assessments that are subject to the section 504 penalty (willful concealment of tangible personal property). Chapter 613 also amends subparagraph (b)(3) of section 532 to provide that the unlimited period also applies to changes in control of legal entities for which a change in ownership statement (COS), as required by section 480.1 or 480.2, was not filed.

Effective January 1, 2002, an escape assessment for a change in ownership of real property may be made within four years after July 1 of the assessment year in which the property escaped taxation or was underassessed, with the following exceptions:

- Any assessment to which the penalty provided for in section 504 is added must be made within *eight years* after July 1 of the assessment year in which the property escaped taxation or was underassessed.
- Any escape assessment resulting from an unrecorded change in ownership for which either a COS required by section 480 or a preliminary change in ownership report (PCOR) required by section 480.3 is not filed must be made within *eight years* after July 1 of the assessment year in which the property escaped taxation or was underassessed.³

² See Letters To Assessors No. 94/32 and No. 94/46 regarding enrollment of an assessment.

³ The limitations period related to such escape assessments was not changed by the 2001 amendments to section 532.

If property has escaped taxation, in whole or in part, or has been underassessed following a change in ownership or change in control and either the section 503 (fraud) penalty is added or a COS, as required by sections 480.1 or 480.2, was not filed,⁴ then escape assessments may be made for *every year* in which the property escaped taxation or was underassessed. However, pursuant to the statement of legislative intent contained in Chapter 1141 of the Statutes of 1981, no escape assessments may be levied prior to the 1982-83 fiscal year.

The periods open under the statute of limitations for escape assessments are different than the limitations period open for supplemental assessments. Supplemental assessment limitations periods are counted forward from July 1 of the assessment year in which the event occurred; the escape assessment limitations period is counted back from the date of enrollment. Once a property is underassessed or escapes assessment, it escapes assessment *each year* until the underassessment is discovered and enrolled.

For example, if a new barn was completed in April 1997 and was not assessed until it was discovered by the assessor in January 2002, the assessor is limited to the four-year statute of limitations on escape assessments of subdivision (a) of section 532. Supplemental assessments are barred under section 75.11, because such assessments, under subparagraph (d)(1) of section 75.11, had to be enrolled by July 1, 2001 to be valid. Accordingly, the assessor should:

1. Enroll the appropriate value on the roll being prepared (2002-03). This does not count as year one of the limitations period because the roll has not yet been turned over to the auditor; thus, no escape assessment will be issued. The regular tax bill will reflect the increased assessment.
2. Correct and process an escape assessment for the current roll (2001-02); this is year one of the limitations period.
3. Process escape assessments for prior years within the statute of limitations (2000-01, 1999-2000, and 1998-99 — years two, three, and four of the limitations period). Under subdivision (a) of section 532, the 1998-99 escape assessment would have to be made by July 1, 2002.

CONCLUSION

Effective January 1, 2002, the four- and eight-year **supplemental assessment** limitation periods commence with July 1 of the assessment year in which the event occurred. The statute of limitations for supplemental assessments is *four years*, with the following exceptions:

- Eight years if the penalty provided for in section 504 is added to the assessment.
- Eight years where the change in ownership was not recorded and a COS under section 480 or a PCOR under section 480.3 was not timely filed.

⁴ Assessors should contact the Board's Legal Entity Ownership Program (LEOP) to verify whether a legal entity has filed a COS after a written request from the Board.

- An unlimited period in cases of fraud as defined in section 503.⁵

Effective January 1, 2002, the limitation periods for **escape assessments** are:

- Four years if any document evidencing a change in ownership is recorded, regardless of whether a COS or PCOR is filed.
- Eight years if the penalty provided for in section 504 is added to the assessment.
- Eight years if a COS under section 480 or a PCOR under section 480.3 is not timely filed and no document evidencing a change in ownership is recorded.
- No limitations period in cases of fraud under section 503.
- No limitations period in cases of a change in ownership or change in control involving property owned by a legal entity, if a COS required by either section 480.1 or section 480.2 has not been filed.

Enclosed is a copy of the revised sections 75.11 and 532 with the changes denoted by strikeout/underline. If you have any questions regarding supplemental or escape assessments, please contact our Real Property Technical Services Unit at (916) 445-4982.

Sincerely,

/ s / David J. Gau

David J. Gau
Deputy Director
Property Taxes Department

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Enclosure

⁵ Section 503 provides for a penalty if any taxpayer or the taxpayer's agent through a fraudulent act or omission causes, or if any fraudulent collusion between the taxpayer or the taxpayer's agent and the assessor or any of the assessor's deputies causes, any taxable tangible property to escape assessment in whole or in part, or to be underassessed.

