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Mr. R. Gordon Young
San Bernardino County Assessor
172 W. 3rd Street
San Bernardino, CA 92415-0310

Division of Assessment Standards
SACRAMENTO

Mr. Adolfo Porras
Chief Appraiser

Dear Mr. Young:

This is in response to your letter dated October 18, 1985, in which you ask if Sections 20200 and 72096.5 of the Water Code gives property tax exemption to accessories of mobilehomes occupying a rental space in a mobilehome park.

The sections you cite provide that ad valorem taxes may not be levied for debt service of a district, a water district, or any improvement district upon mobilehomes which occupy rental space in a mobilehome park. As with any other tax exemption, these provisions for exemption from property tax must be strictly construed (Hart v. Plum, (1859) 14 Cal. 148; Bull Estate (1903) 153 Cal. 715; Hartford Fire Insurance Company v. Jordan (1914) 168 Cal. 270; Cypress Lawn Cemetery Association v. San Francisco (1931) 211 Cal. 387) provided the strict construction is fair and reasonable. (Cedars of Lebanon Hospital v. Los Angeles County (1950) 35 Cal.2d 729; Serra Retreat v. Los Angeles County (1950) 35 Cal.2d 755; Moody Institute of Science v. Los Angeles County (1951) 105 Cal.App.2d 107.) Consideration must be given to the ordinary meaning of the language and the object sought to be accomplished. (Fellowship of Humanity v. County of Alameda (1957) 153 Cal.App.2d 673; Honeywell Information Systems, Inc. v. County of Sonoma (1954) 44 Cal.App.3d 23; Regents of University v. State Board of Equalization (1977) 73 Cal.App.3d 660.) Mobilehomes are defined as a structure transportable in one or more sections, designed and equipped to contain not more than two dwelling units to be used with or without a foundation system, and does not include a recreation vehicle, commercial coach, or factory built housing. (See Revenue and Taxation Code Section 5801, Civil Code Section 1797.i,

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Health and Safety Code Sections 18008 and 18211, copies of which are enclosed.) On the other hand, mobilehome accessories are defined as any awning, portable demountable, or permanent cabana, ramada, storage cabinet, carport, skirting, heater, cooler, fence, wind break, or porch established for the use of the occupant of the manufactured home or mobilehome. (See Health and Safety Code Section 18008.5; Revenue and Taxation Code Section 5805, enclosed.)

As you can see, the Health and Safety Code sections you cite do not specifically exempt accessories, as defined by statute, from property taxation. Therefore, applying the "strict but reasonable" rule of construction, these Water Code sections do not exempt mobilehome accessories from ad valorem property taxes for debt service of water districts or improvement districts.

You should be aware that even though the Water Code sections you cite speak of "ad valorem property taxes" there is the possibility that courts of law would interpret the taxes as special assessments if they are imposed on property within a limited area to pay for local improvements to enhance the value of the property upon which the tax is imposed. In that event, the special assessment can be levied only upon land and improvements to land. (Northwestern Mutual Life Insurance Company v. State Board of Equalization 73 Cal.App.2d 548.) So, there is another pivotal question here as to whether you have properly classified the mobilehome accessories. They may be personal property or improvements to real property depending upon the nature of the accessories. I suggest you use Board Rule 122 (improvements) and Rule 122.5 (fixtures) to determine the proper classification for the accessories which you have assessed. I note your office issued a secured tax bill, so apparently you have determined these accessories to be real property. In that instance, whether the district assessment is characterized as a tax or as a special assessment, the accessories would not be exempt. If you had characterized the accessories as personal property, then they would be exempt from a special assessment but not exempt from a general property tax. There is a subtle distinction between the character of an assessment for cost to form and maintain a public district and the character of those assessments for cost to provide government services for the benefit of the public at large. (See 40 Cal.Jur.2d, Public Improvements.) Those costs to provide governmental services to the public at large are borne by an assessment levy generally against persons within the governmental bailiwick. Such assessment is a tax to cover the cost of providing governmental services

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and protection to those persons within the territorial boundaries of the governmental entity. On the other hand, an assessment for cost of a public district is not considered a tax in the strict sense (Springs Street Company v. Los Angeles 170 Cal. 24), but is a special assessment imposed upon property within a limited area for payment for some local improvement or service supposed to enhance the value of the property taxed (Northwestern Mutual Life Insurance Company v. State Board of Equalization, supra). As said above, such a special assessment can only be imposed upon land and land improvements (Northwestern Mutual Life Insurance Company v. State Board of Equalization, supra) and must be apportioned equally and uniformly to all property within the district in proportion to the benefit received (People v. Lynch (1875) 51 Cal. 15).

Characterization of the type of assessment made is not determined by the mode of collection, for example, an assessment against local property is not necessarily an assessment for improvements which requires apportionment according to benefit, but may well be a tax for general public welfare, requiring no such apportionment. The key to characterization appears to be whether or not the assessment is made for benefit of the property assessed and if so, the assessment must be apportioned according to benefit afforded. (Cedars of Lebanon Hospital v. Los Angeles County (1950) 35 Cal.2d 729.)

My understanding of the law and your question leads me to conclude that:

1. Mobilehome accessories are not exempt from property taxation under Water Code Sections 20200 and 72096.5, which specifically exempts residential mobilehomes located on rental spaces in mobilehome parks, from property taxation.

2. Mobilehome accessories determined to be improvements to the land are subject to either property taxes or a district special assessment.

3. Mobilehome accessories determined to be personal property are subject to property taxes but are not subject to direct special assessments.

Very truly yours,

Robert R. Keeling
Tax Counsel

RRK:fr
Enclosures

bc: Mr. Gordon P. Adelman

Mr. Verne Walton