



STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 1799, SACRAMENTO, CALIFORNIA 95808)

(916) 445-4982

GEORGE R. REILLY
First District, San Francisco
ERNEST J. DRONENBURG,
Second District, San Diego
WILLIAM M. BENNETT
Third District, San Rafael
RICHARD NEVINS
Fourth District, Pasadena
KENNETH CORY
Controller, Sacramento
DOUGLAS D. BELL
Executive Secretary
No. 81/118

September 29, 1981

TO COUNTY ASSESSORS:

CLASSIFICATION OF MOBILEHOMES AND
CORRECTION TO LETTER 81/54

Although no formal surveys have been made, it is evident that many assessors are enrolling most mobilehomes as improvements, while perhaps an equal number of assessors are enrolling all mobilehomes as personal property. Classification of a mobilehome as improvements or personal property affects the tax rate in areas where special assessments are levied on improvements and, more importantly, classification affects taxability if the mobilehome is held for sale or lease by a mobilehome dealer, is owned by a bank, insurance company, or financial corporation, or is owned by a government agency but held by a person or taxable entity (possessory interest).

Mobilehomes as Vehicles

Traditionally, a mobilehome was a vehicle without motive power which was intended to provide living quarters in a temporary location. Mobilehomes more than eight feet wide or more than 40 feet long could not be transported except by permit. Nevertheless, it was relatively simple and inexpensive to move the units, and such units were frequently moved.

With the advent of multiwide units, it became increasingly common to think of mobilehomes as permanent living quarters. Although the multiwide units were much more expensive to move, they were still considered vehicles subject to vehicle license fees. They did not meet local building codes and could not be placed on permanent foundations. Nevertheless, many mobilehomes began to take on appearances of permanency.

Today, the term "mobilehome" is a misnomer in some cases. In most cases, there is no intention to move a multiwide mobilehome once it is installed for occupancy, and many singlewide units would be uneconomical to move due to the addition of skirting, porches, decks, and other accessories which are difficult to move, which may have little or no value if left in place, and which may require modification to be installed in a new location.

The "improvement" characteristics of many mobilehomes raise the question of whether it is proper to treat a mobilehome as a vehicle which is subject to vehicle license fees in lieu of property taxation, or as an improvement which is constitutionally subject to property taxation. This question was answered in part by the Mobilehome Property Taxation Laws of 1979 and 1980. The laws had the effect of providing that mobilehomes first sold before July 1, 1980, and currently licensed, are vehicles subject to license fees in lieu of property taxation. Mobilehomes placed on permanent foundation systems are defined as structures and are subject to property taxation as improvements. 120-day delinquent mobilehomes and all mobilehomes first sold after June 30, 1980 are not specifically defined as vehicles, personal property, or improvements, but they are subject to property tax regardless of classification.

Legislative Intent

Several assessors who are enrolling all mobilehomes as personal property cite Section 5810 of the Revenue and Taxation Code as their authority. Section 5810 states:

"Except as otherwise provided in this part, mobilehomes shall be subject to property taxation in the same manner and to the same extent, and shall be subject to the other provisions of this division in the same manner and to the same extent as any other personal property on the roll as defined in Section 109".

Although the wording of Section 5810 implies that mobilehomes are personal property, we do not believe that the wording amounts to a statutory directive. In view of numerous court cases which have defined the term "improvements" for property tax purposes, and in the absence of a specific statutory definition of mobilehomes as personal property for property tax assessment purposes, it must be assumed that the Legislature did not intend to define the classification of mobilehomes except for those classified as vehicles and those attached to permanent foundation systems. In fact, subparagraph (e) of Section 18551 of the Health and Safety Code states:

"(e) Notwithstanding any other provision of law, any mobilehome installed on a foundation system, attached, or otherwise permanently affixed to real property without compliance with the provisions of subdivisions (a) and (b), shall not be deemed a fixture or improvement to such real property. This subdivision shall not be construed to affect the application of sales and use or property taxes."
(Emphasis added.)

In summary, the Legislature has within the past two years (1) affirmed that currently licensed mobilehomes which were first sold prior to July 1980 are vehicles subject to vehicle license fees in lieu of property taxation, and (2) declared that mobilehomes which are installed on permanent foundation systems are structures, not mobilehomes. Neither of the above provisions is inconsistent with the concepts of classification that would apply to any other type of property.

