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PROPERTY AND SPECIAL TAXES DEPARTMENT  
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April 14, 2011

No. 2011/014

TO COUNTY ASSESSORS:

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Questions have arisen whether real property acquired by the U.S. Department of Housing and Urban Development (HUD) is exempt from property taxes under section 3 of article XIII of the California Constitution. Sections 3(a) and (b) provide that real property owned by the State of California or a local government is exempt from property taxes, except, in some instances, real property owned by a local government and located outside its boundaries.<sup>1</sup> Generally, property owned by the United States is exempt under federal law, not state law.

Under the Supremacy Clause of the United States Constitution, a state cannot tax federal property within its boundaries unless Congress explicitly consents to taxation.<sup>2</sup> Consistent with this clause, section 1 of article XIII of the California Constitution and Revenue and Taxation Code section 201 provide that all property in California, not exempt under the laws of the United States or California, is subject to taxation. Thus, the general rule is that property owned by the United States is exempt from property taxation. However, Congress has set forth specific limited exceptions to this general rule. One of these exceptions is contained in federal statute, 12 U.S.C. section 1714. Under this section, HUD is expressly not exempt from real property taxes.

Since real property owned by HUD is subject to property tax, real property owned in California will be subject to the provisions of article XIII A. In other words, if the acquisition of real property by HUD is considered a change in ownership, the property is reassessed to current market value as of the date of acquisition, a new base year value established, and appropriate supplemental assessment(s) issued.

If HUD obtains the real property through repossession or foreclosure, HUD will continue to pay the local property tax bills on those properties. Under Property Tax Rule 462.120, a change in ownership will not occur until after the period of redemption has passed and the property has not been redeemed or the property is sold at a trustee's sale and the right of possession vests in the purchaser.

<sup>1</sup> Article XIII, section 11.

<sup>2</sup> U.S. Constitution, article VI.

Even though real property owned by HUD is subject to property taxes, HUD remains exempt from personal property taxes under the Supremacy Clause of the U.S. Constitution because Congress has not explicitly waived its sovereign immunity.

If you have any questions regarding these issues, please contact our Assessment Services Unit at 916-274-3350.

Sincerely,

/s/ David J. Gau

David J. Gau  
Deputy Director  
Property and Special Taxes Department

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