**REVENUE AND TAXATION CODE SECTIONS 75.11 AND 532,
AS AMENDED BY CHAPTERS 407 AND 613 OF THE STATUTES OF 2001
Effective January 1, 2002**

Section 75.11 of the Revenue and Taxation Code is amended to read:

75.11. (a) If the change in ownership occurs or the new construction is completed on or after January 1 but on or before May 31, then there shall be two supplemental assessments placed on the supplemental roll. The first supplemental assessment shall be the difference between the new base year value and the taxable value on the current roll. In the case of a change in ownership of the full interest in the real property, the second supplemental assessment shall be the difference between the new base year value and the taxable value to be enrolled on the roll being prepared. If the change in ownership is of only a partial interest in the real property, the second supplemental assessment shall be the difference between the sum of the new base year value of the portion transferred plus the taxable value on the roll being prepared of the remainder of the property and the taxable value on the roll being prepared of the whole property. For new construction, the second supplemental assessment shall be the value change due to the new construction.

(b) If the change in ownership occurs or the new construction is completed on or after June 1 but before the succeeding January 1, then the supplemental assessment placed on the supplemental roll shall be the difference between the new base year value and the taxable value on the current roll.

(c) If there are multiple changes in ownership or multiple completions of new construction, or both, with respect to the same real property during the same assessment year, then there shall be a net supplemental assessment placed on the supplemental roll, in addition to the assessment pursuant to subdivision (a) or (b). The net supplemental assessment shall be the most recent new base year value less the sum of (1) the previous entry or entries placed on the supplemental roll computed pursuant to subdivision (a) or (b), and (2) the corresponding taxable value on the current roll or the taxable value to be entered on the roll being prepared, or both, depending on the date or dates the change of ownership occurs or new construction is completed as specified in subdivisions (a) and (b).

(d) No supplemental assessment authorized by this section shall be valid, or have any force or effect, unless it is placed on the supplemental roll on or before the applicable date specified in paragraph (1), (2), or (3), as follows:

(1) The fourth July 1 following the July 1 of the assessment year in which ~~either a statement reporting the change in ownership was filed pursuant to Section 480, 480.1, or 480.2, a preliminary change in ownership report was filed pursuant to Section 480.3, or the new construction was completed~~ the event giving rise to the supplemental assessment occurred.

(2) The ~~sixth~~ eighth July 1 following the July 1 of the assessment year in which ~~either a statement reporting the change in ownership was filed pursuant to Section 480, 480.1, or 480.2, a preliminary change in ownership report was filed pursuant to Section 480.3, or the new construction was completed,~~ the event giving rise to the supplemental assessment occurred, if the penalty provided for in Section 504 is added to the assessment.

(3) The eighth July 1 following the July 1 of the assessment year in which the event giving rise to the supplemental assessment occurred, if the change in ownership or change in control

was unrecorded and a change in ownership statement required by Section 480 or preliminary change in ownership report, as required by Section 480.3, was not timely filed.

(4) Notwithstanding paragraphs (1), (2), and (3), there shall be no limitations period on making a supplemental assessment, if the penalty provided for in Section 503 is added to the assessment.

For the purposes of this subdivision, “assessment year” means the period beginning annually as of 12:01 a.m. on the first day of January and ending immediately prior to the succeeding first day of January.

(e) If, before the expiration of the applicable period specified in subdivision (d) for making a supplemental assessment, the taxpayer and the assessor agree in writing to extend the period for making a supplemental assessment, correction, or claim for refund, a supplemental assessment may be made at any time prior to the expiration of that extended period. The extended period may be further extended by successive written agreements entered into prior to the expiration of the most recent extension.

Section 532 of the Revenue and Taxation Code is amended to read:

532. (a) Except as provided in subdivision (b), any assessment made pursuant to either Article 3 (commencing with Section 501) or this article shall be made within four years after July 1 of the assessment year in which the property escaped taxation or was underassessed.

(b) (1) Any assessment to which the penalty provided for in Section 504 must be added shall be made within ~~six~~ eight years after July 1 of the assessment year in which the property escaped taxation or was underassessed.

(2) Any assessment resulting from an unrecorded change in ownership or change in control for which either a change in ownership statement, as required by Section 480 or a preliminary change in ownership report, as required by Section 480.3, is not filed with respect to the event giving rise to the escape assessment or underassessment shall be made within eight years after July 1 of the assessment year in which the property escaped taxation or was underassessed. For purposes of this paragraph, an “unrecorded change in ownership or change in control” means a deed or other document evidencing a change in ownership that was not filed with the county recorder’s office at the time the event took place.

(3) Notwithstanding paragraphs (1) and (2), in the case where property has escaped taxation, in whole or in part, or has been underassessed, following a change in ownership or change in control and either the penalty provided for in Section 503 must be added or a change in ownership statement, as required by Section 480.1 or 480.2 was not filed with respect to the event giving rise to the escape assessment or underassessment, an escape assessment shall be made for each year in which the property escaped taxation or was underassessed.

(c) For purposes of this section, “assessment year” means the period defined in Section 118.