PREFACE

The State Board of Equalization is required by law to periodically audit the assessment programs in each of the 58 California counties. The results and recommendations arising from these field and office audits are published in assessment practices survey reports. In addition, the Board makes periodic statewide surveys limited in scope to specific topics, issues, or problems affecting local property taxation. These special topic surveys, authorized by sections 15640 and 15643 of the Government Code, are conducted as needed. The findings of these selective surveys are published and distributed to the Legislature, all county assessors, the Members of the Board, and Board staff who are involved with the particular survey issue. Copies of these surveys are also available to concerned individuals in the private sector.

The subject of this special topic survey is the Assessment of Taxable Possessory Interests. The goals of this report are to identify the laws pertaining to the assessment of these properties and to identify and standardize county assessment practices. This special topic survey was authorized by the Members of the Board of Equalization on December 10, 1998.

In 1985, the Board conducted a special topic survey on the assessment of possessory interests. This report supplements our earlier survey and updates legislative changes and county assessor practices that have occurred since 1985.

The primary source of information regarding current assessment practices for administering, discovering, and valuing taxable possessory interests in the county assessors' offices was a questionnaire containing 38 questions that was sent to each of the 58 county assessors; a copy of the questionnaire is provided in Appendix 1. Fifty-two county assessors participated in this survey.

This report was drafted by staff of the Policy, Planning, and Standards Division of the Property Taxes Department. We wish to express our appreciation for the efforts and cooperation of the California Assessors' Association and Mr. Dale Edgington of the Los Angeles County Assessor's Office.

David J. Gau, Chief
Policy, Planning, and Standards Division
California State Board of Equalization
April 2000
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CHAPTER 1: INTRODUCTION

Generally, the owner of real property in California is assessed for the property tax. In cases where the owner leases the property to someone else, the county assessor may assess either the owner, the lessee, or may make a joint assessment to both the lessor and lessee. However, the owner is ultimately liable for payment of the tax.

In one of these special circumstances, a non-owner of property is always assessed for the property tax. This occurs when an individual or business entity has the right to occupy tax-exempt land. The most common example is the case of government-owned property that is leased to a private party. The lessee holds what is called a taxable possessory interest in the property and is assessed for property taxes on the previously tax-exempt property. Examples of taxpayers who have taxable possessory interests are owners of cabins on national forest land, ranchers with grazing rights on federal lands, aircraft operators on government-owned airports, and cable television companies laying cable in publicly owned streets.

There are approximately 100,206,720 acres of land in California. Of those total acres, statewide over 51 percent is owned by government—federal 46.9 percent, state 2.5 percent, local 1.7 percent.1 The following chart shows the ownership of California lands:

<table>
<thead>
<tr>
<th>Ownership of California Lands</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local – 1.7%</td>
</tr>
<tr>
<td>State – 2.5%</td>
</tr>
<tr>
<td>Federal – 46.9%</td>
</tr>
<tr>
<td>Private – 48.9%</td>
</tr>
</tbody>
</table>

A significant portion of government-owned lands in California is associated with waterways. When California became a state in 1850 it acquired nearly 4 million acres of land underlying the state's navigable and tidal waterways. These lands included the beds of more than 120 rivers, streams, and sloughs; nearly 40 nontidal navigable lakes, such as Lake Tahoe and Clear Lake; the tidal navigable bays and lagoons; and the tide and submerged lands adjacent to the entire

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1 Bureau of Land Management, November 16, 1999.
coast and offshore islands of the state from the mean high tide line to three nautical miles offshore. Early in its history, the California Legislature statutorily transferred tide and submerged lands in trust to cities and counties, which were then required to develop harbors to further state and national commerce. The major ports of Los Angeles, Long Beach, San Diego, San Francisco, Oakland, Richmond, Benicia, and Eureka are all located on granted lands. Statewide, thousands of individuals and business entities hold taxable possessory interests in government-owned waterways, such as shipping companies renting berths in county–owned ports.

With approximately 51,160,200 acres of land owned by governmental entities in California, there are enormous opportunities for taxpayers to use these lands for private benefit. County assessors are faced with the annual task of discovering and assessing taxable possessory interests—a task that is often time-consuming and challenging. This report is intended to identify and quantify the workload and appraisal methods associated with assessing taxable possessory interests.

This report is the compilation of data received from the 52 county assessors who responded to the survey questionnaire. We caution the reader that a questionnaire sometimes can be misunderstood and that inappropriate answers to questions may be unintentionally submitted. Chapter 2 provides a basic overview of assessment and valuation principles applicable to taxable possessory interests. Chapter 3 contains a compilation of the data and comments received from the county assessors who participated in this survey. This report also contains some generalized conclusions developed from analysis of the data provided by the county assessors.

Finally, the appendices of this report provides a copy of the questionnaire, as well as constitutional and statutory excerpts and Property Tax Rules that were applicable at the time that this report was published.
**CHAPTER 2: OVERVIEW OF TAXABLE POSSESSORY INTERESTS**

Possessory interests in the field of property taxation have been a controversial matter for many years. The controversy has centered around their taxability and valuation. Since possessory interests generally are created by express or implied agreements between individuals and business entities and governmental entities, the variety in terms and conditions is virtually unlimited. Consequently, taxable possessory interests may vary dramatically, often presenting the county assessor with complex appraisal problems.

This section of the survey report is intended to present a brief overview of statutes and appraisal practices that pertain to taxable possessory interests. The following discussions will not be comprehensive or all-encompassing. For a more in-depth analysis of any of the topics included in this section, the reader is referred to applicable statutes, Property Tax Rules, judicial rulings, and pertinent sections of the Assessors' Handbook.

**DEFINITIONS**

A **possessory interest** is an interest in real property that exists as a result of:

1. A possession of real property that is independent, durable, and exclusive of rights held by others in the real property, and that provides a private benefit to the possessor, except when coupled with ownership of a fee simple or life estate in the real property in the same person; or

2. A right to the possession of real property, or a claim to a right to the possession of real property, that is independent, durable, and exclusive of rights held by others in the real property, and that provides a private benefit to the possessor, except when coupled with ownership of a fee simple or life estate in the real property in the same person; or

3. Taxable improvements on tax-exempt land.\(^2\)

A **taxable possessory interest** is a possessory interest in publicly owned real property. Excluded from the meaning of taxable possessory interests, however, are any possessory interests in real property located within an area to which the United States has exclusive jurisdiction concerning taxation—such areas are commonly referred to as federal enclaves.\(^3\)

**POSSESSION**

**Possession** of real property means actual physical occupation. Possession requires more than incidental benefit from the public property, but requires actual physical occupation of the property pursuant to rights not granted to the general public. The use of property such as hallways, common areas, and access roads at airports, stadiums, convention centers, or other public facilities by customers or employees of those who may lease other public property at the

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\(^2\) Title 18, Public Revenue, California Code of Regulations, section 20.

\(^3\) *Ibid.*
public facility of which they have exclusive use does not constitute possession of those hallways, common areas, or access roads by the lessee of the public property.

**INDEPENDENCE**

One element in determining whether private uses of public property constitute taxable possessory interests is the element of independence. Independence means the ability to exercise authority and exert control over the management or operation of the property or improvements, separate and apart from the policies, statutes, ordinances, rules, and regulations of the public owner of the property or improvements. A possession or use is independent if the possession or operation of the property is sufficiently autonomous to constitute more than a mere agency.

**DURABILITY**

*Durability* means for a determinable period with a reasonable certainty that the use, possession, or claim with respect to the property or improvements will continue for that period. The court in *City of Los Angeles v. Carlson* stated:

> Although some courts previously regarded durability by contrasting it with "impermanence" or requiring a "fixed aspect," the trend has been to embrace a broader view of the "reasonably certain determinable period." Thus, revocability of a permit does not vitiate durability, nor does issuance of a permit for a brief period; in those circumstances, the length of the permitted use and any instability of rights affect only the value of the interest.

Durability is measured either by a specific written agreement (e.g. a lease for years) or a history of use (e.g. month-to-month leases that normally last for several years).

**EXCLUSIVENESS**

The element of exclusiveness is necessary when determining whether private use of public property may be taxed as a possessory interest. Exclusive means the enjoyment of a beneficial use of land or improvements, together with the ability to exclude from occupancy by means of legal process others who may interfere with the enjoyment. This does not mean that a written instrument creating the possessory interest has to give the user possession of the premises "against all the world, including the owner," but only that it convey uses not shared by the general public. Thus, exclusiveness may be found even where others are concurrently permitted to make similar use of the premises. The exclusiveness requirement does not imply continuous access to the premises, but calls for the right to physical possession or use of the property, together with the ability to exclude from occupancy by means of legal process others who interfere with that enjoyment.

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4 Section 107, subdivision (a)(2). All statutory section references are to the Revenue and Taxation Code unless otherwise designated.


6 Section 107.

7 *City of San Jose v. Carlson, supra.*
PRIVATE BENEFIT
The concept of private benefit in determining whether private uses of public property may be taxed as constituting possessory interests is accorded less recognition than other factors in the possessory interest analysis. The existence of a private benefit is often regarded not as a separate element but as a component of either exclusiveness or independence. While a user does not always obtain a valuable private benefit whenever the use is not shared by the general public, the existence of this factor must be determined on a case-by-case basis.

Private benefit means that the possessor has the opportunity to make a profit, or to use or be provided an amenity, or to pursue a private purpose in conjunction with its use of the possessory interest. The use should be of some private or economic benefit to the possessor that is not shared by the general public. The fact that a possession of real property is not for a business or commercial purpose or that the possessor is a nonprofit corporation does not preclude the possessor from being found to have received a private benefit from that possession.

PERSONAL PROPERTY
Possessory rights in personal property is not mentioned in the definitions of possessory interests set forth in section 107, and when counties began assessing and taxing possessory interests in government-owned personal property in the possession of a private party, the California Supreme Court struck down this tax in California. In General Dynamics the court ruled that the statutes of California did not authorize such a tax. Following the California Supreme Court decision, legislation was introduced at the 1959 legislative session to allow taxation of possessory interests in personal property; the bill was defeated in the Senate.

Currently, the only taxable possessory interest for personal property is property acquired by or for the California Pollution Control Financing Authority.

APPROACHES TO VALUES
The basic concepts of value and the underlying principles of valuation are fully applicable to taxable possessory interest property. Likewise, constitutional and statutory provisions relating to the valuation and assessment of property generally apply with equal force to taxable possessory interests.

The objective in the appraisal of a taxable possessory interest is to estimate the value of rights of possession held by a private individual or business entity. The three standard approaches to valuation commonly used—the sales comparison approach, income approach, and cost approach—are appropriate when valuing these interests. As with any property valuation, the appraiser must determine which valuation method will be most effective to arrive at the full cash value of the taxable possessory interest being valued.

8 City of San Jose v. Carlson, supra.
9 Title 18, Public Revenue, California Code of Regulations, section 20, subsection (c)(B)(8).
10 General Dynamics Corporation v. County of Los Angeles (1958) 51 Cal.2nd 59.
11 Section 201.5.
Property Tax Rule 25 describes the limitations, preferences, and manner in which the various appraisal approaches are applied to taxable possessory interest valuations. Property Tax Rule 27 specifically addresses the valuation of taxable possessory interests for the production of hydrocarbons.

**TERM OF POSSESSION**

The periods of time for which taxable possessory interests are granted differ with locations, the use to which the properties are to be put, and the policies of the public fee owners. Most written instruments creating a taxable possessory interest are for a definite number of years. Some agreements give the lessee the right to extend or to renew the tenancy for a stated term at the expiration of the original period. Many, however, are silent as to the length of time the party to the agreement may occupy the premises.

As a matter of legal principle, an interest exists even if a lessor or a lessee has the option to terminate the lease before the time fixed in the agreement. It is sufficient for the existence of an interest if the maximum duration can be determined. Therefore, indefiniteness in the lease as to the length of the term does not nullify the existence of a taxable possessory interest. It does, however, mean that the county assessor must determine the length of time the lessee probably will have possession and use of the property.

Property Tax Rule 23, subsection (b), affords the county assessor the latitude of presuming a term of possession for a taxable possessory interest that is reasonable in view of an anticipated term of possession by the possessor and any successor to the property interest when the county assessor determines there is a conflict between the terms stated in the written instrument creating the taxable possessory interest and the reasonably anticipated term of possession.¹²

**PERMITTED USE**

Occasionally, the conditions of an agreement establishing a taxable possessory interest preclude the property from being used at its highest and best use. In those instances where the permitted use under a written agreement is not the highest and best use, the value of the property for the use allowed is lower than the value it would be if the lessee owned it in fee. The estimate of the taxable possessory interest value must only reflect the highest and best permitted use.

**CHANGE IN OWNERSHIP**

The general rule for change in ownership of taxable possessory interests is that the creation, renewal, extension, sublease, or assignment of a taxable possessory interest in tax-exempt real property for any term is a change in ownership. Property Tax Rule 462.080, subsection (b), provides the exceptions to the change in ownership provisions for taxable possessory interests. The exceptions include, but are not limited to, the following circumstances:

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¹² For further discussion on term of possession, see *American Airlines, Inc. v. County of Los Angeles* (1976) 65 Cal.App.3d 325.
(1) An interest, whether an estate for years or an estate for life, created by a reservation in an instrument deeding the property to a tax-exempt governmental entity.

(2) Any renewal or extension of a taxable possessory interest during the reasonably anticipated term of possession used by the assessor in establishing the initial base year value of the interest, in which case, a change in ownership occurs at the end of the reasonably anticipated term of possession used by the assessor to value that interest.

(3) A sublease of a taxable possessory interest for a term including renewal options, that does not exceed half the length of the remaining term of the leasehold, including renewal options.

When taxable property is purchased by a tax-exempt agency, pre-existing leases become taxable possessory interests, assuming that the leases satisfy the requirements of Property Tax Rule 20.

A taxable possessory interest consisting of a month-to-month tenancy is renewed each month.\textsuperscript{13} Examples of this type of interest are aircraft tie downs at public airports, boat slips at public marinas, and grazing leases on public lands. A month-to-month tenancy should be considered renewed unless one of the parties gives written notice to the other of his/her intention to terminate the tenancy.\textsuperscript{14}

**NEWLY CONSTRUCTED PROPERTY**

When real property is newly constructed after the 1975 lien date, the county assessor must determine the full value of the newly constructed property as of the time the property is available for use.\textsuperscript{15} If a lessee of a taxable possessory interest constructs improvements on the tax-exempt land, the newly constructed improvements may or may not be considered to be property of the government entity owning the land.\textsuperscript{16} This consideration affects whether the improvements are to be assessed to the lessee in fee or as a possessory interest. The determination of the taxability of improvements should be determined as follows:

- If a lessee constructs improvements on tax-exempt land and retains ownership of a fee simple or life estate in the improvements, the improvements are to be valued in fee to the lessee, and a renewal of the land lease would not trigger a reappraisal of the improvements.

- If a lessee constructs improvements on tax-exempt land and the improvements constructed by the lessee become the property of the public agency owning the land, the lessee would

\textsuperscript{13} Civil Code section 1045.
\textsuperscript{14} Civil Code section 1946.
\textsuperscript{15} Article XIII A, section 2, California Constitution; Title 18, Public Revenue, California Code of Regulations, section 463.
\textsuperscript{16} Civil Code section 1013.
have a taxable possessory interest in the improvements and a renewal of the land lease would trigger a reappraisal of the possessory interest in both the land and improvements.

**SUPPLEMENTAL ASSESSMENT PROVISIONS**

A supplemental assessment is made upon a change in ownership or completion of new construction. The supplemental assessment process was adopted so that reappraisal and reassessment would occur as of the date of a change in ownership or completion of new construction rather than waiting until the next lien date. Taxable possessory interests are subject to supplemental assessments.

**PROPOSITION 8**

The general appraisal rules that apply to property that has sustained a decline in value as contained in section 51 also apply to taxable possessory interests. The fair market value of the possessory interest is the consideration. For any given lien date, if property experiences a decline in value for any reason, so that its fair market value is less than its value on the property tax roll, the property should be reassessed downward to reflect its current market value. These reappraisals are often referred to as Proposition 8 appraisals (after the ballot initiative that amended article XIII A to permit such reappraisals).

When performing a Proposition 8 appraisal, a new value should be calculated for taxable possessory interests using appropriate current data to determine whether there has been any actual decline in value. The principle of a reasonably anticipated term of possession is still valid in years following the establishment of the taxable possessory interest. A decline in the term specified in the written agreement does not automatically mean an actual decline in the probable term of possession and, therefore, a decline in the value of the taxable possessory interest.

**SECTION 11 PROPERTIES**

Not all publicly owned property is exempt from taxation. By virtue of a constitutional amendment adopted in 1914, the property of a city, county, or municipal corporation located outside its own borders is taxable if it was taxable to its prior owner. However, land not taxable when acquired and new improvements constructed by the government owners are not assessed or taxed to the government owners. These properties are commonly called Section 11 properties by reference to the section in the Constitution authorizing assessment of such property.

Use of Section 11 property for private benefit by an individual or business entity constitutes a taxable possessory interest. However, there is a limitation on the taxable value of possessory interests in Section 11 lands in that the aggregate value of the Section 11 assessment and all other assessments of the land cannot exceed the current market value of the land.

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17 Sections 75 through 75.80.
18 Title 18, Public Revenue, California Code of Regulations, section 23.
19 Article XIII, section 11, California Constitution.
The only possessory interests in Section 11 land that are excluded from taxation are leases for agricultural purposes and interests of a local government. 20

**FEDERAL ENCLAVES**

Excluded from the meaning of taxable possessory interest is any possessory interest in real estate located within an area to which the United States has exclusive jurisdiction concerning taxation. Such areas are commonly referred to as federal enclaves. While possessory interests held by lessees or other users of federal property are generally taxable, those possessory interests that are held by lessees or other users in property within a federal enclave are not. A federal enclave is property over which the federal government holds exclusive jurisdiction.

In making a determination of whether or not the federal government has exclusive jurisdiction over a property, the county assessor generally must determine when the property was first ceded to the United States. If the property was ceded after 1939 with the limitation of section 126(e) of the Government Code reserving the power of local taxation, any possessory interest held by the lessee would be a taxable possessory interest. If, on the other hand, the land was ceded prior to 1939, then, in the absence of express congressional authorization, any possessory interest held by a lessee in a federal enclave would not be taxable; instead, it would be immune from local property taxation.

