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TO COUNTY ASSESSORS:

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No. 99/87

INDIVIDUAL TRANSFERS IN RESIDENT-OWNED MOBILEHOME PARKS
QUESTIONS AND ANSWERS

To provide current guidance from staff about the assessment implications of transfers of individual interests in resident-owned mobilehome parks, this letter will present questions and answers relating to:

- (1) The exclusion from change in ownership for mobilehome parks transferred to tenant-owned entities.
- (2) Upon subsequent transfers by individual resident-owners, the valuation of both the mobilehomes themselves and the accompanying pro rata interests in the mobilehome parks.
- (3) The calculation of supplemental assessments upon such transfers by individual resident-owners.
- (4) The application of certain provisions for base-year value transfers.

QUESTIONS AND ANSWERS

TRANSFERS OF MOBILEHOME PARKS TO TENANT-OWNED ENTITIES

1. Question: Under what conditions is a transfer of a mobilehome park to the tenants of the park excluded from change in ownership?

Answer: Sections 62.1 and 62.2¹ create three sets of change in ownership exclusions with respect to transfers of mobilehome parks, as follows:

Transfers to Tenant-Owned Entities

Subdivision (a) of section 62.1 excludes from change in ownership a transfer of a mobilehome park to an entity formed by the tenants of the park, and requires that the individual tenants who were renting at least 51 percent of the spaces in the mobilehome park prior to the transfer participate in the transaction through the aggregate ownership of at least 51 percent of the voting stock of, or other ownership or membership interests in, the entity which acquires the park.²

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

² For transfers on or after January 1, 1998, the exclusion is available notwithstanding that the entity failed to initially attain the required tenant participation level. In such cases, the entity has a "grace period" of up to one year after the date of the transfer to attain the required participation level. Further, if an individual tenant notifies the county assessor of the intention to comply with the required tenant participation level conditions, then the park may not be reappraised during the grace period.

Additionally, transfers from that entity to the individual lot owners (e.g., to complete a condominium plan) are excluded.

Transfers of Individual Rental Spaces to Tenants

Subdivision (b) of section 62.1 provides a separate exclusion for the transfer of rental spaces in a mobilehome park to the individual tenants of the rental spaces, provided that (1) at least 51 percent of the rental spaces are purchased by individual tenants renting their spaces prior to purchase, and (2) the individual tenants of these spaces form, within one year after the first purchase of a rental space by an individual tenant, a resident organization as described in subdivision (k) of Section 50781 of the Health and Safety Code, to operate and maintain the park. For this exclusion, our view is that all of the transfers of rental spaces need not occur on the same day; rather, the 51 percent participation may be accumulated, but must occur within the one year period that the residents have to form the resident organization.

Transfers to Non-Tenant-Owned Entities

The third exclusion, provided under section 62.2, applies to any transfer of a mobilehome park to an entity which is *not* formed by the tenants. The exclusion is available for a temporary period following the transfer, to facilitate the transfer of the park to resident ownership pursuant to one of the exclusions under 62.1 described above. Within that temporary period, either subdivision (a) of section 62.1 (transfer to a tenant-formed entity), or subdivision (b) of section 62.1 (transfers of at least 51 percent to the individual tenants), must be complied with, or the exclusion under section 62.2 is lost, and the property is subject to reappraisal and any resulting escape or supplemental assessments. In general, for mobilehome parks initially transferred after 1993, this temporary period within which section 62.1 must be complied with is 36 months.³ For mobilehome parks initially transferred between January 1, 1989 and January 1, 1993, that period was 18 months.

SUBSEQUENT TRANSFERS OF INDIVIDUAL INTERESTS

Once a transfer of a mobilehome park has been excluded from change in ownership under either section 62.1(a) or 62.1(b), questions arise about the proper treatment of subsequent transfers of individual ownership interests in the park.

Under a typical scenario, a park is acquired by a non-profit corporation formed by the former tenants. Subsequent purchasers pay an established price for a share in a corporation, where each share gives its holder the right to occupy a specific space in the park. A share in the corporation may be transferred only in combination with the purchase of a mobilehome. The purchase price for a share may represent consideration for both the mobilehome and the fractional interest in the corporation. In addition, the price may be said to cover a special assessment for infrastructure in the park.

2.Question: Under the scenario described above, what portion of the reported purchase price is assessable? How should it be allocated on the tax roll?

³ Chapter 603, Statutes of 1999 (SB 42), expanded the 36-month time period for the subsequent transfer of a mobilehome park that was first transferred on or after January 1, 1993. Specifically, this legislation provides that the execution of a purchase contract and the opening of an escrow for the transfer of a rental space in the park is deemed to be within the 36-month time period if the escrow is opened before the end of that 36-month period and closes no more than 6 months after the end of that 36-month period.

Answer: In amending section 62.1 in 1987 to provide for treatment of entity-owned mobilehome parks, the Legislature intended that transfers of ownership interests in such parks be treated on a par with transfers of other forms of "share" ownership (i.e., condominiums or stock cooperatives) and with stick-built homes. Thus, while each share in the corporation may be said to afford its holder the right, for example, to participate in the governance of the corporation and a management of the park, such rights are merely incidental to that which the share conveys to its holder in substance: (1) the outright ownership of a particular mobilehome, and (2) the exclusive right to occupy a particular space within the park. With this backdrop in mind, if the reported purchase price was negotiated in the open market at arm's length, then it is our view that the entire amount should be reflected in the combined assessments of the mobilehome and the underlying interest in the park.

3.Question: Assuming that the reported purchase price represents the collective fair market value of the mobilehome and the underlying interest in the park, how should that price be allocated?