Classification for Property Tax Purposes

Classification of an item as an improvement has been discussed extensively in previous assessors' letters (see Assessors' Letter 78/187). Briefly, an article is considered to be annexed and therefore part of the real property when:

- (1) The physical facts and outward appearances manifest an intention that the article be annexed to the realty for some indefinite period of time, or
- (2) the article annexed is particularly adaptable to the purpose for which the realty is used and removal of the article would completely or materially cause the real property to be unfit for its intended use, or
- (3) the article annexed is attached to realty by physical means or by its own mass, thus manifesting an outward appearance that the article would remain with the real property for some indefinite period of time.

Many but not all mobilehomes meet one or more of the above tests. It would be correct to classify all mobilehomes which are attached to permanent foundations as improvements. All other mobilehomes which are subject to property tax must be inspected in the field by the assessor or his appraisal staff in order to determine the proper classification. We recommend against an arbitrary policy, such as classifying all singlewides as personal property and all multiwides as improvements.

Here are examples of mobilehome characteristics as they relate to the above classification tests.

(1) Physical Facts and Outward Appearances

The appearance of the mobilehome as a permanent or as a temporary installation is the most important test for purposes of classification. Neither the owner's personal intent nor a written agreement to either keep the mobilehome in place permanently or to move it within the near future is as important as the appearance of the installation.

Utility hookups provide evidence of permanency for most types of property, but this is not always the case with mobilehomes. Mobilehome

utility hookups are usually relatively simple to disconnect without substantial change to either the mobilehome or to the mobilehome park portion of the hookups.

The addition of skirting, porches, awnings, and other items may add evidence of permanency. However, in many cases such items can be removed easily without substantial economic consequence. The appraiser must view the mobilehome and determine whether the mobilehome and its accessories appear to be a permanent or a temporary installation.

(2) Adaptability to the Real Estate

A mobilehome would be particularly adaptable to the purpose of the real estate if substantial property alterations were made for the particular mobilehome. An example would be a retaining wall which is custom-designed for the mobilehome and which would have to be destroyed or would be useless for any other mobilehome.

The fact that a mobilehome park is intended only for mobilehomes does not make a particular mobilehome adaptable to the real estate. Mobilehome park spaces are usually designed to accommodate mobilehomes of various design and size. A mobilehome could be moved out and replaced without detriment or substantial alteration to the site.

(3) Physical Annexation

If a mobilehome is attached to an approved foundation system, it must be classified as a structure and it is not subject to the mobilehome property tax laws.

If a mobilehome is permanently attached to a foundation that is not approved, it should be classified as an improvement and assessed as a mobilehome. If county or state authorities require the mobilehome to be removed from the foundation, the classification should be reviewed.

Mobilehomes are not annexed to real property solely because of their mass. They are heavy, of course, but they are designed to be moved easily even if the wheels and axles have been removed.

Dealers' Inventories

We have received numerous inquiries about the applicability of the inventory exemption for mobilehomes held for sale or lease by a mobilehome dealer. If the mobilehome is classified as personal property and held for sale or lease in the ordinary course of business, it is exempt from property taxation as business inventory. The business inventory exemption is not applicable if the mobilehome is classified by the assessor as an improvement, if it has been used by the dealer and is being held for lease (not held for sale), if it is presently being used by the dealer or by any other person for purposes other than display,

or if it is owned by a person other than a dealer or manufacturer (it is consigned to the dealer for sale).

In many cases, dealers have installed mobilehomes in parks. The same tests for classification apply to these mobilehomes as would apply to other mobilehomes. If a mobilehome is classified as an improvement, it cannot be exempted as business inventory.

Bank, Insurance Company, or Financial Institution

A mobilehome may be owned on the lien date by a bank, insurance company, or financial corporation, usually as a result of repossession. In such a case, the mobilehome is exempt if classified as personal property and taxable if classified as an improvement.

If a mobilehome is owned by one of the above entities, is classified as personal property, and is leased to a person or to a taxable entity, the assessor must determine whether the lessee is acquiring an equitable interest in the property. If the contract is a true lease, the mobilehome is not assessable. If it amounts to a purchase contract, the mobilehome should be assessed to the lessee. See Assessors' Letter 79/155, "Guidelines to Differentiate Between a Lease and a Conditional Sales Contract."

