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January 7, 1993

TO COUNTY ASSESSORS:

STATUTE OF LIMITATIONS ON SUPPLEMENTAL ASSESSMENTS
CHAPTER 663 OF THE STATUTES OF 1992
EFFECTIVE SEPTEMBER 14, 1992
(ASSEMBLY BILL 3280)

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No. 93/03

Chapter 663 of the Statutes of 1992 (Assembly Bill 3280) amended Section 75.11 of the Revenue and Taxation Code to establish time limits for the enrollment of supplemental assessments. (All subsequent statutory references are to the Revenue and Taxation Code unless otherwise indicated.) This letter will explain the application of the new law both to those supplemental assessments already issued and to those forthcoming but not yet enrolled.

Chapter 663 also amended Section 606 to provide, under certain conditions, for the combined assessment of two or more contiguous parcels of land in separate revenue districts. This portion of the bill will be discussed in a separate letter to assessors.

Chapter 663 is an urgency statute, effective September 14, 1992.

Prescribed Time Limits for Supplemental Assessments

There has been some controversy over the issue of whether, prior to Chapter 663, existing provisions imposed a time limit on supplemental assessments. Some have argued that the time limits for enrolling escape assessments (Sections 531.2 and 532) also applied to supplemental assessments. Recently, in an unpublished decision, an appellate court agreed with such an argument. (See letter to assessors 92/75, dated November 24, 1992.) Nevertheless, staff maintains its position that the absence of an express time limit prior to Chapter 663 was sufficient evidence that no time limit should have been imposed. (See letter to assessors 88/75, dated November 4, 1988.)

Chapter 663 provides express statutory time limits by adding subdivision (d) to Section 75.11. Under subdivision (d), no supplemental assessment shall be valid or have any force or effect unless it is placed on the supplemental roll on or before one of the following dates, as applicable:

"(1) The fourth July 1 following the July 1 of the assessment year in which the event giving rise to the supplemental assessment occurred.

"(2) The sixth July 1 following the July 1 of the assessment year in which the event giving rise to the supplemental assessment occurred, if the penalty provided for in Section 504 is added to the assessment.

"(3) The eighth July 1 following the July 1 of the assessment year in which the event giving rise to the supplemental assessment occurred, if the change in ownership or change in control was unrecorded and a change in ownership statement required by Sections 480, 480.1, or 480.2 was not filed."

Under these provisions, determining the deadline for making a supplemental assessment means first identifying the assessment year in which the change in ownership or completion of new construction (i.e., the event giving rise to the supplemental assessment) occurred. Once the assessment year has been identified, the July 1 from which to begin counting successive July 1's is also known.

This process is straightforward under subdivision (d), which provides expressly that the term "assessment year" means the period beginning annually as of 12:01 a.m. March 1 and ending immediately prior to the succeeding March 1. Thus, for example, if the event giving rise to the supplemental assessment was new construction, completed on June 15, 1992, the event occurred in the assessment year spanned by March 1, 1992 and February 28, 1993. Obviously, July 1 of that assessment year is July 1, 1992. Under Section 75.11(d)(1) any supplemental assessment for this event would have to be enrolled on or before July 1, 1996, since that is the fourth July 1 following July 1, 1992 (July 1 of the assessment year in which the event occurred).

Supplemental assessments made prior to September 14, 1992 are unaffected by the provisions of subdivision (d). The statutory time limits provided by subdivision (d) apply to any supplemental assessment enrolled on or after September 14, 1992. Thus, assuming that subdivision (d)(1) is applicable, any supplemental assessments for events that occurred prior to March 1, 1989 are invalid unless they were enrolled prior to September 14, 1992. If subdivision (d)(2) applies, then any supplemental assessments for events that occurred prior to March 1, 1987 would have to have been enrolled prior to September 14, 1992. If subdivision (d)(3) is applicable, then supplemental assessments for events occurring prior to March 1, 1985 are invalid unless they were enrolled prior to September 14, 1992. For events occurring on or after March 1, 1989 (or 1987, or 1985, as applicable), refer to the applicable time limit in Section 75.11(d).