Answer: The most reasonable way of allocating the value between the two assessments would be to (1) extract from the reported purchase price the value of the mobilehome itself, using the N.A.D.A. Manufactured Housing Appraisal Guide or another recognized value guide, and then (2) assign the remainder of the purchase price to the interest in the park.

4.Question: What is the proper assessed value for a mobilehome in a mobilehome park?

Answer: The law generally provides that while mobilehomes are to be classified as personal property, they receive a treatment similar to that afforded most real property under Proposition 13. Thus, under sections 5800 and following, mobilehomes subject to local ad valorem property taxation (i.e., "manufactured homes") receive a base year value upon purchase or change in ownership.⁴ The base year value of a mobilehome is its "full cash value," as defined in section 110, as of the date of the change in ownership.⁵ In general, these provisions apply to all mobilehomes sold new after June 30, 1980, including those located in tenant-owned parks, that are not installed on approved foundation systems.

5.Question: Section 62.1(c)(1) indicates that the transfer of a corporate share in the entity that acquired the park is a change in ownership of "a pro rata portion of the real property of the park." What does this mean?

Answer: Under subdivision (c)(2) of section 62.1, "pro rata portion of the real property" is defined to mean, essentially, the fractional interest in the park that is conveyed by the transferred share of stock. Thus, if there are 100 shares of outstanding stock, issued or unissued, a transfer of one share gives rise to a reassessment of a 1/100th interest in the real property of the park.

6.Question: Is the "appraisal unit" the individual mobilehome space or the park as a whole?

⁴ Section 5802

⁵ Section 5803

Answer: Subdivision (d) of section 51 provides that, when determining the taxable value of real property for purposes of Proposition 13, “real property” means “that appraisal unit that persons in the marketplace commonly buy and sell as a unit, or that is normally valued separately.” For transfers of shares or other ownership interests that represent ownership of individual mobilehome spaces in a park, it is clear that what persons in the marketplace commonly buy and sell as a unit is not the entire park, but rather the fractional interests conveyed by the individual interests. Thus, for purposes of determining a new base year value upon such transfers, the appraisal unit is the individual mobilehome space and the mobilehome.

7.Question: Can any portion of the purchase price be attributed to non-assessable “site value,” as provided under section 5803(b)?⁶

Answer: No. The ownership of a fractional interest in the park represents exclusive ownership of the individual underlying space. Thus, while a resident may formally lease his or her space from the owning entity, in substance the ownership of the space is with the individual resident. Since the owner of the mobilehome and the owner of the underlying space are one and the same for all practical purposes, the requirement under section 5803(b) does not apply.

8.Question: Is a transfer of an individual interest in a mobilehome park owned by a limited equity housing cooperative, organized pursuant to Health and Safety Code section 33007.5, treated differently from interests in parks under other forms of ownership?

Answer: No. While there are provisions in Health and Safety Code section 33007.5 which generally require that any difference between the fair market value of a sold interest and its defined “transfer value” be used only for certain purposes, including public benefit or charitable purposes, those provisions merely govern the organization of the cooperative, and do not constitute an enforceable restriction on the use of the land, as contemplated in Revenue and Taxation Code section 402.1.

SUPPLEMENTAL ASSESSMENTS

9.Question: How should supplemental assessments be calculated upon the transfer of an individual interest in a resident-owned park?

Answer: Assuming that the purchase price represents the collective fair market value of the manufactured home and the underlying space, the assessor should (1) allocate that purchase price between the manufactured home and the fractional interest in the real property of the park and (2) calculate separate supplemental amounts for each. The following example illustrates this process:

Existing prorated value of individual interest in the mobilehome park:	\$ 10,000
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⁶ Section 5803(b) provides, in essence, that the assessed value of a manufactured home located on rented or leased land shall not be affected by the usual influences of location.

Existing taxable value of manufactured home:	<u>40,000</u>
Total existing assessment:	50,000

Sale price of manufactured home and underlying park interest:	70,000
Value of manufactured home (from value guide), as of the date of transfer:	<u>30,000</u>
Residual value of individual interest in the park, as of the date of transfer:	40,000

Supplemental assessment amounts would be calculated as follows:

Manufactured home

New base year value	\$30,000	
Existing taxable value	<u>40,000</u>	
Supplemental assessment		<10,000>

Individual interest in mobilehome park

New base year value	40,000	
Existing taxable value	<u>10,000</u>	
Supplemental assessment		30,000
Net supplemental assessment		\$20,000

BASE YEAR VALUE TRANSFERS AND DISASTER RELIEF

10.Question: Is a manufactured home in a resident-owned park eligible for certain base year value transfers?

Answer: In general, yes. Revenue and Taxation Code section 218 and Property Tax Rule 135 treat a manufactured home as a “dwelling” (i.e., “a building, structure, or other shelter constituting a place of abode.”). Thus, manufactured homes in resident-owned parks, like other primary residences, are eligible for the following benefits:

- Base year value transfer after displacement by eminent domain proceedings, acquisition by a public entity, or inverse condemnation⁷;
- Base year value transfer for persons over 55 or disabled⁸ ;
- Base year value transfer following a disaster⁹

Note that, in any of these cases, the “dwelling” that is eligible for relief and/or value comparison is the manufactured home and the accompanying fractional interest in the mobilehome park (i.e., the underlying space).

⁷ Section 68

⁸ Section 69.5

⁹ Section 69.3

11. Question: Is a mobilehome in a resident-owned park eligible for disaster relief?

Answer: Yes. Disaster relief is available under Sections 69 and 170 to anyone owning a mobilehome assessed as real property.

Sincerely,

/s/ Harold M. Hale for
Richard C. Johnson
Deputy Director
Property Taxes Department

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