

660.0000 POSSESSORY INTEREST

See Change in Ownership

Indians and Indian Lands

Lands Owned by Local Governments That Are Outside Their Boundaries

Mines and Minerals

State-Assessed Property

Welfare Exemption

660.0001 Acquisition by Exempt Entity. Upon an exempt entity's acquisition of a nonexempt entity's possessory interest in property, property taxes paid on the possessory interest must be apportioned and that portion that is allocable to the part of the fiscal year that begins on the date of apportionment must be refunded. C 5/9/88.

660.0008 Air Rights. Air rights constitute land as defined in Civil Code section 659 and as classified by Property Tax Rule 124. When such rights are leased by a governmental entity to a private person or entity, a taxable possessory interest is created, which results in a change in ownership. C 4/28/86.

660.0015 Aircraft Tie-Downs and Boat Berths. A relocation of an aircraft tie-down or a boat berth is not a change in ownership of a taxable possessory interest. LTA 10/10/79 (No. 79/182).

660.0018 Analysis of Requirements—Satellite Wagering. In determining the existence of a taxable possessory interest under a written instrument, an objective standard rather than the literal language of the written instrument controls in ascertaining the nature of the relationship established. Because of the variety of interests that may be created by written instruments, the question of whether a taxable possessory interest has been created must be decided on a case-by-case basis by considering the factors of durability, exclusiveness, private benefit and independence. In each case, judgment is to be made by examination of the writing in its entirety.

Review of the written instrument presented concerning the operation of satellite wagering at the Sonoma County Fairgrounds in the light of the above enumerated factors leads to the conclusion that a taxable possessory interest has been created. C 8/31/93.

660.0025 Blind Vendors. No taxable possessory interests exist in the use of public buildings by blind vendors who operate vending facilities therein. A mere license to operate a vending facility is not a possessory interest. LTA 3/21/80 (No. 80/48).

660.0034 Cable Television Franchise Fee. Section 107.7 does not require that the assessor use a portion of the franchise fee as the estimated economic rent for a cable system taxable possessory interest. Subdivision (b)(2) provides that the annual rent must be either (1) that portion of the franchise fee received by the franchising authority that is determined to be payment for the cable television possessory interest or (2) the appropriate economic rent. If the assessor does not use a portion of the franchise fee as the economic rent, the resulting assessment does not benefit from any presumption of correctness.

Other than that provided in section 107.7, there is no legal connection between the franchise fee and the economic rent for a cable system taxable possessory interest. The federal limit on cable television franchise fees does not establish a limit on the economic rent of a cable system taxable possessory interest. Similarly, neither does the state limit on such fees establish a limit on the economic rent.

In addition, a cable television franchise fee is not an enforceable land use restriction under section 402.1. Section 402.1(a) requires an assessor to consider the effect upon value of

any enforceable restriction to which the use of the land may be subjected. The federal and state limits on cable television franchise fees are limits upon amounts which may be charged for cable television franchises, not restrictions to which uses of lands are subjected. C 7/13/2005.

660.0035 Cable Television Franchises. A cable television franchisee has a taxable possessory interest in properties his system utilizes, including shared conduits running under publicly-dedicated street rights-of-way and containing television cables as well as other utility lines. C 2/3/82.

660.0036 **Cable Television Franchises.** C 6/15/88. (Deleted 1998)

660.0040 **Cable Television Franchises.** C 8/29/84. (Deleted 1998)

660.0045 Campgrounds. A United States Forest Service permit holder authorized to operate Forest Service campgrounds and collect fees and expected to keep the grounds and facilities clean and to maintain a high level of service to the public has a taxable possessory interest in federal lands to which the permit pertains. LTA 6/12/86 (No. 86/42).

660.0050 City Electrical System. The hiring by a city of an operator to manage, operate, and maintain the city's electrical system, to bill and collect from the customers, and to obtain the power needed to make the system function does not create a taxable possessory interest if the city retains ownership and control of the system and the operator acts only as an agent for the city's benefit. C 1/13/89.

