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Executive Secretary

February 8, 1980

No. 80/19

RESPONSE TO QUESTION 13 SUPERSEDED BY LTA 80/102

TO COUNTY ASSESSORS:

CHANGE OF OWNERSHIP REPORTING AND
PENALTIES FOR NONCOMPLIANCE

Assembly Bills 1488 and 1019 added Sections 480 - 485 to the Revenue and Taxation Code pertaining to change in ownership reporting. Section 482 provides for a penalty of $100 or 10 percent of the current year's taxes, whichever is greater, when a change in ownership statement is not timely filed.

The attached questions and answers are designed to illustrate the application of the reporting statutes. Some of the statutory language is unclear and the Board will propose code modifications in the near future. The reader should keep in mind that the procedures being exemplified apply only to the penalty for failure to report changes in ownership and are not concerned with escape assessments that might result from such a failure.

Sincerely,

Verne Walton

Verne Walton, Chief
Assessment Standards Division

VW:sk
Enclosure

1. QUESTION: Is it legally mandatory for the assessor to require that a change in ownership statement be filed for every transfer?

ANSWER: No, however, the form should be requested whenever the assessor has knowledge that a transfer of an interest in real property has occurred in order to ascertain whether or not a change in ownership has taken place.

2. QUESTION: Can the origination of a change of ownership statement by a government agency other than the assessor or by a title or realty company constitute a written request by the assessor?

ANSWER: In our opinion, the assessor can designate another county officer, such as the recorder, to originate the request as his agent, and this would be the equivalent of the assessor's written request. However, the distribution of the form by a private business firm would not constitute an official request.

3. QUESTION: Is it mandatory that the assessor impose the penalty if the form has been requested but not returned in the specified time period?

ANSWER: A single penalty is mandatory (see answer to question number 4). We recommend that the penalty be applied upon the expiration of the specified time period but that the assessor request the penalty be cancelled by the board of supervisors pursuant to their authority under Section 483 if data subsequently received demonstrates that a change of ownership requiring reappraisal has not in fact occurred.

4. QUESTION: Can the penalty described in Revenue and Taxation Code Section 480 and 482 be applied more than once by the sending of multiple requests relating to the same transfer?

ANSWER: No, the penalty will be applied only once, although the assessor may initiate several requests for data on the same transfer. If the form is not returned following the allowance of a reasonable amount of time for the notice of penalty to be received, the assessor should assume that a change of ownership has occurred and proceed to revalue the property.

5. QUESTION: When a property transfers more than once during an assessment year (March 1 to March 1), will the interim transferee be penalized for noncompliance?

ANSWER: Yes, the penalty applies to each instance of noncompliance in reporting a transfer.

6. QUESTION: What taxes are used to calculate the 10 percent penalty called for in Revenue and Taxation Code Section 482?

ANSWER: The penalty will be based upon the taxes applicable to the interest transferred during the tax year (July 1 to June 30) in which the 45-day period expires. When only a portion of a property changes ownership, the taxes on the roll must be prorated to determine the amount of the penalty.

7. QUESTION: How is the penalty enrolled?

ANSWER: A. If on the expiration of the 45-day period the then owner of the property is the person who failed to file the statement, the penalty should be added to the roll prepared for the fiscal year during which the 45-day period expires except:

(1) If the 45-day period expires during the period March 1 through June 30 of any assessment year, the assessor has the option to add the penalty to the roll then being prepared.

B. If on the expiration of the 45-day period the then owner of the property is <u>not</u> the person who failed to file the statement, the penalty should be added to the unsecured roll in the name of the person who was required by law to file the statement. The option mentioned in Answer A(1) as to which secured roll may be used is likewise applicable to selection of the unsecured roll under this answer.

8. QUESTION: Is the penalty authorized by Revenue and Taxation Code Section 482 the only penalty applicable when the property owner does not file a change in ownership statement after it has been requested by the assessor?

ANSWER: The penalty prescribed in Revenue and Taxation Code Section 482 is the only penalty authorized for failure to file the change in ownership statement. The assessor may, however, require an owner of real

property to file a property statement and failure to comply is subject to penalty as provided in Section 462. Revenue and Taxation Code Section 484 (Assembly Bill 1488) specifically excludes the application of the penalty prescribed in Revenue and Taxation Code Section 463 for failure to file a property statement.

9. QUESTION: Can the assessor use Section 482 to request ownership and sales data on transfers that occurred prior to the enactment of Assembly Bill 1488, and would the penalty apply?

ANSWER: The assessor may request ownership and sales data on any transfer that occurred after March 1, 1975. The penalty can be applied as long as the request is initiated after the effective date of Assembly Bill 1488 (July 10, 1979).

10. QUESTION: When can the assessor begin imposing the penalty authorized by Revenue and Taxation Code Section 482?

ANSWER: Any time after the effective date of Assembly Bill 1488 (July 10, 1979).

11. QUESTION: If the owner responds within 45 days of the request from the assessor but not within 45 days from the date of transfer, can the penalty be imposed?

ANSWER: No, only the assessor's request can trigger the penalty.

12. QUESTION: Can the penalty be imposed if the statement is returned signed but only partially completed?

ANSWER: If the returned form contains insufficient information for the assessor to determine the need for a reappraisal, it can be regarded as a non-filing and subject to penalty. Where insufficient data are returned, that fact should be called to the attention of the property owner and a reasonable time allowed for compliance prior to imposition of a penalty.

13. QUESTION: Would special district assessments, general obligation bond charges, and improvement bond charges incorporated in the tax bill be included when determining the amount of penalty?

ANSWER: Yes, the 10 percent penalty calculation should be made by taking 10 percent of all special and general taxes and special assessments that are a lien on the property and are incorporated in the property tax bill.

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Executive Secretary

June 27, 1980

No. 80/102

TO COUNTY ASSESSORS:

REVENUE AND TAXATION CODE SECTION 482
BASIS FOR DETERMINING THE $100 OR 10 PERCENT PENALTY
FOR FAILURE TO FILE A CHANGE IN OWNERSHIP STATEMENT

This letter revises our answer to question number 13 in letter to assessors 80/19 dated February 8, 1980. The question and answer read:

Question: "Would special district assessments, general obligation bond charges, and improvement bond charges incorporated in the tax bill be included when determining the amount of penalty"?

Answer: "Yes, the 10 percent penalty calculation should be made by taking 10 percent of all special and general taxes and special assessments that are a lien on the property and are incorporated in the property tax bill."

The revised answer is: The base upon which the 10 percent penalty is calculated should include only charges for the current year's taxes. This amount is determined by multiplying the current year's tax rate plus appropriate rates for overrides by the current year's assessed value.

Amounts included on tax bills for special assessments or "direct levies" (charges for various services rendered by a governmental agency/unit to a property owner), sometimes referred to as taxes, should not be included in the base for calculating the penalty.

In a separate letter, the State Controller, Division of Local Government Affairs, Uniform Accounting Procedures Section, will advise county auditors/controllers concerning the proper method for calculating the penalty amount since these computations are ultimately their responsibility.

Hopefully our previous answer has not caused you undue inconvenience.

Sincerely,

Verne Walton

Verne Walton, Chief
Assessment Standards Division

VW:sk