**INDIAN LANDS**

When title to land is taken in the name of the United States in trust for an Indian tribe or individual Indian, the land and rights are exempt from property taxation. 21 However, the imposition of a property tax on a lessee who holds a possessory interest on Indian land is valid. 22

Leasehold interests in Indian lands are assessable taxable possessory interests. 23 A master lessee-developer has a taxable possessory interest, even though the lessee-developer may thereafter sublease some or all of its interest. Improvements constructed on Indian land and owned by a partnership (general or limited) are taxable interests unless the partnership qualifies as an Indian organization, i.e., one in which all partners are Indians. If one partner is a nonIndian, the partnership is not an Indian organization.

An agreement between an Indian tribe and a business concern to oversee a bingo game operation on tribal land results in a taxable possessory interest if the agreement provides the overseer the right to use Indian property on a sufficiently exclusive, durable, and independent basis and results in a private benefit to the overseer. The terms of the agreement determine whether or not a taxable possessory interest has been created.

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20 Article XIII, section 11, subdivision (f), California Constitution.
21 25 USCA 465.
PUBLIC RETIREMENT SYSTEM PROPERTIES

A public retirement system is usually an agency of the government whose employees contribute earnings to the system’s fund. Accordingly, real property acquired by such a system should be treated the same as real property acquired by any other governmental entity. Therefore, the private possession of the exclusive right to the beneficial use of these properties constitutes a taxable possessory interest.

In 1982 the Legislature added section 7510 to the Government Code. This section requires public retirement systems to reimburse cities or counties for revenue losses resulting from their acquisition of real property in an amount equal to the difference between the taxes that would have accrued and the taxes due for taxable possessory interests in the acquired property. The taxes that would have accrued should be based on the current market value of the property at the time of its acquisition by the public retirement system. The in-lieu fee is the difference between the taxes based on this current market value and the possessory interest taxes.24

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24 Letter to Assessors 83/03, January 6, 1983.
CHAPTER 3: RESULTS OF QUESTIONNAIRE

On August 2, 1999, the State Board of Equalization sent a questionnaire to county assessors to capture information specifically about assessment issues and valuation procedures for taxable possessory interests. The questionnaire consisted of 38 questions. Of the 58 counties in California, 52 counties participated in the survey process. This chapter represents a summary of the responses provided by the participating counties.

STAFFING

Managing the workload of appraising taxable possessory interests in a county assessor's office is generally accomplished by one of the following methods:

- Designating a separate person(s) to appraise all taxable possessory interests
- Assigning taxable possessory interests to all appraisal staff as part of their regular assignments
- Maintaining a separate appraisal section to appraise all taxable possessory interests

Each of the 52 county assessors who responded to the questionnaire provided a response to our question (question 2) which elicited information regarding the workload management of their taxable possessory interest program. Of the responding counties:

- Thirty-six (36) county assessors indicated that they have designated a separate person(s) to appraise the county's taxable possessory interests;
- Ten (10) counties co-mingle the workload with regular assignments for their appraisal staff;
- Four (4) counties have established a separate appraisal section to appraise all taxable possessory interests; and
- Two (2) county assessors reported that some of their taxable possessory interests are appraised by a designated person(s) and the remainder are appraised as part of the regular workload of their other appraisal staff.

The following table shows the number of staff by job classifications assigned the responsibility of assessing taxable possessory interests within the various reporting counties (question 3). The data are arrayed by the annual percentage of time required to accomplish the workload by each job classification. For example, the table shows that 56½ real property appraisers in the reporting counties spend less than 10 percent of their time annually assessing taxable possessory interests.
To assist appraisal staff, 20 of the reporting county assessors indicated that they have established written guidelines or procedures for the valuation of taxable possessory interests (question 4). Many of the county assessors further indicated that their primary sources of information on the taxation of possessory interests are the guidelines in Assessors' Handbook Section 510, *Assessment of Possessory Interests*, and the pertinent Property Tax Rules adopted by the State Board of Equalization.

**WORKLOAD**

**ROLL ITEMS**

The following table denotes the number of taxable possessory interests (total roll items) that were assessed in the reporting counties for 1998 and 1999 (question 5). Nine (9) of the 52 reporting counties were unable to provide these data. Of the 43 counties who provided data, 15 counties reported a decrease from 1998 to 1999 in the number of total taxable possessory interest roll items.

<table>
<thead>
<tr>
<th>YEAR</th>
<th>TOTAL ROLL ITEMS</th>
<th>APPROXIMATE TOTAL TAXABLE VALUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>68,503</td>
<td>$18,806,088,874</td>
</tr>
<tr>
<td>1999</td>
<td>68,148</td>
<td>$20,049,700,875</td>
</tr>
</tbody>
</table>

**VALUE STRATUM OF ROLL ITEMS**

The questionnaire elicited information regarding the various value stratum of the reporting counties' taxable possessory interest roll units (question 13). Forty-three (43) of the counties were able to provide the requested data. The value stratum were identified as follows:
Stratum No. 1 = $0 - $10,000
Stratum No. 2 = $10,001 - $25,000
Stratum No. 3 = $25,001 - $50,000
Stratum No. 4 = $50,001 - $100,000
Stratum No. 5 = $100,001 - $500,000
Stratum No. 6 = $500,001 - Over

The following table shows the number of counties whose taxable possessory interests fall within each value stratum, arrayed by the estimated percentage of roll units in each value stratum. For example, the table indicates that 30 counties have less than 6 percent of their taxable possessory interests valued in excess of $500,001.

### Value Stratum of Taxable Possessory Interests

<table>
<thead>
<tr>
<th>Value Stratum</th>
<th>&lt;6%</th>
<th>6-10%</th>
<th>11-25%</th>
<th>26-40%</th>
<th>41-60%</th>
<th>61-80%</th>
<th>&gt;80%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>7</td>
<td>13</td>
<td>14</td>
<td>2</td>
</tr>
<tr>
<td>2</td>
<td>6</td>
<td>8</td>
<td>16</td>
<td>7</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>11</td>
<td>15</td>
<td>12</td>
<td>2</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>18</td>
<td>16</td>
<td>4</td>
<td></td>
<td>2</td>
<td></td>
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</tr>
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<td>5</td>
<td>18</td>
<td>10</td>
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<td>2</td>
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</tr>
<tr>
<td>6</td>
<td>30</td>
<td>4</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
</tbody>
</table>

### Composition of Taxable Possessory Interest Roll Items

Property Tax Rule 20 defines a taxable possessory interest as a "possessory interest in publicly-owned real property." The questionnaire asked the county assessors to report the percentage of taxable possessory interest values in their counties that is derived from interests on federal lands, Indian lands, state lands, and locally owned lands (question 6).

Forty-three (43) of the reporting counties provided a response to this question. The following table shows the number of counties reporting in each of the four categories—federal lands, Indian lands, state lands, and locally owned lands—arrayed by percentage of taxable value in each category.

### Composition of Possessory Interest Lands

<table>
<thead>
<tr>
<th>Category</th>
<th>Percentage of Total Roll Value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0%</td>
</tr>
<tr>
<td>Federal Lands</td>
<td>4</td>
</tr>
<tr>
<td>Indian Lands</td>
<td>39</td>
</tr>
<tr>
<td>State Lands</td>
<td>4</td>
</tr>
<tr>
<td>Locally Owned Lands</td>
<td>0</td>
</tr>
</tbody>
</table>
DATA BASES
As more and more of the functions of county assessors’ offices become automated, many counties have developed specific computer programs to value and track taxable possessory interests. Twenty-nine (29) of the reporting counties indicated that they have developed a data base to help administer taxable possessory interest data (question 8). Some of the programs developed include:

- Main frame data bases
- Spreadsheet applications and templates on Local Area Networks
- Paradox and Access data bases
- PC based programs
- Excel spreadsheets
- Adaptation of unsecured business property data bases

Most counties reported that their automated programs maintain a list of all governmental agencies within their counties, the various types of taxable possessory interests that have been created, pertinent assessee information, and contract rents. The information is generally updated annually. Some of the data bases track lease terminations and potential Proposition 8 possessory interests. Some of the systems automatically add inflation factors to taxable possessory interests that do not have new values established annually.

SHORT-TERM TAXABLE POSSESSORY INTERESTS
Under certain circumstances, some short-term taxable possessory interests, e.g., aircraft tie-downs and boat slips, are not cost-effective to assess and/or to collect. The county assessors were asked if they would be in favor of shifting these short-term taxable possessory interest rights to an in-lieu type of tax that would be collected with the rent (question 36). Forty (40) of the county assessors indicated that they would be in favor of an in-lieu tax for short-term taxable possessory interest rights; 7 county assessors were not supportive of the in-lieu tax concept; and 5 county assessors did not express an opinion on the question.

The following comments were provided by the county assessors who were not supportive of shifting the assessment of short-term taxable possessory interests to an in-lieu tax.

- Assessments that are not "cost-effective" could, and should, be excluded under the low value provisions of 155.20.
- All our tie downs, boat slips, parking spaces for government employees at the Government Center are generally long term, cost-effective to assess. Our only problem is the flak we get on government employee parking spaces because [other counties] ignore these high priced PI’s.
- Our tie-downs are currently not sufficient in value to be considered. Tracking would require more time than is warranted.
• There are very limited number of tie-downs and boat slips in this county. As a result, the amount of staff time used to value and enroll them is nominal.

• Shifting the assessment to an in-lieu type of tax collected with the rent would only benefit the tax collector. The assessor must still do all of the calculations to create a table that the public agency would use to arrive at the tax amount for any particular PI situation. Using an automated, or semi-automated system, such as Megabyte, should allow an appraiser to greatly speed up the calculations and enrollment functions required to make these types of assessments.

**TYPES OF TAXABLE POSSESSORY INTERESTS**

**TAXABLE POSSESSORY INTERESTS BEING ASSESSED**

Included in the questionnaire was a table listing 24 taxable possessory interests (question 38). The county assessors were asked if they are assessing any of the taxable possessory interests listed. Fifty-one (51) of the 52 responding counties provided a response to this question. The questionnaire further requested that the county assessors provide the total taxable value and the number of assessment units for each of the possessory interests being assessed, if the information was readily available. Since the vast majority of the counties were unable to provide the valuation information, no tabulation of the sporadic data that was provided has been included.

The following table shows the total number of counties assessing each of the listed taxable possessory interests.
### TAXABLE POSSESSORY INTERESTS BEING ASSESSED

<table>
<thead>
<tr>
<th>Possessory Interest</th>
<th>Assessing</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>River Rafting Rights</td>
<td>6</td>
</tr>
<tr>
<td>Grazing Rights</td>
<td>42</td>
</tr>
<tr>
<td>Horse Racing Satellite Wagering Facilities</td>
<td>7</td>
</tr>
<tr>
<td>Stadium or Arena Naming Rights</td>
<td>4</td>
</tr>
<tr>
<td>Shuttle Companies</td>
<td>5</td>
</tr>
<tr>
<td>Car Rental Agencies at Airports</td>
<td>25</td>
</tr>
<tr>
<td>Airlines at Airports</td>
<td>23</td>
</tr>
<tr>
<td>Other Concessionaires at Airports</td>
<td>27</td>
</tr>
<tr>
<td>Gaming Facilities on Indian lands</td>
<td>0</td>
</tr>
<tr>
<td>Youth Organizations</td>
<td>22</td>
</tr>
<tr>
<td>Joint Use Facilities at Airports</td>
<td>14</td>
</tr>
<tr>
<td>Aircraft Tie-Downs</td>
<td>28</td>
</tr>
<tr>
<td>Boat Slips</td>
<td>21</td>
</tr>
<tr>
<td>Fast Food Concessions at Educational Facilities</td>
<td>10</td>
</tr>
<tr>
<td>Government-Owned Parking Lots or Garages Operated by Third Parties</td>
<td>10</td>
</tr>
<tr>
<td>Mineral Rights and Production</td>
<td>31</td>
</tr>
<tr>
<td>Assigned Parking Rights on Government-Owned Property</td>
<td>9</td>
</tr>
<tr>
<td>Taxable Government-Owned Lands (CA Const. Art. XIII, section 11(f))</td>
<td>34</td>
</tr>
<tr>
<td>Harbor Facilities</td>
<td>22</td>
</tr>
<tr>
<td>Sports Arenas</td>
<td>11</td>
</tr>
<tr>
<td>County Fairground Users</td>
<td>34</td>
</tr>
<tr>
<td>Centers for Performing Arts</td>
<td>8</td>
</tr>
<tr>
<td>Civic Auditorium Users</td>
<td>8</td>
</tr>
<tr>
<td>Community Center Users</td>
<td>17</td>
</tr>
</tbody>
</table>

### CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

In general, California law precludes the assessment of possessory interests in personal property.\(^{25}\) An exception to the personal property exclusion is provided in section 201.5 which states in part:

(a) Possessory interests in property acquired by or for the California Pollution Control Financing Authority pursuant to Division 27 (commencing with Section 44500) of the Health and Safety Code, whether in real or personal property, shall be subject to taxation under this code.

Only 3 of the 52 reporting counties indicated that they have taxable possessory interests in personal property owned by the California Pollution Control Financing Authority pursuant to section 201.5 (question 20).

\(^{25}\) Revenue and Taxation Code section 107; Title 18, Public Revenue, California Code of Regulations, section 20; *General Dynamics Corp. v. County of Los Angeles* (1958) 51 Cal.2d 59.
DE LUZ VALUATION

The court case De Luz Homes, Inc. v. County of San Diego (1955) 45 Cal.2d 546 changed assessment procedures for taxable possessory interests. The court in De Luz concluded that in valuing a leasehold interest in exempt lands and improvements by the capitalization of income method, that it is improper in computing the anticipated net income to be capitalized to deduct from anticipated gross income the lessee's charges for rent, amortization of investment, or payments of principal and interest on the mortgage debt. Since De Luz imposed a prospective assessment procedure, counties must value only taxable possessory interests created after 1955 in accordance with the De Luz case.

The questionnaire asked if there are any taxable possessory interests in the reporting counties that must still be assessed under the pre-De Luz court case provisions, i.e., those interests created prior to 1955 (question 7). Fifty (50) of the 52 reporting counties indicated that they no longer have any pre-De Luz properties; 1 county was uncertain whether they had any pre-De Luz properties; and 1 county has no pre-De Luz properties with the exception of oil and gas government royalty exclusions.

AIRLINE TAXABLE POSSESSORY INTERESTS

Section 107.9 makes reference to two types of taxable possessory interests in publicly owned airports. Section 107.9, subdivision (a), states:

In addition to any taxable real property interests that an operator of certificated aircraft has at a publicly owned airport that are interests stated in a written agreement for terminal, cargo, hangar, automobile parking lot, storage and maintenance facilities and other buildings and the land thereunder leased in whole or in part by an airline (hereafter the "excluded possessory interests"), there exists an additional taxable possessory interest conferred upon an operator of certificated aircraft at a publicly owned airport.

The excluded possessory interests referred to in subdivision (a) are sometimes termed site-specific taxable airline possessory interests because the written agreements creating such interests make reference to specific locations or sites at the publicly owned airport.

In addition to site-specific taxable interests, section 107.9, subdivision (a), refers to other additional taxable interests conferred upon an operator of certificated aircraft at a publicly owned airport. These additional interests are sometimes referred to as nonsite-specific taxable airline possessory interests. Section 107.9 continues by providing a specific formula or procedure for valuing any additional taxable airline possessory interests of the operator of certificated aircraft at a publicly owned airport (nonsite-specific interests). The section calls for the use of the direct income approach in valuing these interests and details the method for determining the net economic rent that is to be capitalized into value, the capitalization rate(s) to be used, and the term of possession to be used. The statutes also provide that the additional (nonsite-specific)
interests shall be presumed to be valued and assessed at full cash value only if the assessor uses the specified direct income approach as outlined in section 107.9.

Twenty-three (23) of the 52 reporting county assessors indicated that they do have airline taxable possessory interests within their counties (question 21). Eighteen (18) of the 23 responding county assessors indicated that they are valuing site-specific airline taxable possessory interests in their counties. Of the 23 counties that have airline taxable possessory interests, 17 county assessors reported that they are valuing nonsite-specific airline taxable possessory interests according to the methods prescribed in section 107.9 (question 22). The 6 counties that are not using section 107.9 to value these interests provided the following comments:

- Previous to [section] 107.9, we were valuing 100 percent interest in landing rights. We will recalculate possessory interest value according to section 107.9 and correct tax roll for 1999.
- With our small airport we have not implemented this code section.
- We haven't enrolled nonsite-specific airline PI's yet. We plan to assess them this year. We will value them according to section 107.9.
- Using shorter term than specified by section 107.9. Due to large turnover in carriers the last few years required term in some cases is unrealistic.
- We have very few nonsite-specific airline taxable PI's. Haven't yet had occasion to apply the provisions of the new code section.

Of the 23 counties that have airline taxable possessory interests, only 3 counties indicated that they have encountered problems performing valuations under section 107.9 (question 23). The 3 counties provided the following comments:

- Lack of information. We have requested information from Airport's Director for fees paid to City for landing rights subsequent to 1994. Previously we added landing rights value to other rights (terminal, parking, baggage area, etc.). Lessee received only one tax statement for combined possessory interest value.
- Getting expense ratio from airport.
- This section's language is unclear and confusing which makes interpretation difficult. As a result, we submitted our interpretations to our county counsel for evaluation before proceeding.

**STADIUM OR ARENA NAMING RIGHTS**

Generally speaking, a naming right is a contractual right held by a corporation or other legal entity to attach its name, or trade name, to a specific stadium, arena, or other type of real property, typically for marketing purposes. Whether naming rights in publicly owned stadiums or arenas constitute taxable possessory interests has not been addressed legislatively or in the courts.
However, the position that billboard rights (i.e., signage rights) on publicly owned property are taxable possessory interests is generally accepted. When a company pays a property owner for the use of his/her property as an advertising billboard, the payment is for a right to use real property. The fact that the property in question may be a sports stadium or arena is irrelevant. Further, if the property is publicly owned, such a right constitutes a taxable possessory interest.