660.0060 Commercial Use of Military Property. A contractor's right to erect and operate a fast-food outlet on a Marine Corps Base constitutes a taxable possessory interest if the right is durable, exclusive, conveys private benefit, and is sufficiently free of military control to prevent the creation of a principal-agent relationship. The existence or nonexistence of the noted characteristics establishing possessory interests are to be determined by the documents executed by the parties and the actual operation of the facility. C 12/18/85.

660.0064 Commercial Use of State College Property. A nonexempt entity's leasing and commercial use of property owned by a State college (university) constitutes a taxable possessory interest. C 6/26/80.

660.0068 Conservation Easement. Conservation easements create taxable possessory interests in government-owned land only if they confer actual physical occupation or the right to actual physical occupation on the holder of the easement, meet the requirements of independence, exclusivity, durability, and private benefit, as defined in Property Tax Rule 20, and confer a private benefit on the possessor not available to the general public. An easement that merely grants the right to enter the property to monitor compliance with the terms of the easement does not confer actual physical occupation of the property. C 8/6/2003.

660.0070 Construction and Use of Landfills. A contractor's construction of landfills and performance of landfill operations does not constitute a taxable possessory interest where its right to use county land is not sufficiently independent of county control and its use of the land is not for its benefit but for the benefit of the county. C 6/5/85.

660.0075 Effective Date. In 1985, Company E leased a terminal owned by the City of Los Angeles until March 2003. In 1998, Company E executed another lease agreement that took effect on November 16, 2001, for the same real property plus additional acreage. The second lease provided that, upon execution, the first lease terminated. The second lease did not renew or extend the possessory interest created by the first lease, but rather the second lease created a new possessory interest resulting in a change in ownership on the

effective date of the second lease, November 16, 2001, and not on the original termination date of the first lease. C 1/25/2005.

[660.0080](#) **Easement.** A developer's retention or acceptance of an easement in city property to develop and construct a marina and boat berths as part of a housing development constitutes a taxable possessory interest. C 8/12/88.

660.0085 **Employee's Use of Exempt Hospital Facility.** C 10/12/78. (Deleted 2004)

[660.0090](#) **Federal Credit Union.** Title 12 of the United States Code, Banks and Banking, section 1768 subjects real property of federal credit unions to local taxation to the same extent as other similar property, including possessory interest assessments. C 5/23/85.

[660.0091](#) **Federal Enclaves.** A federal enclave is property over which the federal government holds exclusive jurisdiction. While possessory interests held by lessees or other users of federal property are generally taxable, those possessory interests held by lessees or other users of property within a federal enclave are not. If military property was ceded after 1939 with the limitation of Government Code section 126(e) or its predecessor, reserving the power of local taxation, any possessory interest held in such property would be a taxable possessory interest. If, on the other hand, military property was ceded prior to 1939, then, in the absence of express congressional authorization, any possessory interest would not be taxable; it would be immune from local property taxation. C 4/2/98.

[660.0092](#) **Federal Property.** Privately held possessory interests in real property located within the Presidio of San Francisco—formerly a United States military base, now a part of the Golden Gate National Recreation Area and the National Park Service—are exempt from state and local property taxation because Congress has enacted legislation specifically precluding the assessment and taxation of such interests. C 1/30/2002.

[660.0095](#) **Foreign Nation Real Property.** Real property located in California but owned by a foreign nation may be immune from property tax pursuant to treaty or other agreement executed by the United States and the foreign nation. In each instance, the treaty or agreement must be examined to ascertain whether or not immunity has been granted.

Pursuant to the Taiwan Relations Act, Public Law 96-8 of April 10, 1979, the real property of the Coordination Council for North American Affairs (a Taiwan instrumentality) is immune from property tax. C 1/27/92.

[660.0098](#) **Forest Service Land.** The purported transfer of a possessory interest in United States Forest Service land by grant deed is ineffective when the possessory interest was created by a nontransferable government special use permit. Nevertheless, the grant deed is effective to transfer a recreational residence located on the land, to which any available exclusions may apply. When the transferee obtains a new special use permit from the United States Forest Service, however, a new taxable possessory interest in the land will be created for the benefit of the transferee, and that possessory interest will result in a change in ownership under Revenue and Taxation Code section 61(b). C 11/1/96.

