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TO COUNTY ASSESSORS

MANUFACTURED HOMES: AMNESTY PROGRAM

Effective January 1, 2017, Assembly Bill 587¹ created a tax abatement program for owners of manufactured homes who cannot transfer title into their names due to delinquent taxes and fees incurred by prior owners. Related to assessors, this bill adds subdivision (f) to Revenue and Taxation Code² section 5832 regarding owners of record of manufactured homes.

Manufactured homes purchased new prior to July 1, 1980 are not subject to local property tax, but rather to an in lieu vehicle license fee (VLF) paid annually to the California Department of Housing and Community Development (HCD). Manufactured homes purchased new on or after July 1, 1980 are subject to property tax.³ Prior to transferring title of a manufactured home, a buyer of a manufactured home subject to property tax must obtain a tax clearance certificate from the county tax collector indicating that all property taxes have been paid. Regardless of whether a manufactured home is on the VLF system or property tax system, if a buyer cannot pay or the seller refuses to pay delinquent fees or taxes, HCD is prevented from transferring title of the manufactured home. As a result, some buyers are in a situation where they paid for their manufactured home, but have no meaningful proof of ownership, leaving the HCD, the county tax collector, and the county assessor without up-to-date ownership information for the manufactured home.

Section 5832 creates an abatement program to address the situation where a buyer has already purchased a manufactured home but is unable to transfer title into his or her name due to delinquent fees or taxes incurred by a prior owner. The three-year abatement program will reduce specified past due taxes and fees by capping the amount owed by the buyer and waiving penalties and interest. Past due taxes, penalties, and fees accumulated prior to the transfer are still owed by the prior owner/seller. This program should encourage owners of manufactured homes with outdated title to apply to transfer title into their names, thereby updating state and county records to ensure accurate VLF and property tax billing in the future. To be issued a conditional transfer of title of a manufactured home, a person must apply to the HCD and complete the process prior to December 31, 2019.

Information regarding HCD's Registration and Titling program is available from the HCD website at www.hcd.ca.gov/manufactured-mobile-home/registration-titling/index.shtml.

¹ Stats. 2016, ch. 396.

² All statutory references are to the Revenue and Taxation Code, unless otherwise provided.

³ Section 5801(b)(1).

Upon issuance of a tax clearance or liability certificate, the applicant will be listed as the owner of record for property tax purposes. The tax collector must notify the assessor of the change. Once the assessor is notified of the change in ownership, the assessor should establish a base year value for the manufactured home as of the date of change in ownership pursuant to section 5812. Due to the new amnesty program that requires the forgiveness of taxes for prior tax years, it will be necessary for the assessor to coordinate with the county auditor and the county tax collector to help in administering this program. While base year values will be based on the date of sale, it appears the owner will only be responsible for one year of prior taxes.

Specifically, the statute provides that the county tax collector will issue a tax liability certificate if the applicant pays the taxes reasonably owed from the date of sale as shown on the conditional transfer of title, without penalties or interest, and not to exceed the amounts attributable one year prior to January 1, 2017.⁴ The county tax collector will require assessor assistance to determine the amount of taxes applicants must pay before issuing the *Tax Liability Certificate* so that the applicant can obtain title to the manufactured home. The new law specifies that the associated forgiveness of taxes, penalties, and interest incurred prior to the date of sale to the applicant serves a public purpose.

Enclosed are questions and answers provided by the State Controller's Office regarding the manufactured homes amnesty program. Any questions about these questions and answers should be directed to the State Controller's office. Also enclosed is a copy of section 5832 with changes represented by italics. If you have any questions regarding these provisions, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ Dean R. Kinnee

Dean R. Kinnee
Deputy Director
Property Tax Department

DRK:sk
Enclosures

⁴ Section 5832(f)(1).

MANUFACTURED HOMES AMNESTY PROGRAM QUESTIONS AND ANSWERS

Effective January 1, 2017

The following questions and answers were provided by the State Controller's Office who has oversight for the administration of the manufactured homes amnesty program for the county tax collectors.

1. What is the definition of "reasonably owed" as used in Revenue and Taxation Code section 5832(f)(1)?

While the term "reasonably owed" is not specifically defined in the statute, it appears to be in reference to the amount due pursuant to the statute in lieu of the actual amount due. In other words, for purposes of section 5832(f)(1), the taxes "reasonably owed" are the taxes owed from the date of sale shown on the conditional transfer of title without penalties or interest, and not to exceed the amounts attributable to one year prior to January 1, 2017.

2. Is the "amounts attributable to one year prior to January 1, 2017" as used in section 5832(f)(1) a fiscal year or a calendar year?

"One year" in this case is the 2016 calendar year (January 1, 2016 – December 31, 2016).

3. What can the tax collector collect?

The tax collector can only collect the applicable taxes in an amount no greater than that owed one year prior to January 1, 2017.