The questionnaire asked if naming rights in publicly owned stadiums or arenas were considered when valuing taxable possessory interests (question 25). Of the 52 reporting counties, 41 county assessors indicated that no such interests exist in their counties; 6 county assessors reported that they do not consider such interests; and 5 county assessors indicated that they do consider naming rights when valuing stadium taxable possessory interests.

The following comments were provided by the county assessors who considered naming rights when valuing stadium taxable possessory interests:

- Currently we only have one situation and will use naming rights income to establish PI value.
- It was considered but no income was attributed to naming rights because the facility was several years old when it was valued and the name had not been sold. If it had, we would have included it.
- Naming rights have been granted to PI holders and the naming right value was included in their assessment.
- Based on comparable income for advertising signage.
- Various methods depending on the lease contract. Sales approach is the preferred approach.

One of the counties that does not consider naming rights when valuing stadium taxable possessory interests stated that, "naming rights are considered nonassessable intangibles by county counsel; only signage rights are assessed."

**DISCOVERY**

**SECTION 480.5**

Revenue and Taxation Code section 480.5 provides that:

> Every owner of tax-exempt real property shall report to the local assessor the creation, renewal, sublease, or assignment of any lease, sublease, license, use permit, or other document which conveys the right to use that real property within 60 days of the transaction.

Enactment of the provisions provided by section 480.5 is applicable only in those counties in which the board of supervisors elects to adopt an ordinance or resolution to have the section requirements applicable in their county. Of the 52 county assessors who responded to the
questionnaire, 10 county assessors indicated that their boards of supervisors have adopted an ordinance to enact the section 480.5 provisions (question 9).

In the 10 counties where a section 480.5 ordinance is in effect, those counties report that generally the governmental agencies are complying with the requirements as follows (question 10):

- Somewhat; sporadic: 3 counties
- Some agencies report, some do not: 3 counties
- Generally good: 2 counties
- Very well: 2 counties

**SECTION 480.6**

Section 480.6 requires every governmental entity that is the owner of real property in which a taxable possessory interest has been created to file with the county assessor (1) a preliminary change in ownership report, (2) a change in ownership statement, or (3) an annual real property usage report. The questionnaire asked the counties if the state and local governmental agencies are complying with the requirements of section 480.6 (question 11). The number of counties' responses to each answer is tabulated as follows. One county assessor indicated that section 480.6 requirements were not applicable in his/her county.

**ARE AGENCIES COMPLYING WITH SECTION 480.6 REQUIREMENTS?**

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
<th>MOSTLY</th>
<th>SOMETIMES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>20</td>
<td>7</td>
<td>1</td>
<td>23</td>
</tr>
</tbody>
</table>

The responding counties were also asked whether the local government agencies were complying with the section 480.6 requirements by providing the county assessor with (1) a preliminary change in ownership report, (2) a change in ownership statement, (3) an annual real property usage report, or (4) some other form of compliance (question 11). The following table shows the counties' responses. The total number exceeds the number of reporting counties because several counties reported more than one method of compliance.
**METHOD OF COMPLYING WITH SECTION 480.6 REQUIREMENTS**

<table>
<thead>
<tr>
<th>DOCUMENT</th>
<th>NUMBER OF COUNTIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preliminary Change in Ownership Report</td>
<td>2</td>
</tr>
<tr>
<td>Change in Ownership Statement</td>
<td>4</td>
</tr>
<tr>
<td>Annual Real Property Usage Report</td>
<td>39</td>
</tr>
<tr>
<td>Other - County Provided Form</td>
<td>7</td>
</tr>
<tr>
<td>Other - Agency Generated Report</td>
<td>1</td>
</tr>
<tr>
<td>Other - Copies of Contracts/Leases</td>
<td>2</td>
</tr>
</tbody>
</table>

**DISCOVERY METHODS**

The county assessors were asked if they used methods to discover taxable possessory interests other than the reporting requirements in sections 480.5 and 480.6. Forty-five (45) of the reporting county assessors indicated that they do use other methods, while 7 county assessors indicated that they do not use any other methods (question 12).

The following table shows the various other methods used by the reporting county assessors to discover taxable possessory interests within their counties. Many county assessors specified that they use multiple methods of discovery.

**METHODS OF DISCOVERY**

<table>
<thead>
<tr>
<th>METHOD OF DISCOVERY</th>
<th>NO. OF COUNTIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contact Initiated by County – Letter, Telephone</td>
<td>29</td>
</tr>
<tr>
<td>Reading Newspaper Articles</td>
<td>21</td>
</tr>
<tr>
<td>Field Discovery by Appraisal Staff</td>
<td>23</td>
</tr>
<tr>
<td>Review of Recorded Documents</td>
<td>10</td>
</tr>
<tr>
<td>Review of Building Reports/Permits</td>
<td>9</td>
</tr>
</tbody>
</table>

**DECLINE IN VALUE**

Section 51, subdivision (a), provides that for each lien date after the lien date in which the base year value is determined, the taxable value of real property shall be the lesser of its factored base year value or its full cash value. The full cash value as of the lien date must take "into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property, or other factors causing a decline in value."

The county assessors were asked what method(s) their counties are using for discovery and review of taxable possessory interests that may qualify for decline in value reductions (question 18). The following are some of the comments provided in response to this question:
• Review history of like properties.
• AAB's findings, data base application. We do not automatically decline for term or value but review on a case-by-case basis.
• Taxpayer complaints.
• Review of PI data base for new PI's after 1990.
• Annual review of all possessory interests.
• We perform Proposition 8 reviews when requested by the owner or when we have reason to believe that the economics and/or declining estimated term of possession has adversely affected the value.
• Identify and code properties that truly have a limited term.
• We are not currently aware of any possessory interests that have filed under Prop. 8.
• When rates increase—review PI's that were determined with lower rates.
• Review of sales (fee and similar PI's); taxpayer request; newspaper articles.

The two most frequently given responses to this question were:

1. Proposition 8 review performed at the request of the taxpayer/owner—27 counties
2. A review of taxable possessory interests is performed annually—19 counties.

**VALUE ORDINANCES**

**LOW-VALUE ORDINANCE**

Section 155.20 provides:

(a) . . . a county board of supervisors may exempt from property tax all real property with a base year value . . . and personal property with a full value so low that, if not exempt, the total taxes, special assessments, and applicable subventions on the property would amount to less than the cost of assessing and collecting them.

(b)(1) The board of supervisors shall have no authority to exempt property with a total base year value or full value of more than five thousand dollars ($5,000) . . . .

The questionnaire asked the county assessors whether their boards of supervisors have adopted a low-value ordinance pursuant to section 155.20 that is applicable to taxable possessory interests (question 16). Fifty-two (52) county assessors responded to this question. Of the 52 responding county assessors, 34 county assessors indicated that their boards of supervisors have adopted a low-value ordinance pursuant to section 155.20 that applies to taxable possessory interests.
In determining the level for the low-value exemption, section 155.20 provides that the board of supervisors must determine at what value level the cost of assessing property and collecting the taxes exceeds the proceeds to be collected. The following chart shows the number of counties whose boards of supervisors have enacted ordinances pursuant to section 155.20, arrayed by the various value levels of the adopted ordinances. One (1) of the 34 counties that reported having a low-value ordinance did not provide the value level.

<table>
<thead>
<tr>
<th>Value Level</th>
<th>Number of Counties</th>
</tr>
</thead>
<tbody>
<tr>
<td>$500</td>
<td>1</td>
</tr>
<tr>
<td>700</td>
<td>1</td>
</tr>
<tr>
<td>1,000</td>
<td>3</td>
</tr>
<tr>
<td>1,350</td>
<td>1</td>
</tr>
<tr>
<td>1,500</td>
<td>2</td>
</tr>
<tr>
<td>2,000</td>
<td>20</td>
</tr>
<tr>
<td>3,000</td>
<td>1</td>
</tr>
<tr>
<td>5,000</td>
<td>4</td>
</tr>
</tbody>
</table>

$50,000 VALUE ORDINANCE

A county board of supervisors may adopt an ordinance pursuant to the provisions of section 155.20 to exempt from taxation possessory interest properties with values up to $50,000 for temporary use of publicly owned fairgrounds and convention centers. Section 155.20, subdivision (b)(1), states in part:

The board of supervisors shall have no authority to exempt property with a total base year value or full value of more than five thousand dollars ($5,000), except that this limitation is increased to fifty thousand dollars ($50,000) in the case of a possessory interest, for a temporary and transitory use, in a publicly owned fairground, fairground facility, convention facility, or cultural facility.

As with any value ordinance which exempts property from taxation, the board of supervisors must determine at what level the cost of assessing the property and collecting the taxes is greater than the amount of the taxes collected. Three (3) of the reporting county assessors indicated that their boards of supervisors have adopted the $50,000 ordinance pursuant to section 155.20, subdivision (b)(1) (question 17).

**APPRAISAL PRACTICES**

**VALUATION METHODS**

Property Tax Rule 25 describes the various methods of valuing post-*De Luz* taxable possessory interests. The primary valuation methods in Rule 25 include:

- Direct Income Approach
- Direct Sale Comparison Approach
- Cost Approach
• Indirect Income Approach
• Indirect Sales Comparison Approach

The questionnaire asked the county assessors to describe the methods currently used by their staffs to value taxable possessory interests in general (question 14). They were further asked to detail which method or methods are most often used within their counties when valuing these post-De Luz properties. Fifty (50) counties provided information in response to this question.

The following table arrays the reporting counties' responses. Each row shows the number of counties using the identified method. Some county assessors reported that they do not use one or more of the valuation methods described. The Rank 1 column arrays the primary method of appraising these properties, rank 2 is the secondary method, and so forth. For example, 42 of the 50 reporting counties indicated that their primary method of appraising taxable possessory interests is the direct income approach.

### Valuation Methods

<table>
<thead>
<tr>
<th>Valuation Method</th>
<th>Rank 1</th>
<th>Rank 2</th>
<th>Rank 3</th>
<th>Rank 4</th>
<th>Rank 5</th>
<th>Rank 6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct Income</td>
<td>42</td>
<td>6</td>
<td>1</td>
<td></td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Direct Sales Comparison</td>
<td>6</td>
<td>10</td>
<td>10</td>
<td>11</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Cost Approach</td>
<td></td>
<td>13</td>
<td>21</td>
<td>7</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Indirect Income</td>
<td>1</td>
<td>17</td>
<td>11</td>
<td>6</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Indirect Sales Comparison</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>7</td>
<td>16</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4</td>
</tr>
</tbody>
</table>

The 5 counties that reported an other method of valuing taxable possessory interests described that method as follows:

• Section 107.9
• Direct income/discounted cash flow worksheets
• Cash flow discount method applied to cable television companies
• Discounted cash flow model used on cable television and other selected major properties, e.g., hotels
• Adopt appropriate methods when necessary as naming rights, cablevision, etc.

### Capitalization Rates

Property Tax Rule 25 provides that the value of a taxable possessory interest created, extended, or renewed after December 24, 1955 (post-De Luz) may be measured by the comparative sales approach, the income approach, and/or the cost approach. When utilizing the income approach, Rule 25 describes various methods to derive the capitalization rate.
The questionnaire asked the county assessors how their counties develop the capitalization rates used to value taxable possessory interests (question 15). Forty-eight (48) of the 52 responding counties provided information on this question.

A chart was included in the questionnaire that identified six different methods of deriving a capitalization rate, as well as an other method column. The county assessors were asked if they utilized any of the methods included in the chart. The following table shows the number of county assessors who reported using the listed methods of deriving a capitalization rate to value taxable possessory interests.

**METHODS OF DEVELOPING CAPITALIZATION RATES**

<table>
<thead>
<tr>
<th>METHODS</th>
<th>NO. OF COUNTIES USING METHOD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall rate derived by dividing a single year's anticipated income by</td>
<td>25</td>
</tr>
<tr>
<td>the cash equivalent sale price of PRIVATELY OWNED properties</td>
<td></td>
</tr>
<tr>
<td>Overall rate derived by dividing a single year's anticipated income by</td>
<td>10</td>
</tr>
<tr>
<td>the cash equivalent sale price of COMPARABLE POSSESSORY INTEREST</td>
<td></td>
</tr>
<tr>
<td>properties</td>
<td></td>
</tr>
<tr>
<td>Yield or discount rate derived using the cash equivalent sale price of</td>
<td>18</td>
</tr>
<tr>
<td>PRIVATELY OWNED property and annual income over an anticipated holding</td>
<td></td>
</tr>
<tr>
<td>period</td>
<td></td>
</tr>
<tr>
<td>Yield or discount rate derived using the cash equivalent sale price of</td>
<td>10</td>
</tr>
<tr>
<td>COMPARABLE POSSESSORY INTEREST property and annual income over an</td>
<td></td>
</tr>
<tr>
<td>anticipated holding period</td>
<td></td>
</tr>
<tr>
<td>Overall capitalization rate derived using the band-of-investment method</td>
<td>26</td>
</tr>
<tr>
<td>Yield or discount rate derived using the band-of-investment method</td>
<td>19</td>
</tr>
<tr>
<td>Other</td>
<td>17</td>
</tr>
</tbody>
</table>

The county assessors who indicated that they use an other method to develop capitalization rates provided the following comments:

- January 1 prime rate and estimated risk component.
- We utilize the cap rates published in the Appraisal Institute's "Valuation Insights and Perspectives." We are initiating a program to develop overall and yield rates by the other methods suggested.
- Residential property interest rate.
- Use 10 percent discount rate for the majority of PI assessments.
• Grazing lands based on Ag Preserve rate.
• Korpacz Survey of market.
• CAPM; bond yield plus risk premium; no sales of PIs.
• Open space interest component—term of possession—cap formulas and tables annual column 5.
• We review industry studies for similar use fee simple properties.
• Use Williamson Act interest rate and taxes and risk. Use state requirement on Sec 11 and historical.
• Band of investment/market derived rate adjusted for perceived risk.
• We use the yield rate that the state provides us annually plus 1 percent for taxes.
• Final rate, a correlation of overall rates derived from privately owned properties, current mortgage rates and other factors.
• 90 day T-bill (safe rate) + risk component = rate (capitalization).
• Rates from published reports.

**Contract Term**

The contract term of possession for a taxable possessory interest may be made up of two rights:

1. A right already exercised—the term set forth in the contract/lease.
2. An unexercised right—the lessee's first right of refusal to continue to use the property for a specified period of time.

The State Supreme Court upheld the county assessor's right to include renewal option periods in the term of possession used when establishing the value of a taxable possessory interest.\(^{27}\) An option period shall be considered part of the stated period if it is reasonable to conclude that the option will be exercised.\(^{28}\)

The questionnaire asked county assessors approximately what degree of time their counties use the specified contract term as the term of possession when valuing the following four taxable possessory interest situations (question 29):
1. Long Term Possessory Interest—New
2. Long Term Possessory Interest—Renewal
3. Month-to-Month—New
4. Month-to-Month—Renewal

The following table shows the total number of counties who gave the indicated responses. Not all of the responding county assessors provided a response to each of the listed categories. Some county assessors indicated that one or more categories were not applicable in their counties, e.g., month-to-month possessory interests.

### Use of Contract Term

<table>
<thead>
<tr>
<th>Length of Contract/Lease</th>
<th>Always</th>
<th>Use Contract Term</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Usually/Mostly/</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Frequently/Often</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Occasionally/Seldom</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Never</td>
</tr>
<tr>
<td>Long Term—New</td>
<td>23</td>
<td>16</td>
</tr>
<tr>
<td>Long Term—Renewal</td>
<td>9</td>
<td>17</td>
</tr>
<tr>
<td>Month-to-Month—New</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Month-to-Month—Renewal</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>

### Anticipated Term of Possession

Property Tax Rule 23 provides that in determining the reasonably anticipated term of possession, the appraiser shall be guided by the intent of the public owner and the possessor of the interest. This intent may be evidenced by such factors as the sales prices of the subject or similar possessory interests, the history of the property's use, the policy of the public agency, and the actions of the possessor.

County assessors were asked which factors their counties consider when determining the anticipated term of possession to use for taxable possessory interest assessments (question 29). The following table shows the total number of county assessors who gave the indicated responses. Not all of the responding county assessors provided a response to each of the listed categories. Some county assessors indicated that one or more categories were not applicable in their counties.
FACTORS TO DETERMINE ANTICIPATED TERM OF POSSESSION

<table>
<thead>
<tr>
<th>LENGTH OF CONTRACT/LEASE</th>
<th>FACTORS CONSIDERED</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>CONTRACT</td>
</tr>
<tr>
<td>Long Term—New</td>
<td>26</td>
</tr>
<tr>
<td>Long Term—Renewal</td>
<td>18</td>
</tr>
<tr>
<td>Month-to-Month—New</td>
<td>1</td>
</tr>
<tr>
<td>Month-to-Month—Renewal</td>
<td>1</td>
</tr>
</tbody>
</table>

DECLINE IN TERM OF POSSESSION

For any given lien date, the taxable value of a possessory interest is to be the lesser of its factored base year value or its current full cash value. Under certain circumstances, the term of possession used to value the interest should not exceed the remaining contract term, and, for future years, the term of possession should be reduced accordingly. One example of such circumstances would be if actions taken by the public owner of the tax-exempt real property clearly demonstrate that the existing possessory interest will not be renewed at the end of the contract term, and the public owner does not intend to enter into new agreements with any other private parties. A decline in the term of possession may or may not indicate a decline in the taxable value of the possessory interest.

The questionnaire asked county assessors under what circumstances they would perform a decline in value assessment for a taxable possessory interest due to a decline in term of possession (question 32). Ten (10) county assessors did not provide a response to this question, while other county assessors provided more than one example of when they would use a declining term. The following table summarizes the various responses received from the county assessors and indicates the number of county assessors who gave the listed response.