[660.0100](#) **Government Fixture on Private-Owned Land.** In *United States v. San Diego County* (1992) 965 F.2d 691, the court held that a federally owned nuclear fusion research device located on private property and maintained and operated by a private scientific research firm was a fixture (improvement) in which the operator had a taxable possessory interest. The operator was reimbursed for its costs and it was paid an annual fee, and it had a beneficial interest in the device. While the government had ultimate control of the device, the operator had routine control and supervision of it. Contractual conditions that limited the

operator's use of the device pertained to the value of the operator's interest, not to the device's taxability. C 6/9/92.

660.0104 Hospital Medical Office Space. A physician entered into a contract with a government-owned hospital to practice medicine at the hospital and provide prescribed on-call, clinic, and emergency room medical services. In return, the physician received an office, staff, billing services, and a minimum monthly compensation guarantee.

The possessory rights granted to a staff physician in a hospital pursuant to an independent contractor agreement may be both durable and exclusive; but if the physician/possessor is the agent of the governmental owner, the possession lacks the necessary quality of independence required in order for there to be a taxable possessory interest. C 1/31/2001.

660.0105 Hospital Operator. Where a city-owned hospital is operated by a private contractor-health service company pursuant to a contract granting it operational independence and a share in the net operating income, a taxable possessory interest is created. In each instance in which a private person or entity has the use of exempt government-owned property, the agreement for use must be examined to determine the exclusivity, independence, durability and private benefit conferred upon the operator. Only if the governmental entity retains sufficient control of the operator may the operator be considered an agent of the governmental entity and benefit from the entity's exempt status. C 2/24/89.

660.0115 Houseboats. A United States Forest Service permit holder has a taxable possessory interest in federal lands to which the permit pertains, but its right to lease houseboats on a lake on such lands is incidental to that interest/use under the permit and its leasing of houseboats thereunder does not create additional taxable possessory interests. C 1/21/83.

660.0120 Improvements Constructed on Federal Land. If a lessee (or permittee) of federal land constructs improvements thereon and retains ownership of a fee simple or life estate in the improvements, he does not have a taxable possessory interest in the improvements. If the improvements become the property of the government, however, the lessee has a taxable possessory interest therein. C 9/27/84.

660.0130 Lease. A city's lease and leaseback of land to a nonprofit, public-benefit corporation established by the League of California Cities to assist its members in financing capital projects creates a taxable possessory interest in the corporation. C 9/30/87.

660.0131 Lease. When taxable real property is purchased by a tax-exempt governmental entity, pre-existing leases become taxable as possessory interests if they satisfy the requirements of Property Tax Rule 21. Any renewal, extension, sublease, or assignment of such a possessory interest is a change in ownership, regardless of the term of possession remaining under the lease; whereas, transfers of leasehold interests in taxable real properties constitute changes in ownership depending on the terms of possession remaining, as provided in Revenue and Taxation Code section 61(c)(1) and (2). LTA 1/6/83 (No. 83/03); C 8/9/91.

660.0132 Lease. The lease and lease-back of city-owned property to a nonprofit public benefit corporation may create a taxable possessory interest in the corporation. Property tax may be avoided if the corporation meets the requirements of Revenue and Taxation Code section 231. C 9/9/87.

660.0133 Lease. When a nontaxable public entity leases real property to a nonprofit public benefit corporation, and the public entity created and owns the non-profit corporation, a taxable possessory interest is created as to all portions of the property not subject to pre-

existing leases to third parties. Nevertheless, since the lessee corporation is wholly-owned by the lessor, the transfer is excluded from change-in-ownership under Revenue and Taxation Code section 62(a)(2). The possessory interest must be assessed at its base year value prior to the creation of the new leasehold interest, adjusted for the lesser of inflation or market value in accordance with Revenue and Taxation Code section 51. The value of the possessory interest does not, however, include the value of pre-existing leases to third parties. The pre-existing leases to third parties will themselves continue to be taxable as possessory interests unless specifically exempted by other statutory provisions, and may be separately assessed. C 11/17/92.