Correction to Letter 81/54

The chart attached to Assessors' Letter 81/54 indicates that a licensed mobilehome on rented land qualifies under Senior Citizens' Property Tax Postponement. This is incorrect. A corrected chart is attached, and we suggest you make the correction to your copies of Assessors' Letter 81/54.

Sincerely,


Verne Walton, Chief

Assessment Standards Division

VW:hlo
Enclosures
AL-01-0358A



STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
 (P.O. BOX 1799, SACRAMENTO, CALIFORNIA 95808)

(916) 445-4982

GEORGE R. REILLY
 First District, San Francisco

ERNEST J. DRONENBURG, J.
 Second District, San Diego

WILLIAM M. BENNETT
 Third District, San Rafael

RICHARD NEVINS
 Fourth District, Pasadena

KENNETH CORY
 Controller, Sacramento

DOUGLAS D. BELL
 Executive Secretary

No. 81/54

April 17, 1981

TO COUNTY ASSESSORS:

APPLICATION OF EXEMPTIONS TO MOBILEHOMES

We have received several inquiries regarding the application of exemptions to mobilehomes, both those subject to property taxes and to vehicle licenses.

The attached chart attempts to show proper application of the homeowners' exemption, renters' credit, senior citizens' property tax assistance, and the postponement program. The chart is suggested as a general guide. Specific questions regarding the renters' credit and the senior citizens property tax assistance should be directed to the Franchise Tax Board, property tax postponement questions should be directed to the State Controller's Office, and disabled veterans' exemptions against the license fee should be directed to the Department of Motor Vehicles through June, 1981, and to the Department of Housing and Community Development thereafter.

In addition to the chart, the following discussion covers a few problem areas related to the taxability of mobilehomes.

Soldiers and Sailors Relief Act

The soldiers and sailors civil relief act of 1940 provides that a person in the military service may declare that the situs of his personal property is in his home state, thus rendering the property nontaxable in California. In U.S. vs. Shelby County, 385 F Supp. 1187, the court held that the act applied to mobilehomes. Additionally, in California vs. Buzard (1966) 382 U.S. 386, 15L ed. 2d 436, the United States Supreme Court held that the California vehicle license fee was a personal property tax and its application to a non-resident military person's vehicle was prohibited.

However, the court did hold that the registration fee was payable. Thus, we have the situation where the Department of Motor Vehicles apparently could require annual registration of a nonresident military person's mobilehome but could not collect the license fee.

Since Revenue and Taxation Code Sections 5801 and 10759.5 make reference only to the license fee being 120 days or more delinquent, non-resident military person's mobilehomes technically would not come under the property tax. They are delinquent only in the vehicle

registration. The difficulty is that many of these mobilehomes will be included in DMV's delinquency lists. In these instances the assessor should verify that the military person qualified as a nonresident during the entire period the mobilehome was delinquent. Where they qualified during the period, the delinquency notice from DMV should be ignored and the mobilehome would not be subject to property tax. However, the assessor should continue to verify the owner's status each year. If they do not qualify as nonresidents, the delinquency fee should be collected and the mobilehome enrolled as of the next lien date.

Federal Enclaves

Prior to September 19, 1939, the State of California failed to reserve the right to tax private property located on lands acquired by the United States. Therefore, mobilehomes located on these lands would be exempt even though they may be reported as delinquent by DMV.

When the assessor verifies that a delinquent mobilehome is located on such lands, the delinquent fees are not collectable, nor is the mobilehome subject to property taxation. However, the assessor should periodically verify that the mobilehome has not been moved outside the federal enclave. If the mobilehome was first sold prior to July 1, 1980, it becomes subject to license fees and registration upon removal from the enclave, and failure to obtain a license within 120 days would subject the mobilehome to property taxes. If the mobilehome was first sold after June 30, 1980, it is subject to property tax upon removal from the enclave.

Mobilehomes on Indian Reservations

A mobilehome located within the boundaries of an Indian reservation and owned by a member of the governing tribe is exempt from taxation. For clarification, Indian reservations are lands held in trust by the United States for the Indian tribes.