DECLINE IN TERM OF POSSESSION

<table>
<thead>
<tr>
<th>USE OF DECLINING TERM OF POSSESSION</th>
<th>NUMBER OF COUNTIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Terminal possessory interest</td>
<td>22</td>
</tr>
<tr>
<td>History shows longer term not justified or agency shortens the term</td>
<td>5</td>
</tr>
<tr>
<td>Contract does not guarantee that tenant will be able to return—will go out to bid at end of contract term</td>
<td>9</td>
</tr>
<tr>
<td>REL of improvements drops below term</td>
<td>4</td>
</tr>
<tr>
<td>Roll value exceeds market value—Prop 8</td>
<td>6</td>
</tr>
<tr>
<td>Other</td>
<td>2</td>
</tr>
</tbody>
</table>

The following comments were given by the 2 county assessors who indicated an other example of when they would use a declining term of possession to value a taxable possessory interest:
• Long-term leases are valued using the *American Airlines v. Los Angeles County* standard. Month-to-month leases are reviewed for decline every year.

• Initial term of more than 2 years we would use a declining term down to an anticipated term and then keep the anticipated term for future years. For renewal terms depending on the term we would use a declining term down to an anticipated term and keep it flat. We would decline the term but would end up using an anticipated term based on the historical use of the property.

### SECTION 61(b)(2)

Section 61, subdivision (b)(2), was amended by Chapter 368, Statutes of 1996, and was effective January 1, 1997. That section was amended to provide that a renewal or extension of a possessory interest during the reasonably anticipated term of possession used by the county assessor to value the interest originally does not cause a change in ownership until the end of that term of possession. Section 61, subdivision (b)(2), states:

> Any "renewal" or "extension" of a possessory interest during the reasonably anticipated term of possession used by the assessor to value that interest does not cause a change in ownership until the end of the reasonably anticipated term of possession used by the assessor to value that interest. At the end of the reasonably anticipated term of possession used by the assessor, a new base year value, based on a new reasonably anticipated term of possession, shall be established for the possessory interest.

The questionnaire asked (question 37) the county assessors if their counties were experiencing difficulties employing the provisions of section 61(b)(2). Forty (40) county assessors reported that their counties are not having difficulties with the provisions of section 61(b)(2); 11 county assessors indicated that they are experiencing problems; and 1 county assessor replied that the county has had no instances to consider the implications of section 61(b)(2).

The following comments were provided by some of the county assessors who indicated that their counties are experiencing problems employing the provisions of section 61(b)(2).

• Renewal situations should always be reappraisable. Holding off on them creates unusual assessment equalization or administration problems. The key to [section] 61(b)(2) is that an extension is not a reappraisable event.

• In instances where the anticipated term of possession exceeds the contract renewal date. These assessments are not reviewed simultaneously with the contract term and creating some confusion on [the] part of the assessee.

• Since the reasonably anticipated term of possession for recreation residence lots is essentially perpetuity, no reappraisals can ever be done upon renewal of the permit.

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tried to reappraise over 600 of these PI's before this section was added and the court treated this section as declaratory of existing law.

- The assessments become skewed by the P-13 inflation factors and annual rent increases for hangars at the airport. Lessees compare tax bills and the values are no longer equal for identical hangars. I guess P-13 caused this problem for all real property 21 years ago.
- Tracking problem for reappraisal and uncertainty if a renewal or extension should take place prior to reappraisal if anticipated term elapsed.
- Lessors are not usually aware of the "reasonably anticipated term" being used by the assessor in valuing the PI and frequently use the term "month to month" rather than reporting annual extensions/renewals.
- We had cabins on National Forest Land which had to be revalued after renewal of leases and most taxpayers complained since the cabins typically change hands very infrequently.

One county assessor who indicated that his/her county is not experiencing difficulties with the provisions of section 61(b)(2) provided the following comment:

- Current section 61(b)(2) is easier to explain and justify to the taxpayers. The office processing is handled by tracking the expiration date of the anticipated term. We have encountered no problems.

**SUPPLEMENTAL ASSESSMENTS**

Section 61 provides that the renewal of a taxable possessory interest in tax-exempt real property for any term is a change in ownership at the end of the reasonable anticipated term used by the county assessor to value the interest. Therefore, a renewal of a taxable possessory interest is subject to a supplemental assessment pursuant to section 75.11.

The county assessors were asked how they processed supplemental assessments related to the renewal of taxable possessory interests (question 19). The questionnaire specifically asked, does the county (1) consider the renewal a continuation of the existing possessory interest and supplementally assess the difference between the existing roll value and the new value, or does the county (2) consider the renewal a new taxable possessory interest and supplementally assess the entire new value? Fifty (50) counties responded to this question.

Thirty-two (32) of the responding counties indicated that they consider the renewal a continuation of the existing possessory interest and supplementally assess the difference between the existing roll value and the new value. Two (2) of these counties qualified their responses with the following comments:

- If the renewal coincides with the end of the anticipated term. If anticipated term is longer, no action would be taken on renewal.
- We consider a renewal as a continuation and supplementally assess the difference between the new value and the old value.
Ten (10) county assessors reported that they consider the renewal a new taxable possessory interest and supplementally assess the entire new value. Five (5) county assessors indicated that they do not use either process described in the questionnaire, but did not provide any comments regarding their procedures for handling supplemental assessments of taxable possessory interests.

In addition, 3 county assessors reported that they use both processes described in the questionnaire and provided the following comments:

- If renewal occurs after lien date, enroll new value the following year. We do not supplement our unsecured billings.
- If subject to supplemental assessment.
- Where a permit of some kind must be obtained, e.g., a special use permit for a mountain cabin, its surrender to the Forest Service, and its reissuance in the name of a new purchaser causes supplemental assessment in the whole amount. In other instances, we supplement on the additional value caused by the transaction.

**CABLE TELEVISION INTERESTS**

Section 107.7 pertains to the valuation of cable television interests and provides in subdivision (a):

> When valuing possessory interests in real property created by the right to place wires, conduits, and appurtenances along or across public streets, rights-of-way, or public easements contained in a cable television franchise or license granted . . . . the assessor shall value these possessory interests consistent with the requirements of Section 401. The methods of valuation shall include, but not be limited to, the comparable sales method, the income method (including, but not limited to, capitalizing rent), or the cost method.

All 52 of the reporting county assessors indicated that they have cable television properties in their counties (question 26). Fifty-one (51) of the county assessors provided a response to the question that asked which valuation approach(es) they use when valuing cable television taxable possessory interests in their counties (question 27). The following table shows the number of county assessors that indicated that they use the various listed valuation approaches when assessing cable television interests. The numbers will not tally to the total number of responding counties since some county assessors indicated that they use more than one approach to value cable television taxable possessory interests.
Chapter 3

Valuation Approaches Used for Cable Television Interests

<table>
<thead>
<tr>
<th>Valuation Approach</th>
<th>Number of Counties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct Income Approach</td>
<td>42</td>
</tr>
<tr>
<td>Direct Sales Comparison Approach</td>
<td>12</td>
</tr>
<tr>
<td>Cost Approach</td>
<td>10</td>
</tr>
<tr>
<td>Indirect Income Approach</td>
<td>7</td>
</tr>
<tr>
<td>Indirect Sales Comparison Approach</td>
<td>2</td>
</tr>
<tr>
<td>Other</td>
<td>9</td>
</tr>
</tbody>
</table>

Three (3) of the 9 county assessors that reported using an *other* valuation approach indicated that they do not use any of the other listed approaches. The 3 counties provided the following comments:

- We value cable television interest by an in-house discounted cash flow methodology developed in 1990, whose characteristics were developed by the chief appraiser and the industry attorney/representative.
- Our county values on a per subscriber basis without considering contract term.
- Value has been set pursuant to negotiated settlement agreement.

The other 6 county assessors that reported using an *other* valuation approach also reported using one or more of the approaches listed in the questionnaire. The 6 county assessors provided the following comments:

- [Section] 107.7(b)—capitalize the portion of the franchise rent pertaining to the possessory interest.
- All cable systems under Prop. 8 using historical cost basis for fixed M&E, personal property and improvements. Residual of Prop. 8 value to PI.
- Discounted cash flow with allowances for rebuilds and other normal operating expenses.
- Discounted cash flow analysis.
- For appeals only, we have developed a direct sales approach based on $/subscriber and a cost approach. However, we rely on the direct income approach using market rents, term and rate rather than contract.
- We value the PI's based on $300 income per subscriber, times the number of subscribers, escalated for two years.

When valuing cable television taxable possessory interests, the county assessors were asked if they used the terms of possession stated in the cable franchise contracts or, if not, to identify what terms of possession their counties are using (question 28). Twenty-eight (28) county assessors reported that they are using terms other than that stated in the contracts; 14 county assessors are using the stated contract terms of possession; and 10 county assessors did not provide a response to this question.
As the following table shows, the terms of possession being used to value taxable cable television possessory interests encompass a wide range. Five (5) of the responding county assessors did not indicate the term of possession being used in their counties.

<table>
<thead>
<tr>
<th>TERMS OF POSSESSION</th>
<th>NO. OF COUNTIES USING TERM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yearly</td>
<td>1</td>
</tr>
<tr>
<td>Various</td>
<td>1</td>
</tr>
<tr>
<td>Existing franchise term plus a 10-year anticipated renewal</td>
<td>1</td>
</tr>
<tr>
<td>Actual term of contract</td>
<td>5</td>
</tr>
<tr>
<td>10 to 20 years</td>
<td>1</td>
</tr>
<tr>
<td>15 years</td>
<td>23</td>
</tr>
<tr>
<td>16 years</td>
<td>1</td>
</tr>
<tr>
<td>20 years</td>
<td>7</td>
</tr>
<tr>
<td>20 to 25 years</td>
<td>1</td>
</tr>
<tr>
<td>25 years</td>
<td>2</td>
</tr>
<tr>
<td>30 years</td>
<td>1</td>
</tr>
<tr>
<td>Not using any term of possession</td>
<td>3</td>
</tr>
</tbody>
</table>

**MONTH-TO-MONTH TENANCIES**

Most counties have short-term possessory interests that exist on the basis of month-to-month tenancy. Under Civil Code section 1946, a month-to-month tenancy in a taxable possessory interest is deemed to be renewed unless one of the parties gives written notice to the other party of his or her intention to terminate the agreement. Therefore, a taxable possessory interest consisting of a month-to-month tenancy in tax-exempt real property is renewed each month that no notice to terminate is given.

Property Tax Rule 23 provides that in determining the reasonably anticipated term of possession, the appraiser shall be guided by the intent of the public owner and the possessor of the interest. This intent may be evidenced by such factors as the sales prices of the subject or similar possessory interests, the history of the property's use, the policy of the public agency, and the actions of the possessor.

County assessors usually establish a term of possession for month-to-month tenancy interests that is much longer than one month—generally, a minimum of one year. Many of these interests are given terms of three or more years. The questionnaire asked, for month-to-month or year-to-year taxable possessory interests, what is the average term of possession used (question 35)? The following arrays the county assessors' responses for aircraft hangars at public airports, government housing, and grazing leases on government lands:
### Aircraft Hangars

<table>
<thead>
<tr>
<th>Term of Possession</th>
<th>Number of Counties Using Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 Years</td>
<td>6</td>
</tr>
<tr>
<td>7 Years</td>
<td>1</td>
</tr>
<tr>
<td>10 Years</td>
<td>1</td>
</tr>
<tr>
<td>10 to 25 Years</td>
<td>1</td>
</tr>
<tr>
<td>11 Years</td>
<td>2</td>
</tr>
<tr>
<td>12 Years</td>
<td>1</td>
</tr>
<tr>
<td>30 Years</td>
<td>1</td>
</tr>
</tbody>
</table>

### Government Housing

<table>
<thead>
<tr>
<th>Term of Possession</th>
<th>Number of Counties Using Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Year</td>
<td>3</td>
</tr>
<tr>
<td>3 Years</td>
<td>1</td>
</tr>
<tr>
<td>3 to 5 Years</td>
<td>1</td>
</tr>
<tr>
<td>5 Years</td>
<td>7</td>
</tr>
</tbody>
</table>

### Grazing Leases

<table>
<thead>
<tr>
<th>Term of Possession</th>
<th>Number of Counties Using Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Actual</td>
<td>1</td>
</tr>
<tr>
<td>1 to 10 Years</td>
<td>1</td>
</tr>
<tr>
<td>2 to 5 Years</td>
<td>2</td>
</tr>
<tr>
<td>3 Years</td>
<td>1</td>
</tr>
<tr>
<td>4 Years</td>
<td>2</td>
</tr>
<tr>
<td>5 Years</td>
<td>12</td>
</tr>
<tr>
<td>7 Years</td>
<td>1</td>
</tr>
<tr>
<td>10 Years</td>
<td>15</td>
</tr>
<tr>
<td>10 to 20 Years</td>
<td>1</td>
</tr>
<tr>
<td>15 Years</td>
<td>2</td>
</tr>
<tr>
<td>20 Years</td>
<td>3</td>
</tr>
</tbody>
</table>

In instances where counties are valuing month-to-month tenancies by using multi-year anticipated terms of possession, the questionnaire asked if the county assessors are revaluing those taxable possessory interests annually or upon expiration of the anticipated term of possession used (question 30). Fifty (50) county assessors provided a response to this question. Eighteen (18) county assessors reported that they are revaluing the month-to-month tenancies annually; 24 county assessors are revaluing upon expiration of the anticipated term of possession used; 3 county assessors are using both practices; and 4 county assessors indicated that it is not applicable in their counties.

**Fairgrounds and Convention Centers**

Exhibitors, concessionaires, and other holders of use permits at county fairgrounds and convention centers may have taxable possessory interests, even though the duration of the interest is generally for a short term.
The questionnaire asked the county assessors whether they are assessing taxable possessory interests to tenants with use permits at county fairgrounds and conventions centers (question 31). Fifty-one (51) of the 52 responding counties provided an answer to this question. Thirty-three (33) county assessors reported that their counties are assessing use permit holders at fairgrounds and convention centers, and 18 counties are not assessing them.

Of the 33 county assessor valuing taxable possessory interests at fairgrounds and convention centers, the following shows, generally, when the counties begin assessing the tenants (question 31).

### Assessing Fairgrounds and Convention Centers

<table>
<thead>
<tr>
<th>Timeframe for Assessing</th>
<th>Number of Counties</th>
</tr>
</thead>
<tbody>
<tr>
<td>First time the tenant uses the facility</td>
<td>10</td>
</tr>
<tr>
<td>Second time the tenant uses the facility</td>
<td>11</td>
</tr>
<tr>
<td>Other</td>
<td>12</td>
</tr>
</tbody>
</table>

The following comments were provided by some of the county assessors who indicated an other timeframe for assessing taxable possessory interests at fairgrounds and convention centers.

- Most tenants are not assessed until they have established a history of use. Others are assessed upon first use if a similar type tenant has established a PI history (ex.: carnival amusement operator, beer sales operator, etc.). Most operations are below $2,000 assessed value and under threshold for small value exclusion.
- After at least 3 recurring uses.
- When the use is substantial or when a pattern of use can be established.
- We only assess users who have contracts for repeated uses, i.e., one week a year for 3 years. We begin assessing these users the first year that they use the facility.
- First time at fair; second time at convention center.

The following arrays the responding counties' average terms of possession used for fairground exhibitors and convention center users (question 35):

<table>
<thead>
<tr>
<th>Fairground Exhibitors</th>
<th>Term of Possession</th>
<th>Number of Counties Using Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Year</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>2 Years</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>3 Years</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>3 to 5 Years</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>4 Years</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>5 Years</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>5 to 10 Years</td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>
CONVENTION CENTERS

<table>
<thead>
<tr>
<th>Term of Possession</th>
<th>Number of Counties Using Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Year</td>
<td>1</td>
</tr>
<tr>
<td>2 Years</td>
<td>2</td>
</tr>
<tr>
<td>3 Years</td>
<td>5</td>
</tr>
<tr>
<td>4 Years</td>
<td>1</td>
</tr>
</tbody>
</table>

AIRCRAFT TIE-DOWNS AND BOAT SLIPS

Thirty-four (34) of the 52 reporting county assessors indicated that they have taxable possessory interests for aircraft tie-downs and/or boat slips in their counties (question 33). These county assessors were asked which method or methods they employ to estimate the terms of possession relating to taxable possessory interests for aircraft tie-downs and boat slips (question 34). The following table arrays the responses of the 34 counties with these types of taxable possessory interests; some county assessors reported that they use more than one of the listed methods:

ESTIMATING TERM FOR AIRCRAFT TIE-DOWNS AND BOAT SLIPS

<table>
<thead>
<tr>
<th>Method</th>
<th>Number of Counties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Turnover Time (Average Term of Possession)</td>
<td>32</td>
</tr>
<tr>
<td>Physical Life of the Improvement</td>
<td>3</td>
</tr>
<tr>
<td>Economic Life of the Improvement</td>
<td>4</td>
</tr>
<tr>
<td>Other</td>
<td>1</td>
</tr>
</tbody>
</table>

The one county assessor that designated using an other method of estimating the term of possession relating to taxable possessory interests for aircraft tie-downs and boat slips indicated that his/her county estimates the term by a "survey of other counties."

The following arrays the responding counties' average terms of possession used for aircraft tie-downs at public airports and boat slips at public marinas (question 35):

AIRCRAFT TIE-DOWNS

<table>
<thead>
<tr>
<th>Term of Possession</th>
<th>Number of Counties Using Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Year</td>
<td>4</td>
</tr>
<tr>
<td>2 to 5 Years</td>
<td>1</td>
</tr>
<tr>
<td>3 Years</td>
<td>6</td>
</tr>
<tr>
<td>3 to 5 Years</td>
<td>2</td>
</tr>
<tr>
<td>4 Years</td>
<td>1</td>
</tr>
<tr>
<td>5 Years</td>
<td>14</td>
</tr>
<tr>
<td>6 Years</td>
<td>1</td>
</tr>
<tr>
<td>7 Years</td>
<td>2</td>
</tr>
<tr>
<td>10 Years</td>
<td>1</td>
</tr>
</tbody>
</table>
### BOAT SLIPS

<table>
<thead>
<tr>
<th>Term of Possession</th>
<th>Number of Counties Using Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Year</td>
<td>2</td>
</tr>
<tr>
<td>3 Years</td>
<td>4</td>
</tr>
<tr>
<td>3 to 5 Years</td>
<td>2</td>
</tr>
<tr>
<td>4 Years</td>
<td>2</td>
</tr>
<tr>
<td>5 Years</td>
<td>6</td>
</tr>
<tr>
<td>5 to 10 Years</td>
<td>1</td>
</tr>
<tr>
<td>6 Years</td>
<td>1</td>
</tr>
<tr>
<td>7 Years</td>
<td>1</td>
</tr>
<tr>
<td>15 Years</td>
<td>1</td>
</tr>
<tr>
<td>20 Years</td>
<td>1</td>
</tr>
</tbody>
</table>
CHAPTER 4: CONCLUSIONS

- The State Board of Equalization recognized the need for appraisal guidance in the assessment of taxable possessory interests with the adoption in February 1955 of the manual *Appraisal of Possessory Interests and Equities Therein*; the manual has not been updated since May 1978. The Board staff should draft a revised handbook on the assessment of possessory interests and present the draft to the Board for adoption.