660.0142 Lease and Leaseback. A lease and leaseback of property owned by a governmental agency creates a taxable possessory interest which may be eligible for exemption pursuant to Revenue and Taxation Code section 231. However, the exemption does not apply to the possessory interest if the property is vacant and unused on any given lien date. C 9/30/87.

660.0145 Leased Property Acquired by Exempt Entity. A public retirement system purchased property from a private party subject to an existing lease. The leasehold interest becomes a separately assessable taxable possessory interest; however, for purposes of valuing the possessory interest, the purchase is not considered the creation of a taxable possessory interest resulting in a change in ownership for purposes of Revenue and Taxation Code section 61(b) requiring each taxable possessory interest created to be appraised at current market value. If and when the purchaser negotiates renewals of leases or enters into new leases, a change in ownership requiring reappraisal would occur. C 4/29/96.

660.0150 Local Governmental Entity of Another State. An irrigation district of another state has a taxable possessory interest in a reservoir owned by the Federal Government in California its water distribution system uses. The property of such an entity in California is not exempt from property taxation. C 5/7/80.

660.0159 Marine Salvage Permit. Property Tax Rule 20(c)(1) defines "real property" to include not only land (presumably including submerged land) but also "public waters such as tidelands and navigable waters and waterways." A taxable possessory interest is created in favor of the permittee if the terms of the salvage permit meet the definitions of independence, durability, and exclusiveness, and in addition, provide a private benefit to the possessor. C 9/29/99.

660.0160 Maritime Terminal Facilities. In *Euro-Pacific v. Alameda County* (1992) 11 Cal.App.4th 891, the court held that a contract between a company operating container vessels and a port district, pursuant to which the company could use the district's terminal facility on a first-come, first-served basis, without a right to use it if other vessels were then using it, and without a right to move ahead of other waiting users, and requiring the company to vacate a berth if its vessel were idle and another company's vessel were waiting, created a taxable possessory interest.

The company's right was concurrent with the rights of others. That the concurrent use by others might interfere with its right was held to be relevant to the value of the interest, but it did not alter the fact that a possessory interest existed. C 12/23/92.

660.0170 Military Housing. Property owned by the United States is not subject to property taxation by the state within which it is located, unless the United States consents to such taxation. Additionally, in *United States v. Humboldt County* (1980) 628 F.2d 549, the court held that military personnel do not acquire taxable possessory interests in government-

owned military housing, and that had such possessory interests been acquired, taxation thereof would be constitutionally impermissible as taxation upon federal functions and properties. C 4/2/87.

660.0171 Military Housing. Residential housing constructed and owned by a private contractor but located on Navy-owned land results in a taxable possessory interest in the land. If the agreement between the contractor and the Navy puts restrictions on the use of the residences and the rentals to be charged, however, such restrictions could be considered to be governmental land use restrictions pursuant to Revenue and Taxation Code section 402.1, and thus could impact the taxable value of the property. C 6/11/91.

660.0172 Military Privatization Housing. Under the Department of the Army's Residential Communities Initiative (RCI) program, the federal government and a private contractor created a limited liability company (LLC) to finance, design, construct, manage, operate, maintain, and repair military family housing. Under the operating agreement, the federal government leased federal land with existing military housing to the LLC for a 50-year term; the LLC provided property management, maintenance, and operation services for a military residential development; and, the LLC will construct new housing units on the land.

The elements of control exercised by the federal government pursuant to the lease and operating agreement made the LLC an agent of the federal government. The LLC's use and occupancy of the land lacked the degree of independence sufficient to constitute a taxable possessory interest. Therefore, for property tax purposes, ownership of the property remains in the federal government so the property is immune from property taxation. C 4/18/2003.

660.0173 Military Privatization Housing. Even though an entity may have title to the improvements, ownership of on-site utilities, a purchase option in the event of a military base closure, and tort liability, the contractual restrictions on control and profitability are sufficient to create a principal/agent relationship between the government and the entity. For this reason, no taxable possessory interest is created because the entity lacks independence. C 9/24/2008.

