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No. 79/43

March 1, 1979

TO COUNTY ASSESSORS:

HOMEOWNERS' EXEMPTION-ESCAPE ASSESSMENT
UNDER SECTION 531.6

As you know, there were three amendments to Section 531.6, Revenue and Taxation Code, in 1978. They are as follows:

- (1) Section 14 of AB 2867, Chapter 1112, signed September 26, 1978.
- (2) Section 14.5 of AB 2867, Chapter 1112, signed September 26, 1978.
- (3) Section 3 of AB 2411, Chapter 1126, signed September 26, 1978.

Though each bill was chaptered the same day, AB 2411 was chaptered later than AB 2867. Therefore, it is Section 3 of AB 2411 that became effective January 1, 1979. The applicable section states:

"The taxpayer who has filed a claim for the homeowners' exemption which has not been denied by the assessor is responsible for notifying the assessor when the property is no longer eligible for the exemption.

Upon any indication that a homeowners' exemption has been incorrectly allowed, the assessor shall make a redetermination of eligibility for the homeowners' exemption. If the assessor determines that the property is no longer eligible for the exemption, he shall immediately cancel the exemption on the property.

If a homeowners' exemption has been incorrectly allowed, an escape assessment as allowed by Section 531.1 in the amount of the exemption with interest as provided in Section 506 shall be made, except that where the exemption was allowed as the result of an assessor's error, the amount of interest shall be forgiven. If the exemption was incorrectly allowed because of erroneous or incorrect information submitted by the claimant with knowledge that such information was erroneous or incomplete or because the claimant failed to notify the assessor in a timely manner that the property was no longer eligible for the exemption, the penalty provided in Section 504 shall be added to the assessment. If the property subject to this paragraph has been transferred or conveyed to a bona fide purchaser for value or becomes subject to a lien of a bona fide encumbrancer for value, the provision of Section 531.2 shall apply."

Section 531.6, as amended:

- (1) changed the section number under which an escape assessment should be made from Section 531.2 to Section 531.1, and
- (2) added the last sentence to the prior Section 531.6 that states:

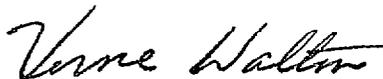
"If the property subject to this paragraph has been transferred or conveyed to a bona fide purchaser for value or becomes subject to a lien of a bona fide encumbrancer for value, the provisions of Section 531.2 shall apply."

Our recommended application of the statute is as follows:

- (1) If a homeowners' exemption is found to have been incorrectly allowed, an escape assessment should be made under the provisions of Section 531.1. The escape should include the one-half of 1 percent per month interest provided in Section 506. If the escape was caused by an assessor's error, the interest should be forgiven.
- (2) Where the claimant failed to notify the assessor by June 30 (Rule 135), that the property was no longer eligible for the exemption, the 25-percent penalty provided in Section 504 must be added to the assessment.
- (3) If the property transfers or the property becomes subject to a lien of a bona fide encumbrance for value SUBSEQUENT TO JULY 1, for the year the exemption was improperly allowed, the escape assessment should be entered on the unsecured roll in the name of the person (usually the seller), who would have been the assessee in the year in which it escaped assessment. The tax rate applicable is the secured tax rate of the year in which the property escaped assessment. (Keep in mind that renters' credit checks and other audits could expose the "failure to notify the assessor the property was no longer eligible for exemption" up to several years after the exemption was improperly allowed.)
- (4) If the property transfers or the property becomes subject to a lien of a bona fide encumbrance for value SUBSEQUENT TO 12:01 a.m. MARCH 1 AND ON OR PRIOR TO JUNE 30, and the exemption was improperly allowed, the escape should be entered on the secured roll as if the seller still owned the property. The 25-percent penalty and interest should be added accordingly where the claimant failed to notify the assessor by June 30 that the property was no longer eligible for the exemption.

If you have any question regarding an escape assessment because of an incorrectly allowed homeowners' exemption, please contact Mr. Bill Grommet of this division.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

VW:pb