- Since all of the counties who participated in this special topic survey reported having taxable possessory interests within their county, and presumably all 58 counties in California have such interests, the State Board of Equalization should develop and present statewide a training course designed to educate and promote uniformity in the appraisal of taxable possessory interests.

- Section 480.5 requires owners of tax-exempt real property to report to the county assessor the creation, renewal, sublease, or assignment of any lease, sublease, license, use permit, or other documents which convey the right to use the real property to a private individual or business entity. Compliance with section 480.5 is sporadic throughout the counties. The State Board of Equalization and the California Assessors' Association should explore means of enhancing compliance with section 480.5, e.g., legislation to impose a penalty and/or development of a Board-prescribed reporting form.

- Letter To Assessors 86/12, January 28, 1986, states the view that when an existing taxable possessory interest transfers from one lessee to a second lessee, and the transfer qualifies as a change in ownership under section 61, then the supplemental assessment to the second lessee would be the difference between the new base year value of the taxable possessory interest and its taxable value on the current roll. This is because the same interest is being taxed, but to a new owner at its current full cash value. Since the survey findings indicate that supplemental assessment practices are inconsistent, county personnel responsible for processing supplemental assessments of taxable possessory interests should review the advice given in Letter To Assessor 86/12 and section 75.11. (See response to question 19 on page 30.)

- Revenue and Taxation Code section 61 was amended effective January 1, 1997 to provide that any renewal or extension of a possessory interest during the reasonably anticipated term of possession used by the assessor to value that interest does not cause a change in ownership until the end of the reasonably anticipated term of possession used by the assessor to value that interest. County assessors should review their change in ownership policies regarding taxable possessory interests to ensure compliance with section 61, subdivision (b)(2). (See response to question 30 on page 34.)

- In *City of San Jose v. Carlson* (1997) 57 Cal.App.4th 1348 the court determined that short-term users of public facilities may hold a taxable possessory interest in the facilities. Thus, such short-term users may meet the criteria of durability, independence, and exclusivity necessary to constitute a taxable possessory interest. County assessors should...
review their policies when assessing tenants with use permits at county fairs and convention centers in light of the *City of San Jose* ruling. (See response to question 31 on page 35.)
APPENDIX 1: QUESTIONNAIRE

COUNTY IDENTIFICATION NO. _______ SIZE OF COUNTY

[ ] Over $50 Billion Local Roll Value
[ ] $15 to $50 Billion Local Roll Value
[ ] Under $15 Billion Local Roll Value

QUESTIONNAIRE FOR SPECIAL TOPIC SURVEY ON TAXABLE POSSESSORY INTERESTS

1. Are there any taxable possessory interests assessed in your county?

[ ] Yes (Please continue with the survey.)
[ ] No (Please note and return this questionnaire to:)
   Dale Edgington
   Los Angeles County Assessor's Office
   500 West Temple Street, Room 180
   Los Angeles, CA  90012
   FAX:  (213) 626-0850

2. Does your county have a specifically designated section or person to value taxable possessory interests or do all appraisers or auditor-appraisers value them as part of their regular assignments?

[ ] Separate Appraisal Section
[ ] Separate Person(s)
[ ] Part of Regular Assignment

3. For each member of your staff assigned the responsibility of assessing taxable possessory interests, please list their job classification and the percent of the work year they spent performing this task.

<table>
<thead>
<tr>
<th>JOB CLASSIFICATION</th>
<th>NO. OF PEOPLE</th>
<th>PERCENT OF WORK YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Assessment of Taxable Possessory Interests  40  April 2000
4. Does your county have written guidelines or procedures for the valuation of taxable possessory interests?

[ ] Yes
[ ] No

5. How many taxable possessory interests (total roll items) were assessed in your county for the following years, and what was the total taxable value each year?

<table>
<thead>
<tr>
<th>YEAR</th>
<th>NUMBER OF PI'S</th>
<th>TOTAL TAXABLE VALUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1999</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

6. Approximately what percentage of your taxable possessory interest value is derived from interests on federal lands, Indian lands, state lands, and locally owned lands?

<table>
<thead>
<tr>
<th>TYPE OF LAND</th>
<th>PERCENTAGE OF TOTAL ASSESSED VALUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Lands</td>
<td></td>
</tr>
<tr>
<td>Indian Lands</td>
<td></td>
</tr>
<tr>
<td>State Lands</td>
<td></td>
</tr>
<tr>
<td>Locally Owned Lands</td>
<td></td>
</tr>
</tbody>
</table>

7. Are there any taxable possessory interests in your county that must still be assessed under the pre-De Luz court case provisions pursuant to Property Tax Rule 26?

[ ] Yes
[ ] No

If yes: Number of properties ______
Taxable Value for 1999 Roll $__________

8. Has your county developed a data base to help administer taxable possessory interest data?

[ ] Yes
[ ] No

If yes, please describe: __________________________________________________________
_____________________________________________________________________________
9. Has your Board of Supervisors adopted an ordinance implementing the provisions of section 480.5 of the Revenue and Taxation Code?

   [ ] Yes
   [ ] No  (Proceed to question 11)

10. To what degree are governmental agencies complying with the provisions of your section 480.5 ordinance?

    Please comment:

    ________________________________________________________________
    ________________________________________________________________
    ________________________________________________________________

11. Are state and local governmental agencies complying with the requirements of section 480.6 of the Revenue and Taxation Code?

    [ ] Yes
    [ ] No
    [ ] Sometimes

    If yes, are they complying by providing:

    | DOCUMENT                                      | YES | NO |
    |----------------------------------------------|-----|----|
    | Preliminary Change of Ownership Report       |     |    |
    | Change in Ownership Statement               |     |    |
    | Annual Property Usage Report                |     |    |
    | Other (Specify)                             |     |    |

    Comments: ____________________________________________________________
    ____________________________________________________________
    ____________________________________________________________

12. Does your county use discovery methods other than the requirements in sections 480.5 and 480.6 of the Revenue and Taxation Code?

    [ ] Yes
    [ ] No

    If yes, please specify:

    ____________________________________________________________
    ____________________________________________________________
    ____________________________________________________________
13. For 1999, approximately what percentage of your taxable possessory interest units falls within the following value strata?

<table>
<thead>
<tr>
<th>VALUE STRATUM</th>
<th>PERCENTAGE OF PI UNITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 - $10,000</td>
<td></td>
</tr>
<tr>
<td>$10,001 - $25,000</td>
<td></td>
</tr>
<tr>
<td>$25,001 - $50,000</td>
<td></td>
</tr>
<tr>
<td>$50,001 - $100,000</td>
<td></td>
</tr>
<tr>
<td>$100,001 - $500,000</td>
<td></td>
</tr>
<tr>
<td>$500,001 - Over</td>
<td></td>
</tr>
</tbody>
</table>

14. Property Tax Rule 25 describes the various methods for valuing post-De Luz taxable possessory interests. What method(s) does your county use?

<table>
<thead>
<tr>
<th>METHOD</th>
<th>RANK BY FREQUENCY OF USE (NUMBER 1 = MOST OFTEN USED)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct Income</td>
<td></td>
</tr>
<tr>
<td>Direct Sales Comparison</td>
<td></td>
</tr>
<tr>
<td>Cost Approach</td>
<td></td>
</tr>
<tr>
<td>Indirect Income</td>
<td></td>
</tr>
<tr>
<td>Indirect Sales Comparison</td>
<td></td>
</tr>
<tr>
<td>Other (Describe below)</td>
<td></td>
</tr>
</tbody>
</table>

If your county uses "other" methods, please describe:

_________________________________________________________________________________
15. How does your county develop the capitalization rates used to value taxable possessory interests?

<table>
<thead>
<tr>
<th>METHOD</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall rate derived by dividing a single year’s anticipated income by the cash equivalent sale price of PRIVATELY OWNED properties</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overall rate derived by dividing a single year’s anticipated income by the cash equivalent sale price of COMPARABLE POSSESSORY INTEREST properties</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yield or discount rate derived using the cash equivalent sale price of PRIVATELY OWNED PROPERTY and annual income over an anticipated holding period</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yield or discount rate derived using the cash equivalent sale price of COMPARABLE POSSESSORY INTEREST PROPERTY and annual income over an anticipated holding period</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overall capitalization rate derived using the band-of-investment method</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yield or discount rate derived using the band-of-investment method</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other (describe below)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Does your county use any other method(s) to develop capitalization rates? Please comment:

__________________________________________________________________________
__________________________________________________________________________

16. Has your Board of Supervisors adopted a low-value ordinance pursuant to section 155.20 of the Revenue and Taxation Code that is applicable to taxable possessory interests?

[ ] Yes
[ ] No

If yes, what value level? $___________

17. Has your Board of Supervisors adopted a low-value ordinance pursuant to section 155.20 to exempt taxable possessory interests in fairgrounds and convention centers that have a value of $50,000 or less?

[ ] Yes
[ ] No

If yes, what value level? $___________
18. What method(s) is your county using for discovery and review of taxable possessory interests that may qualify for Proposition 8 (section 51(a) of the Revenue and Taxation Code) reductions?

19. How does your county process supplemental assessments related to the renewal of a taxable possessory interest? Does your county consider the renewal a continuation of the existing possessory interest and supplementally assess the difference between the existing roll value and the new value, or does your county consider the renewal as a new taxable possessory interest and supplementally assess the entire new value?

<table>
<thead>
<tr>
<th>ASSESS AS</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Continuation of Existing Possessory Interest</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Possessory Interest</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

20. Does your county have taxable possessory interests in personal property owned by the California Pollution Control Financing Authority pursuant to section 201.5 of the Revenue and Taxation Code?

[ ] Yes  
[ ] No  
[ ] No Such Interests Exist in Our County

21. Does your county have airline taxable possessory interests?

[ ] Yes  
[ ] No (Proceed to question 25)

22. Is your county valuing nonsite-specific airline taxable possessory interests according to methods prescribed in section 107.9 of the Revenue and Taxation Code which provides the assessor with the presumption of correctness, or is your county using other valuation procedures?

[ ] According to section 107.9  
[ ] Other (Specify)
23. Describe any problems your county may have encountered performing valuations under section 107.9 of the Revenue and Taxation Code.

24. Is your county valuing site-specific airline taxable possessory interests separately and in addition to the interest in the nonsite-specific taxable possessory interest (e.g., terminal, cargo, hangar, parking lot)?

[ ] Yes
[ ] No

25. Does your county consider "naming rights" in publicly owned stadiums or arenas when valuing such taxable possessory interests?

[ ] Yes
[ ] No
[ ] No Such Interests Exist in Our County

If yes, please describe your county's method for including the value of such interests:

26. Does your county have cable television properties?

[ ] Yes
[ ] No  (Proceed to question 29)
27. What valuation approach is your county using when valuing cable television taxable possessory interests?

<table>
<thead>
<tr>
<th>VALUATION APPROACH</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct Income</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Direct Sales Comparison</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost Approach</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indirect Income</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indirect Sales Comparison</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Does your county use any other valuation approach? Please comment:

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

28. What term of possession is your county using when valuing cable television taxable possessory interests?

Is this term other than stated in the contract?

[ ] Yes
[ ] No

29. For the following taxable possessory interest situations, which factors does your county consider when determining the anticipated term of possession to use for the assessments? Indicate the approximate degree of time that your county uses the contract term.

<table>
<thead>
<tr>
<th>LENGTH OF LEASE</th>
<th>FACTORS</th>
<th>USE CONTRACT TERM (ALWAYS, OCCASIONALLY, NEVER)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long Term—New</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Long Term—Renewal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Month to Month—New</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Month to Month—Renewal</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
30. In instances where your county is valuing month-to-month tenancies by using multi-year anticipated terms of possession, is your county revaluing those possessory interests annually or upon expiration of the term of possession used?

[  ] Revaluing Annually
[  ] Revaluing Upon Expiration of Term of Possession Used

31. Does your county assess taxable possessory interests to tenants with use permits at county fairs and convention centers?

[  ] Yes
[  ] No

If yes, does your county begin assessing the tenant for a taxable possessory interest:

[  ] The first time the tenant uses the facility?
[  ] The second time the tenant uses the facility?
[  ] Other (please comments)?

Comments:

32. Under what circumstances, if any, would your county perform a decline in value assessment for a taxable possessory interest due to a decline in term of possession? Please list the conditions you would consider and the reasons for or against performing such an assessment.

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

33. Does your county have taxable possessory interests for aircraft tie-downs and/or boat slips?

[  ] Yes
[  ] No  (Proceed to question 35)
34. Which of the following methods does your county use to estimate the term of possession relating to aircraft tie-downs and boat slips?

<table>
<thead>
<tr>
<th>METHOD</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Turnover Time (Average Term of Possession)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Physical Life of the Improvement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Economic Life of the Improvement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Please specify "other" method:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

35. For month-to-month or year-to-year taxable possessory interests, what is the average term of possession used in your county for valuing the following?

<table>
<thead>
<tr>
<th>POSSESSORY INTEREST</th>
<th>TERM OF POSSESSION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aircraft Tie-Downs</td>
<td></td>
</tr>
<tr>
<td>Boat Slips</td>
<td></td>
</tr>
<tr>
<td>Fairground Exhibitors</td>
<td></td>
</tr>
<tr>
<td>Grazing Leases</td>
<td></td>
</tr>
<tr>
<td>Convention Centers</td>
<td></td>
</tr>
<tr>
<td>Others (Please Specify Below)</td>
<td></td>
</tr>
</tbody>
</table>

Please specify "other" possessory interest:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
36. Some short-term taxable possessory interest assessments, such as aircraft tie-downs and boat slips, are sometimes not cost-effective. Would your county be in favor of shifting this assessment to an in-lieu type of tax collected with the rent?

[ ] Yes
[ ] No

Please comment:
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

37. Have you experienced difficulties employing the provisions of section 61(b)(2) of the Revenue and Taxation Code?

[ ] Yes
[ ] No

If yes, please comment:
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
38. Is your county assessing any of the following types of taxable possessory interests? Wherever possible, please include a rough estimate of the 1999 taxable value and total number of assessments for each assessment type.

<table>
<thead>
<tr>
<th>POSSESSORY INTEREST</th>
<th>ASSESSING</th>
<th>IF AVAILABLE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>YES</td>
<td>1999 TOTAL TAXABLE VALUE</td>
</tr>
<tr>
<td>River Rafting Rights</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grazing Rights</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Horse Racing Satellite Wagering Facilities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stadium or Arena Naming Rights</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shuttle Companies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Car Rental Agencies at Airports</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Airlines at Airports</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Concessionaires at Airports</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gaming Facilities on Indian Lands</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Youth Organizations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Joint Use Facilities at Airports</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aircraft Tie-Downs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Boat Slips</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fast Food Concessions at Educational Facilities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Government-Owned Parking Lots or Garages Operated by Third Parties</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mineral Rights and Production</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assigned Parking Rights on Government-Owned Property</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Taxable Government-Owned Lands (See CA. Const. Art. 13, Section 11(f))</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Harbor Facilities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sports Arenas</td>
<td></td>
<td></td>
</tr>
<tr>
<td>County Fairground Users</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Centers for Performing Arts</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Civic Auditorium Users</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Community Center Users</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
APPENDIX 2: CONSTITUTIONAL AND STATUTORY EXCERPTS

CONSTITUTION

ARTICLE XIII

SECTION 1. TAXABLE PROPERTY. Unless otherwise provided by this Constitution or the laws of the United States.

(a) All property is taxable and shall be assessed at the same percentage of fair market value. When a value standard other than fair market value is prescribed by this Constitution or by statute authorized by this Constitution, the same percentage shall be applied to determine the assessed value. The value to which the percentage is applied, whether it be the fair market value or not, shall be known for property tax purposes as the full value.

(b) All property so assessed shall be taxed in proportion to its full value.

SECTION 11. LANDS OWNED BY LOCAL GOVERNMENTS THAT ARE OUTSIDE THEIR BOUNDARIES. (a) Lands owned by a local government that are outside its boundaries, including rights to use or divert water from surface or underground sources and any other interests in lands, are taxable if (1) they are located in Inyo or Mono County and (a) they were assessed for taxation to the local government in Inyo County as of the 1966 lien date, or in Mono County as of the 1967 lien date, whether or not the assessment was valid when made, or (b) they were acquired by the local government subsequent to that lien date and were assessed to a prior owner as of that lien date and each lien date thereafter, or (2) they are located outside Inyo or Mono County and were taxable when acquired by the local government. Improvements owned by a local government that are outside its boundaries are taxable if they were taxable when acquired or were constructed by the local government to replace improvements which were taxable when acquired.

(b) Taxable land belonging to a local government and located in Inyo County shall be assessed in any year subsequent to 1968 at the place where it was assessed as of the 1966 lien date and in an amount derived by multiplying its 1966 assessed value by the ratio of the statewide per capita assessed value of land as of the last lien date prior to the current lien date to $766, using civilian population only. Taxable land belonging to a local government and located in Mono County shall be assessed in any year subsequent to 1968 at the place where it was assessed as of the 1967 lien date and in an amount determined by the preceding formula except that the 1967 lien date, the 1967 assessed value, and the figure $856 shall be used in the formula. Taxable land belonging to a local government and located outside of Inyo and Mono counties shall be assessed at the place where located and in an amount that does not exceed the lower of (1) its fair market value times the prevailing percentage of fair market value at which other lands are assessed and (2) a figure derived in the manner specified in this section for land located in Mono County.