660.0175 Modification of Lease. The modification of a lease that renews, extends, or assigns the possessory interest created by the lease results in a change in ownership. However, the restatement into a new format and the addition of an option to extend the term of the lease are not such modifications. When dealing with options to extend the term of a lease, possessory interests are treated differently than options included in leases that do not create possessory interests. In the former, the option must be exercised to constitute a change in ownership, whereas in the latter, options are taken into account in determining whether or not the lease is for a term of 35 years or more. C 3/14/97.

660.0180 Municipal Parking Garage. Easements granted to the owners of property adjacent to a municipal parking facility that allow employees and business invitees of the property owners and their tenants to use the garage can constitute taxable possessory interests. The fact that the garage is open to the general public does not prevent the adjacent landowners' use from satisfying the durability, independence, exclusivity, and private benefit tests. C 4/10/89.

660.0185 Oil and Gas Leases in Tax Exempt Properties. Revenue and Taxation Code sections 107.2 and 107.3 and subdivision (b) of Property Tax Rule 27 apply to the valuation of oil and gas possessory interests created on or before July 26, 1963, and extended or renewed after that date pursuant to Public Resources Code section 6827, which prohibits a reduction of the royalty rate. Public Resources Code section 6827.2, which authorizes the

State Lands Commission to renegotiate the lease including the royalty rate if continued production is economically unfeasible under the terms of the lease, is not applicable since that section was enacted after the lease was last extended or renewed and, even if it had been in effect, there is no indication that an increase in assessed value would result in a finding by the Commission that continued economic production would be economically unfeasible. C 7/21/92.

660.0190 Option to Lease. Execution of an option to lease property from the University of California does not create a taxable possessory interest. Such an instrument is merely an irrevocable offer to lease the property which remains open for a specified period of time, and normally, no rights to possession or exclusive use come into existence until the option is exercised. C 2/6/85.

660.0200 Option to Renew. The granting of an option to renew an existing possessory interest creates only a contractual right and is not within the definition of change in ownership. The exercise of such an option would be a change in ownership as of the date the option is exercised. LTA 6/13/88 (No. 88/41).

660.0210 Public Electrical System. The operation of a government-owned electrical system by a private party can be pursuant to a principal and agent relationship or as the result of the creation of a taxable possessory interest. The contract creating the relationship must be reviewed to determine whether the private party has sufficient independent rights or interests in the use, possession, and enjoyment of the government property to elevate those rights or interests to a propriety right subject to assessment as a taxable possessory interest. C 1/13/89.

660.0220 Public Schools Concessionaires. Property used by concessionaires exclusively for providing food service to public schools, community colleges, state colleges, and state universities is exempt from property taxation under section 3(d) of article XIII of the California Constitution and hence, such concessionaires do not have taxable possessory interests. LTA 3/21/80 (No. 80/48).

660.0225 Public Schools-Student Housing. A fifty-year lease of land owned by the University of California to a lessee who is to construct and operate a 200-unit student family housing apartment complex creates a possessory interest that would be taxable, except for the provisions of section 3(d) of article XIII of the California Constitution. That provision exempts property used exclusively for public schools, community colleges, state colleges, and state universities.

Upon the basis of the reasoning in such cases as *Mann v. Alameda County* (1978) 85 Cal.App.3d 505, *Church Divinity School v. Alameda County* (1957) 152 Cal.App.2d 496, and *English v. Alameda County* (1977) 70 Cal.App.3d 226, the property is being used exclusively for University purposes so long as any given unit is subleased to a student, faculty member, or staff member of the University, even though the lessee is a for-profit entity. C 1/13/88; C 8/30/2002.

660.0230 Purchase Price Presumption. While the presumption contained in Revenue and Taxation Code section 110(b) does not apply in valuing possessory interest, there is nothing in the section or elsewhere that would preclude consideration of the purchase price paid for a possessory interest in ascertaining its market value. C 5/10/89.

660.0240 Redevelopment Projects. Where an office building in a redevelopment project has been redeveloped and a portion is leased by the redevelopment agency to a private person or entity, Health and Safety Code section 33673 requires that the leased portion be assessed and taxed in the same manner as privately-owned property. The requirement

means that the lessee shall pay taxes on the market value of the entire leasehold estate based on its highest and best use within the terms of the lease. C 4/14/98.

