



STATE BOARD OF EQUALIZATION

Date: August 15, 1994

From Thomas J. Cooke
Staff Counsel - MIC:82

Subject: TRANSFERS OF MOBILEHOMES

We have received your memorandum dated June 3D, 1994 in which you requested clarification on the tax applicable to transfers of mobilehomes. These mobilehomes were previously registered and are not subject to property taxes.

In the first scenario described, the registered owner of a mobilehome (and tenant of a mobilehome park) either abandons the mobilehome or dies while in possession of the mobilehome. Past due space rental is owing. The lienholder of the mobilehome releases its interest to the mobilehome park. The legal recourse available to the mobilehome park is to obtain a judgment of abandonment pursuant to Civil Code Section 798.61 followed by a public sale of the mobilehome. At the sale, the mobilehome park may bid at the sale and have the right to offset its bids to the extent of the amount due to it.

At the sale, typically, no one other than the mobilehome park makes an offer on the mobilehome. The mobilehome park now seeks to have title transferred to itself.

You ask if there is consideration paid because of the past due space rent.

It is our opinion that the sale of the mobilehome as directed by Civil Code section 798.61 is subject to tax. Regulation 1573(b) states -

"Tax applies to other foreclosure sales and to other sales by the secured party or the debtor to the same extent as it applies to sales generally."

Revenue and Taxation Code section 6276.1 provides that the "sales price" of a used mobilehome shall be based on the current value of the used mobilehome as specified by a recognized value guide. If the actual sales price of a used mobilehome is less than the current value specified in the value guide, the "sales price" shall be based on the actual sales price of the mobilehome as evidenced by the purchase documents.

It is our opinion that the taxable measure of the sale is the total consideration, monetary or otherwise, paid by the mobilehome park at the sale provided by Civil Code Section 798.61, up

to the "guide value". The sale price is deemed to be the total sum due to the mobilehome park by the former owner under the terms of the space rental agreement, up to the "guide value".

In the second scenario, the lienholder of the mobilehome repossesses the mobilehome and then voluntarily gives the mobilehome to the mobilehome park in lieu of paying past space rental owed by the registered owner and tenant. You state that your office has been taxing these transfers and using the measure of tax as 90 days of past due space rental per civil Code section 798.56a (I) (A) .

Civil Code Section 798.56a permits a lienholder to keep a liened mobilehome on the mobilehome park premises pending foreclosure if the lienholder satisfies all of the homeowner's obligations to the management for the 90 days preceding the notice of termination of tenancy and until the mobilehome is sold. If the lienholder transfers title to the mobilehome in consideration of a release of the lienholder's liability under civil Code Section 798.56a, it is our opinion that the measure of tax is the amount of the lienholder's liability (total tenant liability under the rental agreement 90 days prior to notice until sale), up to the "guide value".

In the third scenario, the mobilehome owner dies owing the mobilehome park past due space rental. The mobilehome park puts a claim into probate for the past due space rental and the beneficiary gives the mobilehome to the mobilehome park to settle the claim. A creditor who files a claim in a probate action voluntarily submits his claim to the court for any possible distribution including accepting any tangible personal property. Any tangible personal property acquired in the proceeding is "consideration" for the cancellation of his claim against the decedent. (See Sales and Use Tax Annotation 495.0180, 4/30/53). It is our opinion that the measure of tax is the amount of the claim submitted to the probate court, up to the "guide value" .

TJC:plh