If land acquired by a local government after the lien date of the base year specified in this Section was assessed in the base year as part of a larger parcel, the assessed value of the part in the base year shall be that fraction of the assessed value of the larger parcel that the area of the part is of the area of the larger parcel.
If a local government divests itself of ownership of land without water rights and this land was assessed in Inyo County as of the 1966 lien date or in Mono County as of the 1967 lien date, the divestment shall not diminish the quantity of water rights assessable and taxable at the place where assessed as of that lien date.

(c) In the event the Legislature changes the prevailing percentage of fair market value at which land is assessed for taxation, there shall be used in the computations required by Section 11(b) of this Article, for the first year for which the new percentage is applicable, in lieu of the statewide per capita assessed value of land as of the last lien date prior to the current lien date, the statewide per capita assessed value of land on the prior lien date times the ratio of the new prevailing percentage of fair market value to the previous prevailing percentage.

(d) If, after March 1954, a taxable improvement is replaced while owned by and in possession of a local government, the replacement improvement shall be assessed, as long as it is owned by a local government, as other improvements are except that the assessed value shall not exceed the product of (1) the percentage at which privately owned improvements are assessed times (2) the highest full value ever used for taxation of the improvement that has been replaced. For purposes of this calculation, the full value for any year prior to 1967 shall be conclusively presumed to be 4 times the assessed value in that year.

(e) No tax, charge, assessment, or levy of any character, other than those taxes authorized by Sections 11(a) to 11(d), inclusive, of this Article, shall be imposed upon one local government by another local government that is based or calculated upon the consumption or use of water outside the boundaries of the government imposing it.

(f) Any taxable interest of any character, other than a lease for agricultural purposes and an interest of a local government, in any land owned by a local government that is subject to taxation pursuant to Section 11(a) of this Article shall be taxed in the same manner as other taxable interests. The aggregate value of all the interests subject to taxation pursuant to Section 11(a), however, shall not exceed the value of all interests in the land less the taxable value of the interest of any local government ascertained as provided in Sections 11(a) to 11(e), inclusive, of this Article.

(g) Any assessment made pursuant to Sections 11(a) to 11(d), inclusive, of this Article shall be subject to review, equalization, and adjustment by the State Board of Equalization, but an adjustment shall conform to the provisions of these Sections.

Sec. 12. Tax rates on unsecured property. (a) Except as provided in subdivision (b), taxes on personal property, possessory interests in land, and taxable improvements located on land exempt from taxation which are not a lien upon land sufficient in value to secure their payment shall be levied at the rates for the preceding tax year upon property of the same kind where the taxes were a lien upon land sufficient in value to secure their payment.

(b) In any year in which the assessment ratio is changed, the Legislature shall adjust the rate described in subdivision (a) to maintain equality between property on the secured and unsecured rolls.
ARTICLE XIII A

SEC. 1. MAXIMUM AD VALOREM TAX ON REAL PROPERTY. (a) The maximum amount of any ad valorem tax on real property shall not exceed one percent (1%) of the full cash value of such property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties.

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on (1) any indebtedness approved by the voters prior to July 1, 1978, or (2) any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition.

SEC. 2. VALUATION OF REAL PROPERTY. (a) The "full cash value" means the county assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975–76 full cash value may be reassessed to reflect that valuation. For purposes of this section, "newly constructed" does not include real property that is reconstructed after a disaster, as declared by the Governor, where the fair market value of the real property, as reconstructed, is comparable to its fair market value prior to the disaster. Also, the term "newly constructed" does not include the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to seismic safety during the first 15 years following that reconstruction or improvement.

However, the Legislature may provide that under appropriate circumstances and pursuant to definitions and procedures established by the Legislature, any person over the age of 55 years who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII and any implementing legislation may transfer the base year value of the property entitled to exemption, with the adjustments authorized by subdivision (b), to any replacement dwelling of equal or lesser value located within the same county and purchased or newly constructed by that person as his or her principal residence within two years of the sale of the original property. For purposes of this section, "any person over the age of 55 years" includes a married couple one member of which is over the age of 55 years. For purposes of this section, "replacement dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated.

For purposes of this section, a two-dwelling unit shall be considered as two separate single-family dwellings. This paragraph shall apply to any replacement dwelling that was purchased or newly constructed on or after November 5, 1986.

In addition, the Legislature may authorize each county board of supervisors, after consultation with the local affected agencies within the county's boundaries, to adopt an ordinance making the provisions of this subdivision relating to transfer of base year value also applicable to situations in which the replacement dwellings are located in that county and the original properties are located in another county within this State. For purposes of this paragraph, "local affected agency" means any city, special district, school district, or community college district that
receives an annual property tax revenue allocation. This paragraph shall apply to any replacement dwelling that was purchased or newly constructed on or after the date the county adopted the provisions of this subdivision relating to transfer of base year value, but shall not apply to any replacement dwelling that was purchased or newly constructed before November 9, 1988.

The Legislature may extend the provisions of this subdivision relating to the transfer of base year values from original properties to replacement dwellings of homeowners over the age of 55 years to severely disabled homeowners, but only with respect to those replacement dwellings purchased or newly constructed on or after the effective date of this paragraph.

(b) The full cash value base may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction or other factors causing a decline in value.

(c) For purposes of subdivision (a), the Legislature may provide that the term "newly constructed" does not include any of the following:

(1) The construction or addition of any active solar energy system.

(2) The construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement, as defined by the Legislature, that is constructed or installed after the effective date of this paragraph.

(3) The construction, installation, or modification on or after the effective date of this paragraph of any portion or structural component of single- or multiple-family dwelling that is eligible for the homeowner's exemption if the construction, installation, or modification is for the purpose of making the dwelling more accessible to a severely disabled person.

(4) The construction or installation of seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies, that are constructed or installed in existing buildings after the effective date of this paragraph. The Legislature shall define eligible improvements. This exclusion does not apply to seismic safety reconstruction or improvements that qualify for exclusion pursuant to the last sentence of the first paragraph of subdivision (a).

(5) The construction, installation, removal, or modification on or after the effective date of this paragraph of any portion or structural component of an existing building or structure if the construction, installation, removal, or modification is for the purpose of making the building more accessible to, or more usable by, a disabled person.

(d) For purposes of this section, the term, "change in ownership" does not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a public entity, or governmental action that has resulted in a judgment of inverse condemnation. The real property acquired shall be deemed comparable to the property replaced if it is similar in size, utility, and function, or if it conforms to state regulations defined by the Legislature governing the relocation of persons displaced by governmental actions.
provisions of this subdivision shall be applied to any property acquired after March 1, 1975, but shall affect only those assessments of that property that occur after the provisions of this subdivision take effect.

(e) (1) Notwithstanding any other provision of this section, the Legislature shall provide that the base year value of property that is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county that is acquired or newly constructed as a replacement for the substantially damaged or destroyed property.

(2) Except as provided in paragraph (3), this subdivision shall apply to any comparable replacement property acquired or newly constructed on or after July 1, 1985, and to the determination of base year values for the 1985–86 fiscal year and fiscal years thereafter.

(3) In addition to the transfer of base year value of property within the same county that is permitted by paragraph (1), the Legislature may authorize each county board of supervisors to adopt, after consultation with affected local agencies within the county, an ordinance allowing the transfer of the base year value of property that is located within another county in the State and is substantially damaged or destroyed by a disaster, as declared by the Governor, to comparable replacement property of equal or lesser value that is located within the adopting county and is acquired or newly constructed within three years of the substantial damage or destruction of the original property as a replacement for that property. The scope and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to this paragraph shall not exceed the scope and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to subdivision (a). For purposes of this paragraph, "affected local agency" means any city, special district, school district, or community college district that receives an annual allocation of ad valorem property tax revenues. This paragraph shall apply to any comparable replacement property that is acquired or newly constructed as a replacement for property substantially damaged or destroyed by a disaster, as declared by the Governor, occurring on or after October 20, 1991, and to the determination of base year values for the 1991–92 fiscal year and fiscal years thereafter.

(f) For the purposes of subdivision (e):

(1) Property is substantially damaged or destroyed if it sustains physical damage amounting to more than 50 percent of its value immediately before the disaster. Damage includes a diminution in the value of property as a result of restricted access caused by the disaster.

(2) Replacement property is comparable to the property substantially damaged or destroyed if it is similar in size, utility, and function to the property that it replaces, and if the fair market value of the acquired property is comparable to the fair market value of the replaced property prior to the disaster.

(g) For purposes of subdivision (a), the terms "purchased" and "change in ownership" do not include the purchase or transfer of real property between spouses since March 1, 1975, including, but not limited to, all of the following:
(1) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor.

(2) Transfers to a spouse that take effect upon the death of a spouse.

(3) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation.

(4) The creation, transfer, or termination, solely between spouses, of any coowner's interest.

(5) The distribution of a legal entity's property to a spouse or former spouse in exchange for the interest of the spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation.

(h) (1) For purposes of subdivision (a), the terms "purchased" and "change in ownership" do not include the purchase or transfer of the principal residence of the transferor in the case of a purchase or transfer between parents and their children, as defined by the Legislature, and the purchase or transfer of the first one million dollars ($1,000,000) of the full cash value of all other real property between parents and their children, as defined by the Legislature. This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree.

(2) (A) Subject to subparagraph (B), commencing with purchases or transfers that occur on or after the date upon which the measure adding this paragraph becomes effective, the exclusion established by paragraph (1) also applies to a purchase or transfer of real property between grandparents and their grandchild or grandchildren, as defined by the Legislature, that otherwise qualifies under paragraph (1), if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of the purchase or transfer.

(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (1), and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence, shall be included in applying, for purposes of subparagraph (A), the one million dollar ($1,000,000) full cash value limit specified in paragraph (1).

(i) (1) Notwithstanding any other provision of this section, the Legislature shall provide with respect to a qualified contaminated property, as defined in paragraph (2), that either, but not both, of the following shall apply:

(A) (i) Subject to the limitation of clause (ii), the base year value of the qualified contaminated property, as adjusted as authorized by subdivision (b), may be transferred to a replacement property that is acquired or newly constructed as a replacement for the qualified contaminated property, if the replacement real property has a fair market value that is equal to or less than the
fair market value of the qualified contaminated property if that property were not contaminated
and, except as otherwise provided by this clause, is located within the same county. The base
year value of the qualified contaminated property may be transferred to a replacement real
property located within another county if the board of supervisors of that other county has, after
consultation with the affected local agencies within that county, adopted a resolution authorizing
an intercounty transfer of base year value as so described.

(ii) This subparagraph applies only to replacement property that is acquired or newly constructed
within five years after ownership in the qualified contaminated property is sold or otherwise
transferred.

(B) In the case in which the remediation of the environmental problems on the qualified
contaminated property requires the destruction of, or results in substantial damage to, a structure
located on that property, the term "new construction" does not include the repair of a
substantially damaged structure, or the construction of a structure replacing a destroyed structure
on the qualified contaminated property, performed after the remediation of the environmental
problems on that property, provided that the repaired or replacement structure is similar in size,
utility, and function to the original structure.

(2) For purposes of this subdivision, "qualified contaminated property" means residential or
nonresidential real property that is all of the following:

(A) In the case of residential real property, rendered uninhabitable, and in the case of
nonresidential real property, rendered unusable, as the result of either environmental problems,
in the nature of and including, but not limited to, the presence of toxic or hazardous materials, or
the remediation of those environmental problems, except where the existence of the
environmental problems was known to the owner, or to a related individual or entity as described
in paragraph (3), at the time the real property was acquired or constructed. For purposes of this
subparagraph, residential real property is "uninhabitable" if that property, as a result of health
hazards caused by or associated with the environmental problems, is unfit for human habitation,
and nonresidential real property is "unusable" if that property, as a result of health hazards
caused by or associated with the environmental problems, is unhealthy and unsuitable for
occupancy.

(B) Located on a site that has been designated as a toxic or environmental hazard or as an
environmental cleanup site by an agency of the State of California or the federal government.

(C) Real property that contains a structure or structures thereon prior to the completion of
environmental cleanup activities, and that structure or structures are substantially damaged or
destroyed as a result of those environmental cleanup activities.

(D) Stipulated by the lead governmental agency, with respect to the environmental problems or
environmental cleanup of the real property, not to have been rendered uninhabitable or unusable,
as applicable, as described in subparagraph (A), by any act or omission in which an owner of that
real property participated or acquiesced.

(3) It shall be rebuttably presumed that an owner of the real property participated or acquiesced
in any act or omission that rendered the real property uninhabitable or unusable, as applicable, if
that owner is related to any individual or entity that committed that act or omission in any of the following ways:

(A) Is a spouse, parent, child, grandparent, grandchild, or sibling of that individual.
(B) Is a corporate parent, subsidiary, or affiliate of that entity.
(C) Is an owner of, or has control of, that entity.
(D) Is owned or controlled by that entity.

If this presumption is not overcome, the owner shall not receive the relief provided for in subparagraph (A) or (B) of paragraph (1). The presumption may be overcome by presentation of satisfactory evidence to the assessor, who shall not be bound by the findings of the lead governmental agency in determining whether the presumption has been overcome.

(4) This subdivision applies only to replacement property that is acquired or constructed on or after January 1, 1995, and to property repairs performed on or after that date.

(j) Unless specifically provided otherwise, amendments to this section adopted prior to November 1, 1988, shall be effective for changes in ownership that occur, and new construction that is completed, after the effective date of the amendment. Unless specifically provided otherwise, amendments to this section adopted after November 1, 1988, shall be effective for changes in ownership that occur, and new construction that is completed, on or after the effective date of the amendment.

**REVENUE AND TAXATION CODE**

**60. MEANING OF "CHANGE IN OWNERSHIP".** A "change in ownership" means a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest.

**61. "CHANGE IN OWNERSHIP" includes.** Except as otherwise provided in Section 62, change in ownership, as defined in Section 60, includes, but is not limited to:

(a) The creation, renewal, sublease, assignment, or other transfer of the right to produce or extract oil, gas, or other minerals regardless of the period during which the right may be exercised. The balance of the property, other than the mineral rights, shall not be reappraised pursuant to this section.

(b) The creation, renewal, extension, or assignment of a taxable possessory interest in tax exempt real property for any term. For purposes of this subdivision:

(1) "Renewal" and "extension" do not include the granting of an option to renew or extend an existing agreement pursuant to which
the term of possession of the existing agreement would, upon exercise of the option, be lengthened, whether the option is granted in the original agreement or subsequent thereto.

(2) Any "renewal" or "extension" of a possessory interest during the reasonably anticipated term of possession used by the assessor to value that interest does not cause a change in ownership until the end of the reasonably anticipated term of possession used by the assessor to value that interest. At the end of the reasonably anticipated term of possession used by the assessor, a new base year value, based on a new reasonably anticipated term of possession, shall be established for the possessory interest.

(3) "Assignment" of a possessory interest means that the transfer of all rights held by a transferor in a possessory interest.

(c) (1) The creation of a leasehold interest in taxable real property for a term of 35 years or more (including renewal options), the termination of a leasehold interest in taxable real property which had an original term of 35 years or more (including renewal options), and any transfer of a leasehold interest having a remaining term of 35 years or more (including renewal options); or (2) any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of less than 35 years.

Only that portion of a property subject to that lease or transfer shall be considered to have undergone a change of ownership.

For the purpose of this subdivision, for 1979–80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than manufactured homes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), that are on leased land have a renewal option of at least 35 years on the lease of that land, whether or not in fact that renewal option exists in any contract or agreement.

(d) (1) (A) A sublease of a taxable possessory interest in tax-exempt real property for a term, including renewal options, that exceeds half the length of the remaining term of the leasehold, including renewable options.

(B) The termination of a sublease of a taxable possessory interest in tax-exempt property with an original term, including
renewal options, that exceeds half the length of the remaining term of the leasehold, including renewal options.

(C) Any transfer of a sublessee's interest with a remaining term, including renewal options, that exceeds half of the remaining term of the leasehold.

(2) Any transfer of a possessory interest in tax-exempt real property subject to a sublease with a remaining term, including renewable options, that does not exceed half the remaining term of the leasehold, including renewal options.

(e) The creation, transfer, or termination of any joint tenancy interest, except as provided in subdivision (f) of Section 62, and in Section 63 and in Section 65.

(f) The creation, transfer, or termination of any tenancy-in-common interest, except as provided in subdivision (a) of Section 62 and in Section 63.

(g) Any vesting of the right to possession or enjoyment of a remainder or reversionary interest that occurs upon the termination of a life estate or other similar precedent property interest, except as provided in subdivision (d) of Section 62 and in Section 63.

(h) Any interests in real property that vest in persons other than the trustor (or, pursuant to Section 63, his or her spouse) when a revocable trust becomes irrevocable.

(i) The transfer of stock of a cooperative housing corporation, vested with legal title to real property that conveys to the transferee the exclusive right to occupancy and possession of that property, or a portion thereof. A "cooperative housing corporation" is a real estate development in which membership in the corporation, by stock ownership, is coupled with the exclusive right to possess a portion of the real property.

(j) The transfer of any interest in real property between a corporation, partnership, or other legal entity and a shareholder, partner, or any other person.

62. "CHANGE IN OWNERSHIP" EXCLUSIONS. Change in ownership shall not include:

(a) (1) Any transfer between coowners that results in a change in the method of holding title to the real property transferred without changing the proportional interests of the coowners in that real property, such as a partition of a tenancy in common.
(2) Any transfer between an individual or individuals and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, or a trust to a cotenancy, that results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred, remain the same after the transfer. The provisions of this paragraph shall not apply to transfers also excluded from change in ownership under the provisions of subdivision (b) of Section 64.

(b) Any transfer for the purpose of perfecting title to the property.

(c) (1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

(d) Any transfer by the trustor, or by the trustor's spouse, or by both, into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life. However, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after the creation or transfer, is one of the joint tenants as provided in subdivision (b) of Section 65.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979-80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), that are on leased land have a renewal option of
at least 35 years on the lease of that land, whether or not in fact that renewal option exists in any contract or agreement.

