



STATE OF CALIFORNIA

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No. 79/182

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TO COUNTY ASSESSORS:

ASSEMBLY BILL 1488 AND TAXABLE POSSESSORY INTERESTS

Assembly Bill 1488 added Section 61(b) to the Revenue and Taxation Code to provide that the creation, renewal, sublease, or assignment of a taxable possessory interest in tax-exempt real property for any term is a change in ownership as defined in Section 60 of the Code. Thus, the creation of a taxable possessory interest in tax-exempt real property for any term is a change in ownership which subjects the interest to reappraisal.

We have received inquiries concerning the applicability of Section 61(b) in instances involving the relocation of aircraft tie-downs. Generally, airport managements have been relocating tie-down locations pursuant to aircraft tie-down contract provisions which authorize them to do so at their sole discretion, and the question is whether such relocations are creations of taxable possessory interests under Section 61(b).

In our view, such relocations are not creations of taxable possessory interests, and they should not be treated as such. Rather, taxable possessory interests are created by the contracts with airport managements whereby the aircraft owners obtain the rights to tie-down their respective aircraft on airport properties. During the terms of such contracts, the aircraft owners may be called upon to use tie-down locations other than those originally assigned to them. See Lucas vs. County of Monterey, 65 Cal. App. 3d 947, in this regard (boat owner having a permit to use a berth at harbor facility had a possessory interest, but during term of permit, boat owner was assigned to other berths when his berth was being used by other boats). While contracts are in force, however, the possessory interests created thereby continue.

On the other hand, the termination of an aircraft tie-down contract would, of course, constitute a change in ownership under Section 61(b).

Please refer any inquiries to John McCoy of this Division.

Sincerely,

Verne Walton, Chief
Assessment Standards Division

VW:dr