Although such mobilehomes may appear on DMV's delinquency list, they are not taxable, nor are the delinquency fees collectable. Once removed from the reservation or sold to a non-Indian, a mobilehome first sold before July 1, 1980, would become subject to license fees, and to property tax in the event the fees become delinquent by 120 days or more. Mobilehomes first sold after June 30, 1980 would be subject to property tax after removal from the reservation or sale to a person who is not a member of the governing tribe.

Renters' Credit or Homeowners' Exemption

A person who owns a mobilehome subject to property tax on rented land is eligible for either the homeowners' exemption or the renters' credit, but not both. No doubt, a number of mobilehome owners will file for the homeowners' exemption this year (1981) and file for the renters' credit next year when making out their 1981 income tax returns. Such double filings may necessitate roll corrections and

April 17, 1981

other time-consuming activities. This problem is not entirely avoidable, but we suggest you inform mobilehome owners who have such a choice that the renters' credit is \$137 for a married couple, head of household, or surviving spouse. This information may encourage such people to forego the homeowners' exemption, which is worth approximately \$80, so they can receive the renters' credit.

The prohibition against receiving both the homeowners' exemption and the renters' credit is contained in Section 17053.5 of the Revenue and Taxation Code, last amended by AB 1151, Chapter 1207, Statutes of 1979. The "Mobilehome Property Taxation Laws" booklet which was distributed at our mobilehome workshops contains a former version of 17053.5. If your staff is using that booklet, we suggest you inform them of the correct version.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

VW:hlo
Enclosure
AL-01-0358A

<u>Description</u>	<u>Homeowners' Exemption</u>	<u>Renters' Credit</u>	<u>Senior Citizens' Property Tax Assistance</u> 1/	<u>Senior Citizens' Property Tax Postponement</u>	<u>Disabled Veterans' Exemption</u>
Mobilehome-licensed on rented land.	NO	YES	YES-can claim as either renter or homeowner.	YES	Applies to the license fee.
Mobilehome-licensed on owned land.	YES-on land only.	NO	YES-either on land or on license fee. Can claim as either renter or homeowner	YES-land only	Applies to license fee and property tax on land.
Mobilehome subject to property tax on rented land.	YES-but only if renters' credit is not received.	YES-but only if homeowners' exemption is not received	YES	NO	Applies to property tax on mobilehome.
Mobilehome subject to property tax not on foundation system, but on owned land. 2/	YES-on mobile-home and land.	NO	YES-on mobile-home and land.	YES-land only	Applies to property tax on mobilehome and land.
Mobilehome on foundation system on owners land. 2/	YES-on mobile-home and land.	NO	YES-on-mobile-home and land.	YES	Applies to property tax on mobilehome and land.

1/ Includes assistance for blind or disabled without regard to age.
2/ "Foundation system" means an approved foundation system as defined by Section 18551 of the Health and Safety Code.

<u>Description</u>	<u>Homeowners' Exemption</u>	<u>Renters' Credit</u>	<u>Senior Citizens' Property Tax Assistance</u> ^{1/}	<u>Senior Citizens' Property Tax Postponement</u>	<u>Disabled Veterans' Exemption</u>
Mobilehome-licensed on rented land.	NO	YES	YES-can claim as either renter or homeowner.	NO	Applies to the license fee.
Mobilehome-licensed on owned land.	YES-on land only.	NO	YES-either on land or on license fee. Can claim as either renter or homeowner.	YES-land only	Applies to license fee and property tax on land.
Mobilehome subject to property tax on rented land.	YES-but only if renters' credit is not received.	YES-but only if homeowners' exemption is not received.	YES	NO	Applies to property tax on mobilehome.
Mobilehome subject to property tax not on foundation system, but on owned land. ^{2/}	YES-on mobile-home and land.	NO	YES-on mobile-home and land.	YES-land only	Applies to property tax on mobilehome and land.
Mobilehome on foundation system on owner's land. ^{2/}	YES-on-mobile-home and land.	NO	YES-on mobile-home and land.	YES	Applies to property tax on mobilehome and land.

^{1/} Includes assistance for blind or disabled without regard to age.

^{2/} "Foundation system" means an approved foundation system as defined by Section 18551 of the Health and Safety Code.