[660.0245](#) **Refuse Collection.** The collection, pursuant to contract, of garbage, rubbish, garden refuse, and all other waste material within a city, but without the use of the city's real property in the collection or disposal thereof, does not result in the creation of a taxable possessory interest. C 1/13/89.

[660.0260](#) **Sale and Leaseback.** When the terms of a sale and leaseback agreement indicate that a governmental agency has entered a financial transaction designed to provide funds for the building of a county facility and the agreement is not a true sale, the county retains ownership and the "lessee" obtains a possessory interest. If the "lessee" is not qualified for exemption under Revenue and Taxation Code section 231, the possessory interest becomes taxable. See *City of Desert Hot Springs v. Riverside County* (1979) 91 Cal.App.3d 441. C 9/22/87.

[660.0265](#) **Sale to State.** Real property owned by the State of California that is exempt from property taxation under section 3(a) of article XIII of the California Constitution may include possessory interests. Therefore, a post-lien date sale of a possessory interest to the State should result in a cancellation or refund of property taxes on an apportioned basis pursuant to Revenue and Taxation Code sections 5081 through 5091. C 5/9/88.

[660.0274](#) **Statutory Fees Paid By Federal Government.** Payment of twenty-five percent of all moneys received during any fiscal year from each national forest, to the States for the benefit of the public schools and public roads of the county or counties in which such national forest is situated are in the nature of volunteer revenue sharing and not taxes. As such, the assessment of possessory interests of private permittees on national forest lands is neither prohibited nor double taxation. C 12/29/98.

[660.0275](#) **Statutory Fees Paid By State.** Unless designated as in-lieu of taxes, payments by state agencies to counties in amounts equal to the county taxes levied upon the property at the time title to the property was transferred to the state do not constitute property taxes and the assessment of a possessory interest in the same property does not constitute double taxation. C 9/20/93.

[660.0285](#) **Taxi Service.** Although titled a "Non-Exclusive License Agreement", a contract granting a taxi company the right to pick up and deliver passengers at a location on a municipal airport is a possessory interest if it is durable, exclusive (i.e., not shared in common with the general public), conveys a private benefit, and is sufficiently independent of municipal control as to qualify the taxi company as an independent contractor. C 8/23/85.

660.0295 **Term of Possession.** C 9/10/85. (Deleted 2004)

[660.0296](#) **Term of Possession.** A contract between the federal government and a concessionaire providing for the use of federal property for a term of twenty years, provided that if the concessionaire does not complete certain improvements within a specified period, the term shall be five years, results in a term of possession for twenty years with the possibility of possession being reduced to five years, not a five year lease with an option. C 1/23/89.

[660.0297](#) **Term of Possession.** Where a change in ownership of a possessory interest occurs as a result of a sublease, the anticipated term of possession to be used for valuation purposes is that of the lessee/sublessor rather than the sublessee. C 2/28/94.

[660.0300](#) **Term of Possession.** When a governmental agency leases contiguous pieces of property to a single lessee so as to create what appear to be different terms of possession,

e.g., one renewable annually by the payment of a fee and the other for a term of 30 years, the term of possession for appraisal and assessment purposes turns on whether the properties are to be used together so as to constitute a single operating and appraisal unit.

If it is unreasonable to conclude that either property would be operated without the other, then it is appropriate to enroll a base-year value for both properties based upon an appraisal that employs the longer term, i.e., 30 years in the above example. The so-called "renewable" interest should not be reappraised each year. C 3/4/87.

660.0301 Term of Possession. The holder of a possessory interest under an annual permit who, at the time of renewal, obtains the right to use additional acreage should have its right to use additional acreage appraised.

If, during the term of possession, additional acreage is made available and integrated into an existing operation, all of the acreage should be appraised since, in effect, a new possessory interest has been created. C 1/14/85.

660.0302 Term of Possession. C 7/13/84. (Deleted April 2010)

660.0320 Termination. A lessee who owns a taxable possessory interest on any given lien date but who has the lease terminated on the succeeding July 31 is eligible for a refund if the value of the possessory interest was based upon a term of possession longer than the actual term, provided he or she files an assessment appeal.