4. Should the remaining delinquent taxes, penalties, and interest accrued from the date of sale to the date of the application be canceled from the tax roll?

Pursuant to section 5832, the tax collector must issue a *Tax Liability Certificate* if the taxes reasonably owed from the date of sale as shown on the conditional transfer of title, without penalties or interest, and not to exceed the amounts attributable one year prior to January 1, 2017, are paid. Any remaining delinquent taxes, penalties, and interest from the date of sale and the date of the application are abated. Note that per section 5832(f)(3), the prior owner remains liable for all amounts due prior to the date of sale (and the tax collector may pursue them).

5. If an applicant pays the required "one year" of taxes and is issued a Tax Liability Certificate on January 1, 2018, when would the applicant become responsible for property taxes again?

The new owner (or applicant) would become responsible for property taxes immediately. Section 5832(f) provides an abatement prior to January 1, 2016. It does not provide an abatement going forward. In this example, the owner would be responsible for any taxes from January 1, 2018 (the date of issuance of the *Tax Liability Certificate*) going forward.

Effective January 1, 2017, section 5832 of the Revenue and Taxation Code is amended to read:

5832. (a) (1) Upon application, the county tax collector shall issue a tax clearance certificate or a conditional tax clearance certificate.

(2) Any tax clearance certificate issued shall be used to permit registration of used manufactured homes and for any other purposes that may be prescribed by the Controller. The certificate may indicate that the county tax collector finds that no local property tax is due or is likely to become due, or that any applicable local property taxes have been paid or are to be paid in a manner not requiring the withholding of registration or the transfer of registration.

(3) Any conditional tax clearance certificate issued shall indicate that the county tax collector finds that a tax liability exists, the amount due, and the final date that amount may be paid before a further tax liability is incurred. The certificate shall be in any form that the Controller may prescribe, and shall be executed, issued, and accepted for clearance of registration or permit issuance on the conditions which the Controller may prescribe.

(b) Within five working days of receipt of the written demand for a conditional tax clearance certificate or tax clearance certificate, the county tax collector shall forward the conditional tax clearance certificate or tax clearance certificate, showing no tax liability exists, to the requesting escrow officer. In the event the final due date of the tax clearance certificate or conditional tax clearance certificate expires within 30 days of the date of its issuance, an additional conditional tax clearance certificate or tax clearance certificate shall be completed, which has a final due date of at least 30 days beyond the date of issuance. The tax collector shall not charge a fee for the issuance of a certificate unless a previously issued tax clearance certificate or conditional tax clearance certificate expires prior to the date upon which title transfers. The fee for the issuance of a subsequent certificate with respect to that manufactured home shall be an amount equal to the actual costs of preparing and processing that certificate.

(c) If the tax collector fails to comply with the demand within 30 days from the date the demand is mailed, the escrow officer may close the escrow in accordance with the provisions of subdivision (m) of Section 18035 of the Health and Safety Code.

(d) Notwithstanding any provisions of law requiring the tax collector to issue a tax clearance certificate or conditional tax clearance certificate within a specified period of time, when an escrow information demand is made pursuant to Section 18035 of the Health and Safety Code for a manufactured home that has not been enrolled in the county, the tax collector shall be afforded the number of working days necessary for the assessor to determine the value of the manufactured home and for the auditor to extend tax liability.

(e) The issuance, alteration, forgery, or use of any tax clearance certificate or conditional certificate in a manner contrary to the requirements of the Controller constitutes a misdemeanor.

(f) (1) Prior to January 1, 2020, a person with a conditional transfer of title as described in subparagraph (A) of paragraph (4) of subdivision (d) of Section 18116.1 of the Health and Safety Code may apply to the tax collector to issue either a tax liability or tax clearance certificate. The county tax collector shall issue a tax liability certificate if the person pays the taxes reasonably owed from the date of sale as shown on the conditional transfer of title, without penalties or interest, and not to exceed the amounts attributable one year prior to January 1, 2017.

(2) Upon issuance of a tax clearance or liability certificate, the applicant shall be listed as the owner of record for all local property tax purposes and the home shall not be subject to lien or seizure based on any taxes, penalties, or interest as noted on the certificate issued pursuant to paragraph (1). The tax collector shall notify the assessor and other county agencies of the change.

(3) This subdivision does not relieve any owner other than the applicant from tax liability, including penalties and interest, arising from nonpayment prior to the date of sale, or prohibit a county tax collector from collecting delinquent taxes, penalties, or interest due prior to the date of sale, from any owner other than the applicant.

Section 7 of AB 587 includes a Legislative finding and declaration that the abatement of taxes, penalties, and interest incurred prior to the date of sale of a mobilehome or manufactured home to an applicant, as described in this act, serves a public purpose and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.