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November 3, 1988

Honorable Roger L. Olson
Alpine County Assessor
P.O. Box 155
Markleeville, CA 96120

Attention Mr. Willis A. Reil

Dear Mr. Olson:

This is in response to your letter of October 5, 1988 to my attention in which you requested our opinion whether a change in ownership requiring reappraisal would occur as a result of the following proposed transfers described in your letter.

The U.S. Forest Service is in the process of transferring ownership of certain lands improved with summer homes in the Shay Creek Summer Home Area of Alpine County to the owners of the homes. The land will be deeded as one tract to a homeowners' organization which will then deed the various lots to the respective home owners. The home owners are occupying the land under term special use permits issued by the Forest Service. It is our understanding from a telephone discussion with a Forest Service employee and from a review of the provisions of several use permits provided to us by the Forest Service employee (copies are enclosed for your reference) that the remaining terms of the permits including renewal options do not exceed 30 years.

The permits are issued under the authority of the Act of March 4, 1915, 38 Stat. 1101, as amended, 70 Stat. 708 (16 U.S.C. 497) for periods not over 30 years for various uses including summer homes (36 CFR 251.53(d)).

The federal regulations distinguish a "permit" from a "lease" and define a "permit" as "a special use authorization which provides permission, without conveying an interest in land, to occupy and use National Forest System land . . . ." (36 CFR 251.51.)

Revenue and Taxation Code section 60 (all statutory references are to the Revenue and Taxation Code unless otherwise indicated) defines "change in ownership" to mean "a transfer of

a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest."

As indicated above, the permits are not characterized as leases under the federal regulations. Section 60 rather than section 61(c) which applies to leases of taxable property therefore appears to be controlling in this case. Under section 60, the proposed transfers clearly constitute changes in ownership requiring reappraisal of the fee simple interest in the property in question because they are transfers of a present interest in real property, including the beneficial use thereof, the value of which is equal to the value of the fee interest.

If you have further questions regarding this matter, please let us know.

Very truly yours,

Eric F. Eisenlauer

Eric F. Eisenlauer
Tax Counsel

EFE:cb
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Enclosure

cc: Mr. Richard H. Ochsner
Mr. Robert H. Gustafson
Mr. Verne Walton