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PROPERTY AND SPECIAL TAXES DEPARTMENT
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Executive Director

No. 2012/005

January 17, 2012

TO COUNTY ASSESSORS:

ASSESSMENT APPEALS

Effective January 1, 2012, Assembly Bill 711¹ adds subdivision (c) to Section 167 to clarify that an owner-occupied single-family dwelling means a single-family dwelling that is the owner's principal place of residence which qualifies for a homeowners' property tax exemption.

Section 167 currently provides that the assessor has the burden of proof in any assessment appeals hearing on an owner-occupied single-family dwelling or the appeal of an escape assessment. In these cases, the county assessor must affirmatively establish, by a preponderance of evidence, the correctness of his or her opinion of value or other assessment action. The term "owner-occupied single-family dwelling" was not previously defined in the statute.

AB 711 definitively shifts the burden of proof from the county assessor to the taxpayer when the property involves the taxpayer's vacation or secondary home. Thus, in a hearing before an assessment appeals board, the taxpayer with the burden of proof must present his or her evidence first. The assessor will then have an opportunity to present evidence and the appeals board or hearing officer will make a determination based on all evidence presented.

A copy of the amended section 167 is enclosed with changes denoted in strikeout/underscore format. The BOE Legislative analysis on this bill may be found at:

AB 711 - <http://www.boe.ca.gov/legdiv/pdf/0711abenrolledrmk.pdf>.

If you have any questions regarding assessment appeals, please contact the County-Assessed Properties Division at 916-274-3350.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:mlw
Enclosure

¹ Stats. 2011, ch. 220.

SECTION 1. Section 167 of the Revenue and Taxation Code is amended to read:

167. (a) Notwithstanding any other provision of law to the contrary, and except as provided in subdivision (b), there shall be a rebuttable presumption affecting the burden of proof in favor of the taxpayer or assessee who has supplied all information as required by law to the assessor in any administrative hearing involving the imposition of a tax on an owner-occupied single-family dwelling, the assessment of an owner-occupied single-family dwelling pursuant to this division, or the appeal of an escape assessment.

(b) Notwithstanding subdivision (a), the rebuttable presumption described in that subdivision shall not apply in the case of an administrative hearing with respect to the appeal of an escape assessment resulting from a taxpayer's failure either to file with the assessor a change in ownership statement or a business property statement, or to obtain a permit for new construction.

(c) For the purposes of this section, an owner-occupied single-family dwelling means a single-family dwelling that satisfies both of the following:

(1) The dwelling is the owner's principal place of residence.

(2) The dwelling qualifies for a homeowners' property tax exemption.