(h) Any purchase, redemption, or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative that was financed under one mortgage, provided that mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or that housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of that person or family shall constitute a change of ownership.

(j) Any transfer during the period March 1, 1975 to March 1, 1981, between coowners in any property that was held by them as coowners for all or part of that period, and which was eligible for a homeowner's exemption during the period of the coownership, notwithstanding any other provision of this chapter. Any transferee whose interest was revalued in contravention of the provisions of this subdivision shall obtain a reversal of that revaluation with respect to the 1980–81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located filed on or before March 26, 1982. No refunds shall be made under this subdivision for any assessment year prior to the 1980–81 fiscal year. (k) Any transfer of property or an interest therein between a corporation sole, a religious corporation, a public benefit corporation, and a holding corporation as defined in Section 23701h holding title for the benefit of any of these corporations, or any combination thereof (including any transfer from one such entity to the same type of entity), provided that both the transferee and transferor
are regulated by laws, rules, regulations, or canons of the same religious denomination.

(l) Any transfer, that would otherwise be a transfer subject to reappraisal under this chapter, between or among the same parties for the purpose of correcting or reforming a deed to express the true intentions of the parties, provided that the original relationship between the grantor and grantee is not changed.

(m) Any intrafamily transfer of an eligible dwelling unit from a parent or parents or legal guardian or guardians to a minor child or children or between or among minor siblings as a result of a court order or judicial decree due to the death of the parent or parents. As used in this subdivision, "eligible dwelling unit" means the dwelling unit that was the principal place of residence of the minor child or children prior to the transfer and remains the principal place of residence of the minor child or children after the transfer.

(n) Any transfer of an eligible dwelling unit, whether by will, devise, or inheritance, from a parent or parents to a child or children, or from a guardian or guardians to a ward or wards, if the child, children, ward, or wards have been disabled, as provided in subdivision (e) of Section 12304 of the Welfare and Institutions Code, for at least five years preceding the transfer and if the child, children, ward, or wards have adjusted gross income that, when combined with the adjusted gross income of a spouse or spouses, parent or parents, and child or children, does not exceed twenty thousand dollars ($20,000) in the year in which the transfer occurs. As used in this subdivision, "child" or "ward" includes a minor or an adult. As used in this subdivision, "eligible dwelling unit" means the dwelling unit that was the principal place of residence of the child or children, or ward or wards for at least five years preceding the transfer and remains the principal place of residence of the child or children, or ward or wards after the transfer. Any transferee whose property was reassessed in contravention of the provisions of this subdivision for the 1984-85 assessment year shall obtain a reversal of that reassessment upon application to the county assessor of the county in which the property is located. Application by the transferee shall be made to the assessor no later than 30 days after the later of either the transferee's receipt of notice of reassessment pursuant to Section 75.31 or the end of the 1984-85 fiscal year.
(o) Any transfer of a possessory interest in tax-exempt real property subject to a sublease with a remaining term, including renewal options, that exceeds half the length of the remaining term of the leasehold, including renewal options.

67. "PURCHASE." "Purchased" or "purchase" means a change in ownership for consideration.

107. "POSSESSORY INTERESTS." "Possessory interests" means the following:

(a) Possession of, claim to, or right to the possession of land or improvements that is independent, durable, and exclusive of rights held by others in the property, except when coupled with ownership of the land or improvements in the same person. For the purpose of this subdivision:

(1) "Independent" means the ability to exercise authority and exert control over the management or operation of the property or improvements, separate and apart from the policies, statutes, ordinances, rules, and regulations of the public owner of the property or improvements. A possession or use is independent if the possession or operation of the property is sufficiently autonomous to constitute more than a mere agency.

(2) "Durable" means for a determinable period with a reasonable certainty that the use, possession, or claim with respect to the property or improvements will continue for that period.

(3) "Exclusive" means the enjoyment of a beneficial use of land or improvements, together with the ability to exclude from occupancy by means of legal process others who may interfere with that enjoyment. For purposes of this paragraph, "exclusive use" includes the following types of use in property:

(A) Sole occupancy or use of property or improvements.

(B) Use as a cotenant.

(C) Concurrent use by a person who has a primary or prevailing right to use property or improvements at any time.

(D) Concurrent uses by persons making qualitatively different uses of property or improvements.

(E) Concurrent use by persons engaged in similar uses that diminish the quantity or quality of the property or improvements.
Appendix 2

(F) Concurrent use that does not diminish the quantity or quality of the property or improvements, if the number of those concurrent use grants is restricted.

A use of property or improvements that does not contain one of the elements in subparagraphs (A) to (F), inclusive, shall be rebuttably presumed to be a nonexclusive use.

(b) Taxable improvements on tax-exempt land.

Any possessory interest may, in the discretion of the county board of supervisors, be considered as sufficient security for the payment of any taxes levied thereon and may be placed on the secured roll.

Leasehold estates for the production of gas, petroleum and other hydrocarbon substances from beneath the surface of the earth, and other rights relating to these substances which constitute incorporeal hereditaments or profits a prendre, are sufficient security for the payment of taxes levied thereon. These estates and rights shall not be classified as possessory interests, but shall be placed on the secured roll.

If the tax on any possessory interest or leasehold estate for the production of gas, petroleum and other hydrocarbon substances is unpaid when any installment of secured taxes become delinquent, the tax collector may use those collection procedures which are available for the collection of assessments on the unsecured roll.

If the tax on any possessory interest or leasehold estate for the production of gas, petroleum and other hydrocarbon substances remains unpaid at the time set for the declaration of default for taxes carried on the secured roll, the possessory interest tax together with any penalty and costs which may be accrued thereon while on the secured roll shall be transferred to the unsecured roll.

107.1. Valuation of Certain Possessory Interests. The full cash value of a possessory interest, when arising out of a lease of exempt property, is the excess, if any, of the value of the lease on the open market, as determined by the formula contained in the case of De Luz Homes, Inc. v. County of San Diego (1955), 45 Cal.2d 546, over the present worth of the rentals under said lease for the unexpired term thereof.

A possessory interest taxable under the provisions of this section shall be assessed to the lessee on the same basis or
This section applies only to possessory interests created prior to the date on which the decision of the California Supreme court in *De Luz Homes, Inc. v. County of San Diego* (1955), 45 Cal.2d 546, became final. It does not, however, apply to any of such interests created prior to that date that thereafter have been, or may hereafter be, extended or renewed, irrespective of whether the renewal or extension is provided for in the instrument creating the interest.

This section does not apply to leasehold estates for the production of gas, petroleum and other hydrocarbon substances from beneath the surface of the earth, and other rights relating to such substances which constitute incorporeal hereditaments or profits a prendre.

**107.2. Valuation of Certain Oil and Gas Interests.** The full cash value of leasehold estates in exempt property for the production of gas, petroleum and other hydrocarbon substances from beneath the surface of the earth, and all other taxable rights to produce gas, petroleum and other hydrocarbon substances from exempt property (all of which rights are hereinafter in this section referred to as "such oil and gas interests"), is the value of such oil and gas interests exclusive of the value of any royalties or other rights to share in production from exempt property owned by any tax-exempt entity, whether receivable in money or property and whether measured by or based upon production or income or both.

This section applies to such oil and gas interests created prior to the date on which the decision in *De Luz Homes, Inc. v County of San Diego* (1955) 45 Cal.2d 546, became final. This section does not, however, apply to any of such oil and gas interests created prior to such date which have been after such date or are hereafter extended or renewed, unless such extension or renewal is pursuant to authority in a contract, lease, statute, regulation, city charter, ordinance, or other source, which authority permits no reduction of the rate of royalty or other right to share in production on grounds of an increase in the assessed valuation of such oil and gas interest. Moreover, this section does not apply to any of such oil and gas interests if the rate of royalties or other right to share in production has, prior to the effective date of this section, been reduced to
adjust for the fact that certain assessors have valued such oil and gas interests without excluding the value of said royalties or other rights to share in production.

107.3. Valuation of certain oil and gas interests—extended. The full cash value of leasehold estates in exempt property for the production of gas, petroleum and other hydrocarbon substances from beneath the surface of the earth and all other taxable rights to produce gas, petroleum and other hydrocarbon substances from exempt property (all of which rights are hereinafter in this section referred to as "such oil and gas interests"), is the value of such oil and gas interests, exclusive of the value of any royalties or other rights to share in production from exempt property owned by any tax-exempt entity, whether receivable in money or property and whether measured by or based upon production or income or both.

This section applies to:

(a) Such oil and gas interests created prior to the date on which the decision in De Luz Homes, Inc. v. County of San Diego (1955) 45 Cal.2d 546, became final to which Section 107.2 of this code does not apply because said interests were extended or renewed on or before July 26, 1963.

(b) Such oil and gas interests created on or after the date on which said decision became final and on or before July 26, 1963.

This section does not, however, apply to any of such oil and gas interests extended or renewed after July 26, 1963, unless such extension or renewal is pursuant to authority in a contract, lease, statute, regulation, city charter, ordinance or other source which authority permits no reduction of the rate of royalty or other right to share in production upon the ground of an increase in the assessed valuation of such oil and gas interest. Moreover, this section does not apply to any of such oil and gas interests if the rate of royalties or other right to share in production has, prior to the effective date of this section, been reduced to adjust for the fact that certain assessors have valued such oil and gas interests without excluding the value of said royalties or other rights to share in production.

107.6. Notification of taxability of possessory interest. (a) The state or any local public entity of government, when entering into a written contract with a private party whereby a possessory
interest subject to property taxation may be created, shall include, or cause to be included, in that contract, a statement that the property interest may be subject to property taxation if created, and that the party in whom the possessor interest is vested may be subject to the payment of property taxes levied on the interest.

(b) Failure to comply with the requirements of this section shall not be construed to invalidate the contract. The private party may recover damages from the contracting state or local public entity, where the private party can show that without the notice, he or she had no actual knowledge of the existence of a possessor interest tax.

The private party is rebuttably presumed to have no actual knowledge of the existence of a possessor interest tax.

In order to show damages, the private party need not show that he or she would not have entered the contract but for the failure of notice.

(c) For purposes of this section:

(1) "Possessor interest" means any interest described in Section 107.

(2) "Local public entity" shall have the same meaning as that set forth in Section 900.4 of the Government Code and shall include school districts and community college districts.

(3) "State" means the state and any state agency as defined in Section 11000 of the Government Code and Section 89000 of the Education Code.

(4) "Damages" means the amount of the possessor interest tax for the term of the contract.

107.7. Valuation of Cable Television Interests. (a) When valuing possessor interests in real property created by the right to place wires, conduits, and appurtenances along or across public streets, rights-of-way, or public easements contained in a cable television franchise or license granted pursuant to Section 53066 of the Government Code (a "cable television possessor interest"), the assessor shall value these possessor interests consistent with the requirements of Section 401. The methods of valuation shall include, but not be limited to, the comparable sales method, the income method (including, but not limited to, capitalizing rent), or the cost method.
(b) (1) The preferred method of valuation of a cable television possessory interest is capitalizing the annual rent, using an appropriate capitalization rate.

(2) For purposes of this section, the annual rent shall be that portion of that franchise fee received by the franchising authority that is determined to be payment for the cable television possessory interest for the actual remaining term or the reasonably anticipated term of the franchise or license or the appropriate economic rent. If the assessor does not use a portion of the franchise fee as the economic rent, the resulting assessments shall not benefit from any presumption of correctness.

(c) If the comparable sales method, which is not the preferred method, is used by the assessor to value a cable television possessory interest when sold in combination with other property including, but not limited to, intangible assets or rights, the resulting assessments shall not benefit from any presumption of correctness.

(d) Intangible assets or rights of a cable television system are not subject to ad valorem property taxation. These intangible assets or rights, include, but are not limited to: franchises or licenses to construct, operate, and maintain a cable television system for a specified franchise term (excepting therefrom that portion of the franchise or license which grants the possessory interest), subscribers, marketing, and programming contracts, nonreal property lease agreements, management and operating systems, a work force in place, going concern value, deferred, startup, or prematurity costs, covenants not to compete, and goodwill. However, a cable television possessory interest may be assessed and valued by assuming the presence of intangible assets or rights necessary to put the cable television possessory interest to beneficial or productive use in an operating cable television system.

(e) Whenever any change in ownership of a cable television possessory interest occurs, the person or legal entity required to file a statement pursuant to Section 480, 480.1, or 480.2, shall, at the request of the assessor, provide as a part of that statement the following, if applicable: confirmation of the sales price; allocation of the sales price among the counties; and gross revenue and franchise fee expenses of the cable television system by county. Failure to provide this information shall
result in a penalty as provided in Section 482, except that the maximum penalty shall be five thousand dollars ($5,000).

110. "FULL CASH VALUE." (a) Except as is otherwise provided in Section 110.1, "full cash value" or "fair market value" means the amount of cash or its equivalent that property would bring if exposed for sale in the open market under conditions in which neither buyer nor seller could take advantage of the exigencies of the other, and both the buyer and the seller have knowledge of all of the uses and purposes to which the property is adapted and for which it is capable of being used, and of the enforceable restrictions upon those uses and purposes.

(b) For purposes of determining the "full cash value" or "fair market value" of real property, other than possessory interests, being appraised upon a purchase, "full cash value" or "fair market value" is the purchase price paid in the transaction unless it is established by a preponderance of the evidence that the real property would not have transferred for that purchase price in an open market transaction. The purchase price shall, however, be rebuttably presumed to be the "full cash value" or "fair market value" if the terms of the transaction were negotiated at arms length between a knowledgeable transferor and transferee neither of which could take advantage of the exigencies of the other. "Purchase price," as used in this section, means the total consideration provided by the purchaser or on the purchaser's behalf, valued in money, whether paid in money or otherwise. There is a rebuttable presumption that the value of improvements financed by the proceeds of an assessment resulting in a lien imposed on the property by a public entity is reflected in the total consideration, exclusive of that lien amount, involved in the transaction. This presumption may be overcome if the assessor establishes by a preponderance of the evidence that all or a portion of the value of those improvements is not reflected in that consideration. If a single transaction results in a change in ownership of more than one parcel of real property, the purchase price shall be allocated among those parcels and other assets, if any, transferred based on the relative fair market value of each.

(c) For real property, other than possessory interests, the change of ownership statement required pursuant to Section 480, 480.1, or 480.2, or the preliminary change of ownership statement required pursuant to Section 480.4, shall give any information as the board shall prescribe relative to whether the terms of the
transaction were negotiated at "arms length." In the event that the transaction includes property other than real property, the change in ownership statement shall give information as the board shall prescribe disclosing the portion of the purchase price that is allocable to all elements of the transaction. If the taxpayer fails to provide the prescribed information, the rebuttable presumption provided by subdivision (b) shall not apply.

(d) Except as provided in subdivision (e), for purposes of determining the "full cash value" or "fair market value" of any taxable property, all of the following shall apply:

(1) The value of intangible assets and rights relating to the going concern value of a business using taxable property shall not enhance or be reflected in the value of the taxable property.

(2) If the principle of unit valuation is used to value properties that are operated as a unit and the unit includes intangible assets and rights, then the fair market value of the taxable property contained within the unit shall be determined by removing from the value of the unit the fair market value of the intangible assets and rights contained within the unit.

(3) The exclusive nature of a concession, franchise, or similar agreement, whether de jure or de facto, is an intangible asset that shall not enhance the value of taxable property, including real property.

(e) Taxable property may be assessed and valued by assuming the presence of intangible assets or rights necessary to put the taxable property to beneficial or productive use.

(f) For purposes of determining the "full cash value" or "fair market value" of real property, intangible attributes of real property shall be reflected in the value of the real property. These intangible attributes of real property include zoning, location, and other attributes that relate directly to the real property involved.

**155.20. Exemption of property having low value.** (a) Subject to the limitations listed in subsections (b), (c), (d), and (e), a county board of supervisors may exempt from property tax all real property with a base year value (as determined pursuant to Chapter 1 (commencing with Section 50) of Part 0.5), and personal property with a full value so low that, if not exempt, the total taxes, special assessments, and applicable subventions on the
property would amount to less than the cost of assessing and collecting them.

(b) (1) The board of supervisors shall have no authority to exempt property with a total base year value or full value of more than five thousand dollars ($5,000), except that this limitation is increased to fifty thousand dollars ($50,000) in the case of a possessory interest, for a temporary and transitory use, in a publicly owned fairground, fairground facility, convention facility, or cultural facility. For purposes of this paragraph, "publicly owned convention or cultural facility" means a publicly owned convention center, civic auditorium, theater, assembly hall, museum, or other civic building that is used primarily for staging any of the following:

(A) Conventions, trade and consumer shows, or civic and community events.

(B) Live theater, dance, or musical productions.

(C) Artistic, historic, technological, or educational exhibits.

(2) In determining the level of the exemption, the board of supervisors shall determine at what level of exemption the costs of assessing the property and collecting taxes, assessments and subventions on the property exceeds the proceeds to be collected. The board of supervisors shall establish the exemption level uniformly for different classes of property. In making this determination, the board of supervisors may consider the total taxes, special assessments and applicable subventions for the year of assessment only or for the year of assessment and succeeding years where cumulative revenues will not exceed the cost of assessments and collections.

(c) This section does not apply to those real or personal properties enumerated in Section 52.

(d) The exemption authorized by this section shall be adopted by the board of supervisors on or before the lien date for the fiscal year to which the exemption is to apply and may, at the option of the board of supervisors, continue in effect for succeeding fiscal years. Any revision or rescission of the exemption shall be adopted by the board of supervisors on or before the lien date for the fiscal year to which that revision or rescission is to apply.

(e) Nothing in this section shall authorize either of the following:
(1) A county board of supervisors to exempt new construction, unless the new total base year value of the property, including this new construction, is five thousand dollars ($5,000) or less.

(2) An assessor to exempt or not to enroll any property of any value, unless specifically authorized by a county board of supervisors, pursuant to this section.

170. **Reassessment of Property Damaged by Misfortune or Calamity.** (a) Notwithstanding any provision of law to the contrary, the board of supervisors may, by ordinance, provide that every assessee of any taxable property, or any person liable for the taxes thereon, whose property was damaged or destroyed without his or her fault, may apply for reassessment of that property as provided herein.

