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No. 94/14

February 24, 1994

TO COUNTY ASSESSORS:

ASSESSMENT OF RELOCATED IMPROVEMENTS

In Letter To Assessors 80/26, we presented questions and answers illustrating valuation procedures to follow when assessing relocated improvements. Essentially, letter no. 80/26 advised that relocated improvements, unless they have changed ownership, should retain their existing base year value after the relocation.

After a review of the legal authorities governing the determination of what is "newly constructed," we have reconsidered some of the conclusions reached in letter no. 80/26. Our revised opinion is that relocated improvements should not retain the base year value assigned to them before the relocation.

Relocated Improvements as New Construction

A review of Revenue and Taxation Code Section 75.10, relating to assessments on the supplemental roll, together with Section 70, which defines "new construction," resulted in our reconsideration of portions of letter no. 80/26.

Section 75.10 expressly provides that whenever new construction resulting from actual physical new construction on the site is completed, the assessor shall appraise the new construction at its full cash value on the date the new construction is completed. The section provides further, under subdivision (b), that "actual physical new construction" includes the removal of a structure from land.

We conclude that if a removal of a structure is new construction, then the subsequent reaffixation of that structure must also be new construction. This is supported by language in subdivision (a) of Section 70, which states unequivocally that new construction includes "[a]ny addition to real property, whether land or improvements (including fixtures), since the last lien date." It seems clear that a structure that is relocated from one site to another must be considered an "addition" to the existing real property. Accordingly, a relocated structure should be assigned a new base year value as of the date of reaffixation.

We conclude further that whenever a structure is removed from land, for whatever length of time or for whatever purpose, the structure becomes personal property and the base year value provisions under the law no longer apply. Instead the structure, once severed, is personal property until it is reaffixed. As long as the structure is classified as personal property, its taxable value will be its current market value on March 1. Upon reaffixation the entire structure is considered to be newly constructed, and thus a new base year value should be established as of the date of completion.

An exception occurs where a structure is simply elevated for purposes of maintenance and repair. Under terms of Property Tax Rule 463, subdivision (b)(4), such work is excluded from qualifying as new construction.

Supplemental Assessments

We opined in letter no. 80/26 that improvements acquired with relocation as a condition of the acquisition should be reappraised as of the date of transfer. This advice remains unchanged. Of course, supplemental assessment issues were not addressed in letter no. 80/26 since the statutes providing for supplemental assessments were not enacted until some three years later. Nonetheless, since the improvements to be relocated undergo a change in ownership as of the date of purchase, a supplemental assessment is required.

Once the change in ownership occurs, the improvement may be assessed to the new owner, or it may be assessed to the owner of the land. However, if either owner files with the assessor a written statement attesting to the separate ownership, as provided in Section 2188.2, the land and improvements shall not be assessed to the same assessee. If the land and improvements are assessed to different assessees, Section 2188.1 provides that the tax on the improvements may become a lien on the real property of the owner of the improvements, or the improvements may be assessed on the unsecured roll.

Upon the physical removal of the improvements, subdivision (b) of Section 75.10 provides that "new construction" has occurred. Further, Section 75.10 requires a supplemental assessment irrespective of whether the improvements and the land are assessed to the same owner or to different owners. Obviously, if the improvements and the land are assessed to different owners, then the owner of the improvements will receive the negative supplemental assessment, and the landowner's assessment will be unaffected.

Conclusions

When a structure is purchased, a change in ownership has occurred, and a supplemental assessment is required. Further, if a structure is severed from the land, new construction has occurred and a supplemental assessment is required. Moreover, when the personal property (former structure) is reaffixed, new construction has occurred, and a supplemental assessment would be forthcoming. Between the steps of removal and reaffixation, the structure must be classified as personal property and assessed accordingly.

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When a structure is raised or elevated for the purpose of maintenance and repair, the reaffixation of the structure to the land is not new construction.

If you have any questions, please contact our Real Property Technical Services Unit at (916) 445-4982.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

VW:kmc