If the property were leased to a second lessee, for example, in September, a new taxable possessory interest would be created, a new base-year value would be determined, and a supplemental assessment would be appropriate. C 9/11/85.

660.0340 University Staff Housing. University staff members' possessory interests in housing owned by the University of California and located at an agricultural field station are not taxable if the members' occupancy can be considered reasonably necessary or incidental to an educational purpose. This is a factual determination which must be made using the broad judicial interpretation given the term "reasonably necessary" as a guideline. C 8/29/80.

660.0350 Valuation. The purchase of a possessory interest in government-owned land and of a privately-owned but partially destroyed structure located thereon constitutes a change in ownership. The new base year value of the possessory interest may be determined by various approaches to value. However, when the direct comparison method, a sales approach to value, is employed, the price paid must be augmented by the present worth of any unpaid future contract rents for the estimated remaining term of possession and by any other obligations assumed by the purchaser. When the possessory interest rent is a percentage of the gross revenue from the total property, it is appropriate to estimate anticipated income from the improvement in its restored condition in determining future contract rents to be paid. C 10/20/95.

660.0351 Valuation. When applying the income approach, the direct income approach is not a preferred valuation method over the indirect income approach. The particular income method should be applied as circumstances permit. Additionally, the use of contract rent (e.g., rent to the lessor) should only be used for valuation purposes if the contract rent provides good evidence of economic rent. If contract rent is used as an indicator of economic rent, the lessor's gross rental income generally should be reduced by both a reasonable vacancy and loss factor and typical management and other operating expenses of the lessor to arrive at the income to be capitalized. Net rental income may be considered the same as gross rental income where a lessee is responsible for all expenses, such as

with a "triple net" or "net" lease; however, in general, gross income must always be reduced by various types of expenses to arrive at net income, the income to be capitalized.

There should be a consistent application of the property tax component to the rent income capitalized. If an amount for property taxes is included in the income being capitalized, then a property tax component should be added to the capitalization rate. If, on the other hand, an amount for property taxes is not included in the income being capitalized, then a property tax component should not be added to the capitalization rate. C 7/31/2000.

660.0360 Vehicle Parking Space. A county official may have a taxable possessory interest in a vehicle parking space assigned by the county and located on property owned by the county if certain conditions are met; however, the tax ordinarily would not be imposed because the amount received would be less than the costs of collection. OAG 3/20/79 (No. CV 78-125, Vol. 62, p. 143).

660.0361 Vehicle Parking Space. The assignment to county officers or their county employee designees of specific parking spaces on land owned by the county creates taxable possessory interests. If the number of employees eligible to use the spaces on a first come, first serve basis exceed the number of spaces available, then a taxable possessory interest is not created. 62 Ops. Cal. Atty. Gen. 143 (1979); C 5/4/90.

660.0365 Vending Machines. A beverage manufacturer's right to occupy space in public schools for its vending machines and other equipment creates a possessory interest if the right is durable, exclusive, conveys a private benefit, and is sufficiently independent to constitute more than a mere agency. However, the possessory interest that arises from the agreement between the school district and the company is exempt as property used exclusively for public school purposes under section (3)(d) of article XIII of the California Constitution and section 202(a)(3) of the Revenue and Taxation Code. School districts are authorized to furnish food service in section 39871 of the Education Code; therefore, vending machines dispensing food items are a service that is directly related to and in furtherance of a public school purpose. Assuming that the beverages dispensed in the vending machines can be classified as a food product, the school district's agreement with the beverage company permits an incidental use of school property that is in furtherance of the primary purpose of the school district. C 10/4/2002.

660.0370 Veterans. The private rental of space at county fairgrounds or the State Fair creates a taxable possessory interest, absent any exclusion or exemption. Since Business and Professions Code section 16102 is a limitation on local business licensing for veterans, rather than an exemption from property tax, this statute has no effect on an assessor's authority to assess any possessory interest under the California Constitution and the Revenue and Taxation Code. Therefore, a taxable possessory interest in rental space at the State Fair or county fairgrounds is subject to assessment, even though the vendor may be a veteran. C 5/23/2001.