For example, if an event covered by subdivision (d)(1) occurred on February 1, 1989 and the assessor has not yet enrolled a supplemental assessment, it is now too late to do so, since the deadline for making that supplemental assessment was July 1, 1992 (the fourth July 1 following July 1, 1988). As another example, if an event covered by subdivision (d)(3) occurred on April 1, 1985, then the applicable "assessment year" is the period from March 1, 1985 through the end of February 1986. In this case, the assessor has until July 1, 1993 to enroll the supplemental assessment, since that is the eighth July 1 following July 1, 1985.

Time Limits for Escape Assessments are Unaffected

Chapter 663 contains a Statement of Legislative Intent which makes clear that the newly added time limits for making supplemental assessments do not affect the existing statute of limitations under Section 532 for making escape assessments.

Thus, for example, where new construction was completed April 1, 1989, the (two) supplemental assessments would have to be enrolled by July 1, 1993 since, as in the example above, that would be the fourth July 1 following the assessment year in which the event giving rise to the supplemental assessment occurred. But even if the supplemental assessments were not made by July 1, 1993, the assessor would still be obligated to enroll escape assessments for any years still open under Section 532. Specifically, if the new construction went undiscovered until July 2, 1993 (so that no supplemental assessments and no escape assessments were made by that date), the assessor would still be required to levy an assessment for the current roll year, 1993-94, and escape assessments for the 1990-91, 1991-92, and the 1992-93 assessments years, despite the fact that the supplemental assessments would now be barred. (Under Section 532, the 1990-91 escape assessments would have to be made by July 1, 1994.)

Extensions by Written Agreement

Newly added subdivision (e) of Section 75.11 provides that the time limits contained in subdivision (d) may be extended by written agreement between the taxpayer and the assessor. Subdivision (e) reads:

"If, before the expiration of the applicable period specified in subdivision (d) for making a supplemental assessment, the taxpayer and the assessor agree in writing to extend the period for making a supplemental assessment, correction, or claim for refund, a supplemental assessment may be made at any time prior to the expiration of that extended period. The extended period may be further extended by successive written agreements entered into prior to the expiration of the most recent extension."

To clarify a minor detail, we believe that where subdivision (e) refers to "making a supplemental assessment," this has the same meaning as the phrase "enrolling a supplemental assessment." The substance of subdivision (e) is self-evident: by written agreement, taxpayer and assessor may extend, for as long as they wish, the time period for making a supplemental assessment. Although this is rather basic, two points are worth emphasizing:

- (1) The agreement for extension must be in writing; and
- (2) Any number of successive written agreements for extension may be entered into, but those agreements must be entered into prior to the expiration of the most recent extension.

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Note that the language of subdivision (e) is roughly parallel to that of Section 532.1, which pertains to agreed-upon extensions for making escape assessments, corrections, or claims for refund. In this connection, three points need to be remembered. First, under Section 75.11(e), an agreement that extends the time for making corrections or claims for refund also automatically extends the time for making supplemental assessments. Second, an agreement that mentions only supplemental assessments does not also extend the time for making escape assessments, corrections, or claims for refund. Third, an agreement that mentions only escape assessments does not also extend the time for making either supplemental assessments, corrections, or claims for refund.

Obviously, precision in the language of agreements for extension is critical. Assessors and taxpayers are advised to consider exactly what it is they are intending to agree to before they enter into any agreements. Thus, for example, if in a particular case you do not intend to extend the time for making escape assessments, corrections, or claims for refund, then you should confine the language of your agreement to supplemental assessments. At the same time, you should be aware that if you agree to extend the time for making corrections or claims for refund, you will have also extended the time for making supplemental assessments.

If you have any questions about Chapter 663 (Assembly Bill 3280), please call our Real Property Technical Services Unit at (916) 445-4982.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

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