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No. 79/41

February 27, 1979

TO COUNTY ASSESSORS:

PUBLIC LAW 92-313, LEASE-PURCHASE CONTRACTS

We have had a request for clarification of the assessment procedure applicable to properties subject to lease-purchase contracts between the United States and private citizens or companies.

Under Title 40, United States Code Annotated, Section 602a et seq., the U. S. Administrator of General Services is authorized to enter lease-purchase contracts with private builders. The term of these agreements shall not exceed 30 years, and the government is required to make annual payments of principal and interest and to reimburse certain costs. The law specifically provides that the payments shall be credited against the purchase price of the property and that, upon the fulfillment of all the terms and conditions of the contract, title to the property shall be transferred to the United States. Section 602a(d) specifically states: "With respect to any interest in real property acquired under the provisions of this section, the same shall be subject to state and local taxes until title to the same shall pass to the government of the United States." The interest being acquired may be the ownership of the building or ownership of both the building and the site depending upon the provisions of the contract.

Until such time as the government takes clear title to property being purchased pursuant to this type of contract, such property shall be treated as if it were in private ownership and fully subject to tax. The contractual terms do not constitute enforceable restrictions referred to in the Revenue and Taxation Code. The property should be appraised at the full cash value of the fee-simple rights throughout the term of the lease-purchase contract, and no division should be made between the leasehold and reversionary interests. This will not be a burden on the lessor-vendor, for under the terms of the contract he will be reimbursed for any taxes he pays. The provisions of Article XIII A of the California Constitution are applicable to these properties.

In some instances the land is owned by the government but leased to the developer in order to assist him in obtaining financing. In our opinion this lease does not create a taxable possessory interest in the land, for the developer does not retain an exclusive right to possession or beneficial use of the nontaxable publicly owned property.

Sincerely,

Verne Walton, Chief  
 Assessment Standards Division

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