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November 10, 1987

Honorable John Tuteur
Napa County Assessor
1195 Third Street, Room 101
Napa, CA 94559-3083

Dear Mr. Tuteur:

Re: Proposition 58 - AB 47

This is in response to your letter to Mr. Richard Ochsner dated October 16, 1987 in which you request our opinion as to whether the transfer of a mobilehome by a transferor who has elected a renter's credit instead of a homeowner's exemption is excluded from change in ownership under Proposition 58 and Revenue and Taxation Code section 63.1 as a transfer of a principal residence.

Revenue and Taxation Code* section 63.1 provides in relevant part:

(a) Notwithstanding any other provision of this chapter, a change in ownership shall not include either of the following purchases or transfers for which a claim is filed pursuant to this section:

(1) The purchase or transfer of real property which is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children.

(2) The purchase or transfer of the first one million dollars (\$1,000,000) of full cash value of all other real property of an eligible transferor in the case of a purchase or transfer between parents and their children.

(b) (1) For purposes of paragraph (1) of subdivision (a), "principal residence" means a dwelling for which a homeowner's exemption or a disabled veteran's residence exemption has been granted in the name of the eligible transferor.

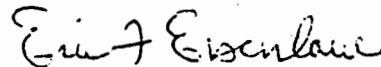
*All statutory references are to the Revenue and Taxation code unless otherwise indicated.

The foregoing language defining "principal residence" is plain. Had the Legislature intended that for purposes of section 63.1 a "principal residence" was to include dwellings for which a renter's credit had been granted it could have easily so provided. Since it did not, we must assume that such dwellings were not intended to be treated as principal residences for purposes of section 63.1.

Accordingly, it is our opinion that the transfer of a mobilehome by a transferor who has elected a renter's credit rather than a homeowner's exemption is not excluded from change in ownership as a transfer of real property which is the principal residence of the transferor. The transfer of such a dwelling would still be excluded, however, under section 63.1(a)(2) if it did not exceed the \$1,000,000 full cash value limitation.

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

Very truly yours,


Eric F. Eisenlauer
Tax Counsel

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cc: Mr. Gordon P. Alelman
Mr. Robert H. Gustafson
Mr. Verne Walton