



(916) 445-6414

February 27, 1985

Honorable Malcolm A. Nicolson  
Yolo County Assessor  
625 Court Street, Room 104  
Woodland, California 95696

Supplemental Assessments On Homes  
Reposessed By The DVA

Dear Mr. Nicolson:

This letter is in response to Verne Walton's request that we advise you concerning the responsibility of the Department of Veterans Affairs to pay supplemental assessments on homes it has reposessed.

When a qualified veteran selects a home, the department purchases the home and enters into a long-term installment contract of sale with the veteran. (Military and Veterans Code, Section 987.50 et. seq.) The contract provides that the veteran pays sums to the department for property taxes and insurance and these charges are then paid by the department on the veteran's behalf. An issue has arisen concerning the liability of the department to pay property taxes on a home which it has reposessed. The department has assumed responsibility for taxes on the regular 601 assessment role, but refuses to pay supplemental assessments triggered by a repossession. The department's position is that as a state agency, it is not legally bound to pay any property taxes; the responsibility which it assumes for taxes on the regular assessment roll is voluntary and it wants no further responsibility for supplemental assessments. You ask this office to define the law and responsibilities regarding payment of supplemental assessments in this situation.

Article XIII, Section 3(a), of the State Constitution provides that property belonging to the State is exempt from taxation. When property is sold to a veteran by the Department of Veterans Affairs under an installment contract, the department holds legal title to the property as security until the purchase price has been paid in full, but the beneficial interest in the property has passed to the veteran in possession; therefore, the property is not exempt from taxation. (Eisley v. Mohan, 31 Cal. 2d 637 (1948).) Thus, when a veteran enters into a contract with the department, there is a change of ownership and the veteran is liable

February 27, 1985

for property taxes. (Eisley v. Mohan, supra; Revenue and Taxation Code, Section 60.) If a veteran fails to make installment payments or otherwise breaches the contract, the department may cancel the contract, force a forfeiture, and repossess the property. (Military and Veterans Code, Section 987.77.) At that time, the department again becomes the owner of the property. Unless the department voluntarily agrees to pay taxes, the property is exempt.

If you have any questions or wish to discuss this further, please contact me.

Very/truly yours,

Michele F. Hicks  
Tax Counsel

MFH:mw

cc: Mr. Howell Y. Jackson  
Chief Attorney, Dept. of Veterans Affairs

Mr. Verne Walton



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December 16, 1983

TO COUNTY ASSESSORS:

QUESTIONS AND ANSWERS REGARDING SUPPLEMENTAL ASSESSMENTS

Here is the second letter in our series on supplemental assessments under Senate Bill 813 and Assembly Bill 399.

Sincerely,

A handwritten signature in cursive script that reads "Verne Walton".

Verne Walton, Chief  
Assessment Standards Division

VW:wpc  
AL-12-1387A

QUESTION 1: When property under construction transfers, is the new owner/builder eligible for the exclusion under Section 75.12? \*

ANSWER 1: Upon application, the new owner/builder could receive the exclusion. However, there would be a supplemental assessment for the change in ownership, including the construction completed to date of transfer, and the new owner would have to apply for exclusion prior to beginning any construction.

QUESTION 2: Would a developer be eligible for exclusion in regard to the street improvements (e.g., sewer lines, grading, paving, sidewalks, etc.) that he puts on his own land?

ANSWER 2: Section 75.12 excludes any newly constructed real property if the property is held for sale. So long as the developer applies prior to commencement of construction, the exclusion under this section would apply.

QUESTION 3: If a builder properly applies for and receives the exclusion under Section 75.12 and subsequently uses the property in contradiction to the section, how would the property be handled for purposes of supplemental assessment?

ANSWER 3: The new construction would be appraised at its new base-year value as of the date of completion of new construction, and it would be enrolled on the supplemental roll as of the date the contradictory use commenced. For example, if the new construction was completed in June of 1984 and then occupied by the owner in February of 1985, the property would be subject to supplemental assessment for four-twelfths of the 1984-85 fiscal year.

QUESTION 4: What should happen when, in 1988, you find a change in ownership that occurred in August of 1985?

ANSWER 4: There would be an escape assessment entered on the supplemental roll for the 1985-86 supplemental assessment, and there would be an escape assessment on the regular roll for the appropriate number of years (i.e., four years if a recorded transfer and eight years if unrecorded).

\* Unless otherwise indicated, all references are to the Revenue and Taxation Code.

QUESTION 5: What tax rate should be applied in the above instance?

ANSWER 5: The tax rate to be applied would be the tax rate that would have been applied had the assessment been processed timely.

QUESTION 6: If a supplemental assessment is less than fifteen hundred dollars, can it be exempted under Section 155.20?

ANSWER 6: No. The exemption afforded under Section 155.20 applies to the entire property and not just a portion thereof.

QUESTION 7: How should leasehold improvements be handled for purposes of supplemental assessments?

ANSWER 7: Assuming they are newly constructed real property not otherwise excluded (i.e., fixtures), leasehold improvements are subject to supplemental assessment. Section 2188.2 states that improvements owned by a person other than the owner of the land on which they are located may be assessed separately from the land if requested by either the owner of the improvements or the owner of the land. Whether newly constructed leasehold improvements are separately assessed or not, they would be placed on the supplemental roll on change in ownership or completion of new construction.

QUESTION 8: Would a possessory interest be subject to supplemental assessment?

ANSWER 8: Yes. A possessory interest is a real property interest subject to the assessment limitations of Article XIII A. The creation, renewal, sublease, or assignment of any taxable possessory interest is a change in ownership requiring reappraisal and a supplemental assessment assuming the change in ownership occurs after July 1, 1983.

QUESTION 9: Would there be a negative supplemental assessment and resultant refund when a possessory interest terminates and goes back to the government?

ANSWER 9: No. The taxable possessory interest would have been valued according to its anticipated term, and the fact that it is not renewed simply means that the taxable interest terminates.

QUESTION 10: Would leveling of land be subject to supplemental assessment?

ANSWER 10: If the leveling qualifies as new construction, it would be subject to supplemental assessment unless subject to the exclusion under Section 75.12.

QUESTION 11: A property with a March 1, 1983 roll value of \$50,000 sells April 15, 1983 (before the effective date of SB 813) for \$100,000 and then sells again in August of 1983 for \$120,000. How would the supplemental assessment be calculated?

ANSWER 11: Assuming the sale price of \$120,000 was representative of market value, that would become the new base-year value. From that amount you would subtract the taxable value on the current roll (i.e., \$50,000) yielding a supplemental assessment of \$70,000. The interim sale for \$100,000 would not come into play since that transaction was not subject to a supplemental assessment. The supplemental roll legislation is not applicable before July 1, 1983.