To be eligible for reassessment the damage or destruction to the property shall have been caused by any of the following:

(1) A major misfortune or calamity, in an area or region subsequently proclaimed by the Governor to be in a state of disaster, if that property was damaged or destroyed by the major misfortune or calamity that caused the Governor to proclaim the area or region to be in a state of disaster. As used in this paragraph "damage" includes a diminution in the value of property as a result of restricted access to the property where that restricted access was caused by the major misfortune or calamity.

(2) A misfortune or calamity.

(3) A misfortune or calamity that, with respect to a possessory interest in land owned by the state or federal government has caused the permit or other right to enter upon the land to be suspended or restricted. As used in this paragraph, "misfortune or calamity" includes a drought condition such as existed in this state in 1976 and 1977.

The application for reassessment may be filed within the time specified in the ordinance, or, if no time is specified, within 60 days of the misfortune or calamity, by delivering to the assessor a written application requesting reassessment showing the condition and value, if any, of the property immediately after the damage or destruction, and the dollar amount of the damage. The application shall be executed under penalty of perjury, or if executed outside the State of California, verified by affidavit.

An ordinance may be made applicable to a major misfortune or calamity specified in paragraph (1) or to any misfortune or
calamity specified in paragraph (2), or to both, as the board of supervisors determines. An ordinance may not be made applicable to a misfortune or calamity specified in paragraph (3), unless an ordinance making paragraph (2) applicable is operative in the county. The ordinance may specify a period of time within which the ordinance shall be effective, and, if no period of time is specified, it shall remain in effect until repealed.

(b) Upon receiving a proper application, the assessor shall appraise the property and determine separately the full cash value of land, improvements and personalty immediately before and after the damage or destruction. If the sum of the full cash values of the land, improvements and personalty before the damage or destruction exceeds the sum of the values after the damage by five thousand dollars ($5,000) or more, the assessor shall also separately determine the percentage reductions in value of land, improvements and personalty due to the damage or destruction. The assessor shall reduce the values appearing on the assessment roll by the percentages of damage or destruction computed pursuant to this subdivision, and the taxes due on the property shall be adjusted as provided in subdivision (e). However, the amount of the reduction shall not exceed the actual loss.

(c) The assessor shall notify the applicant in writing of the amount of the proposed reassessment. The notice shall state that the applicant may appeal the proposed reassessment to the local board of equalization within 14 days of the date of mailing the notice. If an appeal is requested within the 14-day period, the board shall hear and decide the matter as if the proposed reassessment had been entered on the roll as an assessment made outside the regular assessment period. The decision of the board regarding the damaged value of the property shall be final, provided that a decision of the local board of equalization regarding any reassessment made pursuant to this section shall create no presumption as regards the value of the affected property subsequent to the date of the damage.

Those reassessed values resulting from reductions in full cash value of amounts, as determined above, shall be forwarded to the auditor by the assessor or the clerk of the local equalization board as the case may be. The auditor shall enter the reassessed values on the roll. After being entered on the roll, those reassessed values shall not be subject to review, except by a court of competent jurisdiction.
(d) If no application is made and the assessor determines that within the preceding six months a property has suffered damage caused by misfortune or calamity that may qualify the property owner for relief under an ordinance adopted under this section, the assessor shall provide the last known owner of the property with an application for reassessment. The property owner shall file the completed application within 30 days of notification by the assessor but in no case more than six months after the occurrence of said damage. Upon receipt of a properly completed, timely filed application, the property shall be reassessed in the same manner as required in subdivision (b).

(e) The tax rate fixed for property on the roll on which the property so reassessed appeared at the time of the misfortune or calamity, shall be applied to the amount of the reassessment as determined in accordance with this section and the assessee shall be liable for: (1) a prorated portion of the taxes that would have been due on the property for the current fiscal year had the misfortune or calamity not occurred, to be determined on the basis of the number of months in the current fiscal year prior to the misfortune or calamity; plus (2) a proration of the tax due on the property as reassessed in its damaged or destroyed condition, to be determined on the basis of the number of months in the fiscal year after the damage or destruction, including the month in which the damage was incurred. For purposes of applying the preceding calculation in prorating supplemental taxes, the term "fiscal year" means the portion of the tax year used to determine the adjusted amount of taxes due pursuant to subdivision (b) of Section 75.41. If the damage or destruction occurred after January 1 and before the beginning of the next fiscal year, the reassessment shall be utilized to determine the tax liability for the next fiscal year. However, if the property is fully restored during the next fiscal year, taxes due for that year shall be prorated based on the number of months in the year before and after the completion of restoration.

(f) Any tax paid in excess of the total tax due shall be refunded to the taxpayer pursuant to Chapter 5 (commencing with Section 5096) of Part 9, as an erroneously collected tax or by order of the board of supervisors without the necessity of a claim being filed pursuant to Chapter 5.

(g) The assessed value of the property in its damaged condition, as determined pursuant to subdivision (b) compounded annually by the inflation factor specified in subdivision (a) of Section 51,
shall be the taxable value of the property until it is restored, 
repaired, reconstructed or other provisions of the law require 
the establishment of a new base year value.

If partial reconstruction, restoration, or repair has occurred on 
any subsequent lien date, the taxable value shall be increased by 
an amount determined by multiplying the difference between its 
factored base year value immediately before the calamity and its 
assessed value in its damaged condition by the percentage of the 
repair, reconstruction, or restoration completed on that lien 
date.

(h) (1) When the property is fully repaired, restored, or 
reconstructed, the assessor shall make an additional assessment 
or assessments in accordance with subparagraph (A) or (B) upon 
completion of the repair, restoration, or reconstruction:

(A) If the completion of the repair, restoration, or 
reconstruction occurs on or after January 1, but on or before May 
31, then there shall be two additional assessments. The first 
additional assessment shall be the difference between the new 
taxable value as of the date of completion and the taxable value 
on the current roll. The second additional assessment shall be 
the difference between the new taxable value as of the date of 
completion and the taxable value to be enrolled on the roll being 
prepared.

(B) If the completion of the repair, restoration, or 
reconstruction occurs on or after June 1, but before the 
succeeding January 1, then the additional assessment shall be the 
difference between the new taxable value as of the date of 
completion and the taxable value on the current roll.

(2) On the lien date following completion of the repair, 
restoration, or reconstruction, the assessor shall enroll the new 
taxable value of the property as of that lien date.

(3) For purposes of this subdivision, "new taxable value" shall 
mean the lesser of the property's (A) full cash value, or (B) 
factored base year value or its factored base year value as 
adjusted pursuant to subdivision (c) of Section 70.

(i) The assessor may apply Chapter 3.5 (commencing with Section 
75) of Part 0.5 in implementing this section, to the extent that 
chapter is consistent with this section.

(j) This section applies to all counties, whether operating under 
a charter or under the general laws of this state.
(k) Any ordinance in effect pursuant to Section 155.1, 155.13, or 155.14 shall remain in effect according to its terms as if that ordinance was adopted pursuant to this section, subject to the limitations of subdivision (b).

(l) In lieu of subdivision (d), if no application is made and the assessor determines that within the preceding six months a property has suffered damage caused by misfortune or calamity, that may qualify the property owner for relief under an ordinance adopted under this section, the assessor may, with the approval of the board of supervisors, reassess the property as provided in subdivision (b) and notify the last known owner of the property of the reassessment.

201. **Taxable property.** All property in this State, not exempt under the laws of the United States or of this State, is subject to taxation under this code.

201.1. **Transit development board; property of wholly-owned, nonprofit entity.** Property owned by a nonprofit entity, in which a transit development board has the sole ownership interest in the entity, shall be deemed to be property owned by the transit development board for purposes of this division. To the extent that the property is possessed, or a claim to or right to possession of the property exists, for other than public purposes, the interest shall be deemed a possessory interest as defined in Section 107.

It is the intent and purpose of this section to clarify Section 3 of Article XIII of the California Constitution and, therefore, this section does not constitute a change in, but is declaratory of, the existing law. Furthermore, this section shall not be construed to exempt, from ad valorem property taxation, property of any transit development board located outside of its boundaries.

201.2. **Agricultural fair; use of county-owned property.** (a) A nonprofit corporation which has contracted with the board of supervisors pursuant to Section 25905, 25906, 25907, or 25908 of the Government Code for the conduct of an agricultural fair, shall be deemed to be an agency of the county for purposes of this part and for no other purpose, and county-owned property, including possessory interests in that property, used or possessed by the nonprofit corporation in the conduct of an agricultural fair shall be exempt from taxation under subdivision (b) of Section 3 of Article XIII of the State Constitution.

(b) This section shall not be construed to exempt any profit-making organization or concessionaire from any property tax, including a property tax on a possessory interest, for the use of property which is used by a nonprofit corporation for the conduct of a fair.

201.3. **City of San Diego; property of wholly owned, nonprofit entity.** Property which is exclusively devoted to public purposes and is owned by a nonprofit entity, in which a chartered city with a population of over 750,000 and located in a county of the third class has the sole ownership interest shall be deemed to be property owned by the chartered city.

This section shall not be construed to exempt from ad valorem property taxation property of the chartered city located outside of its boundaries.
201.4. CITY OF PALM SPRINGS; POSSESSORY INTERESTS. (a) The possessory interests of a nonprofit entity, solely owned by the City of Palm Springs, in property which is located wholly within the boundaries of an Indian reservation and owned by the United States in trust for named Indian allottees, and which is leased to the City of Palm Springs under a master lease a portion of which for purposes of financing is subleased to a nonprofit entity, and subleased by that nonprofit entity to the City of Palm Springs which devotes that property exclusively to convention or related public purposes, shall be deemed to be property owned by the City of Palm Springs.

(b) Property which is owned in fee by a nonprofit entity in which the City of Palm Springs has the sole ownership interest, and leased by that nonprofit entity to the City of Palm Springs which devotes that property exclusively to convention or related public purposes, shall be deemed to be property owned by the City of Palm Springs.

(c) This section shall not be construed to exempt from ad valorem property taxation any possessory interest in otherwise tax-exempt property not devoted exclusively to convention or related public purposes or any property or possessory interest in property of the City of Palm Springs located outside of its boundaries.

201.5. CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY; POSSESSORY INTERESTS. (a) Possessory interests in property acquired by or for the California Pollution Control Financing Authority pursuant to Division 27 (commencing with Section 44500) of the Health and Safety Code, whether in real or personal property, shall be subject to taxation under this code.

(b) If the amount determined pursuant to subdivision (a) is less than the amount of tax which would have been imposed if the participating party owned the pollution control facility, the contract or lease between the California Pollution Control Financing Authority and such party shall provide that the difference between the amount of tax paid pursuant to subdivision (a) and the amount determined on the basis of the full cash value of the property shall be paid by such party to the tax collector for the taxing agency at the same time as the property tax is paid.

206.1. CHURCHES; PARKING AREA. (a) Pursuant to the authority of subdivision (d) of Section 4 of Article XIII of the California Constitution, and in accordance with subdivision (b) of this section, all real property that is necessarily and reasonably required for the parking of automobiles of persons who are attending religious services, or are engaged in religious services or worship or any religious activity, is exempt from taxation.

(b) For purposes of the exemption established by subdivision (a), all of the following shall apply:

(1) "Real property" means land and improvements or a possessory interest in land and improvements.

(2) The real property is not required to be contiguous to the land on which the church or other structure used for religious services or as the place of worship or religious activity is located.

(3) The real property is not at other times used for commercial purposes. For purposes of this paragraph, "commercial purposes" does not include use of the property for the parking of
vehicles or bicycles, the revenue from which does not exceed the ordinary and necessary costs of maintaining the real property.

(4) The exemption shall apply to otherwise qualifying land and improvements regardless of whether the land and improvements are owned by the church, religious denomination, or sect using the land and improvements for the parking of automobiles by persons described in subdivision (a). However, the exemption shall apply to land and improvements that are not owned by the church, religious denomination, or sect using the land and improvements for the parking of automobiles by persons described in subdivision (a) only as long as all of the following conditions are met:

(A) The congregation of the church, religious denomination, or sect is no greater than 500 members.

(B) The church, religious denomination, or sect is engaged in a lease of the land and improvements for the exclusive purpose of the parking of automobiles by persons described in subdivision (a).

(C) The church, religious denomination, or sect is responsible, under the terms of its lease with the fee owner of the land and improvements, for paying the property taxes levied on the land and improvements. For purposes of this subparagraph, paying property taxes levied on land and improvements includes reimbursement paid to the fee owner of the land and improvements for those taxes.

(D) The real property is used exclusively for the parking of automobiles by persons described in subdivision (a).

(E) The fee owner of the real property and the county agree that the fee owner shall pay the total amount of taxes that would be levied on the real property for the current fiscal year and the first two subsequent fiscal years in the absence of a grant of exemption pursuant to this paragraph for the current fiscal year, if the real property is used for any purposes other than that specified in subparagraph (D) during either of those two subsequent fiscal years.

218. HOMEOWNERS' EXEMPTION. The homeowners' property tax exemption is in the amount of the assessed value of the dwelling specified in this section, as authorized by subdivision (k) of Section 3 of Article XIII of the Constitution. That exemption shall be in the amount of seven thousand dollars ($7,000) of the full value of the dwelling.

The exemption does not extend to property which is rented, vacant, under construction on the lien date, or which is a vacation or secondary home of the owner or owners, nor does it apply to property on which an owner receives the veteran's exemption. "Owner" includes a person purchasing the dwelling under a contract of sale or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy of a dwelling. As used in this section, "dwelling" shall include:

(a) A single-family dwelling occupied by an owner thereof as his or her principal place of residence on the lien date.
(b) A multiple-dwelling unit occupied by an owner thereof on the lien date as his or her principal place of residence.

(c) A condominium occupied by an owner thereof as his or her principal place of residence on the lien date.

(d) Premises occupied by the owner of shares or a membership interest in a cooperative housing corporation, as defined in subdivision (h) of Section 61, as his or her principal place of residence on the lien date. Each exemption allowed pursuant to this subdivision shall be deducted from the total assessed valuation of the cooperative housing corporation. The exemption shall be taken into account in apportioning property taxes among owners of share or membership interests in the cooperative housing corporations so as to benefit those owners who qualify for the exemption.

"Dwelling" means a building, structure or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. For purposes of this section a two-dwelling unit shall be considered as two separate single-family dwellings.

Any dwelling that qualified for an exemption under this section prior to October 20, 1991, that was damaged or destroyed by fire in a disaster, as declared by the Governor, occurring on or after October 20, 1991, and before November 1, 1991, and that has not changed ownership since October 20, 1991, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner. The exemption provided for in subdivision (k) of Section 3 of Article XIII of the Constitution shall first be applied to the building, structure or other shelter and the excess, if any, shall be applied to any land on which it may be located.

222.5. POSSESSORY INTERESTS OF ZOOLOGICAL SOCIETY. As used in Section 214, "property used exclusively for religious, hospital, scientific or charitable purposes" shall include possessory interests in publicly owned land, used exclusively for the operation of a zoo or for purposes of horticultural display by a zoological society meeting all the requirements of Section 214.

236. EXEMPTION; LEASES FOR RENTAL HOUSING. Property leased for a term of 35 years or more or any transfer of property leased with a remaining term of 35 years or more where the lessor is not otherwise qualified for a tax exemption pursuant to Section 214, which is used exclusively and solely for rental housing and related facilities for tenants who are persons of low income (as defined in Section 50093 of the Health and Safety Code), and is leased and operated by religious, hospital, scientific, or charitable funds, foundations or corporations, public housing authorities, public agencies, or limited partnerships in which the managing general partner has received a determination that it is a charitable organization under Section 501(c)(3) of the Internal Revenue Code and is operating the property in accordance with its exempt purpose is exempt from taxation on the possessory interest and the fee interest in the property throughout the term of the lease.

Low- and moderate-income has the same meaning as the term "persons and families of low- and moderate-income" as defined by Section 50093 of the Health and Safety Code.
261. **Recordation Requirement.** (a) Except as otherwise provided in subdivisions (b) and (c), as a prerequisite to the allowance of either the veterans’ or welfare exemption with respect to taxes on real property, the interest of the claimant in the property must be of record on the lien date in the office of the recorder of the county in which the property is located. Failure of the claimant to establish the fact of such recordation to the assessor constitutes a waiver of the exemption.

(b) A claimant for the veterans’ exemption who on the lien date has an interest in real property consisting of an unrecorded contract of sale may in lieu of the recordation pursuant to subdivision (a) furnish or show the contract to the assessor and file an affidavit with the assessor stating all of the following:

1. That he purchased the real property pursuant to such unrecorded contract of sale.
2. That under such unrecorded contract of sale he is obligated and responsible for the payment of the taxes.

(c) A claimant for the welfare exemption which on the lien date has a possessory interest in publicly owned land, owns water rights, or owns improvements on land owned by another may in lieu of the recordation pursuant to subdivision (a) file a copy of the document giving rise to that possessory interest or water rights or file a written statement attesting to the separate ownership of those improvements with the assessor. That document copy or written statement shall not be required annually following the year in which it has been filed but shall remain in effect until such time as that possessory interest terminates or ownership of the water rights or improvements transfers.

480.5. **Real Property Usage Reports.** (a) Every owner of tax-exempt real property shall report to the local assessor the creation, renewal, sublease, or assignment of any lease, sublease, license, use permit, or other document which conveys the right to use that real property within 60 days of the transaction. The report shall include all of the following:

1. The name and address of the owner.
2. The names and addresses of all other parties to the transaction, including an identification of each party and of his or her possessory interest.
3. The type of transaction, whether creation, renewal, sublease, or assignment.
4. A description of the property.
5. The date of the transaction. (6) The terms of the transaction, including all of the following:
   (A) The consideration for the possessory interest, whether paid in money or otherwise.
   (B) The term of the possessory interest, including any renewal or extension options.
   (C) If a sublease, the original term, the remaining term, and the consideration paid for the master lease.
   (D) If an assignment, the original term, the remaining term, and the consideration paid for the underlying lease.
Appendix 2

(b) This section shall be applicable only in those counties in which the board of supervisors, by ordinance or resolution, specifically elects to have this section applicable in the county.

480.6. Change in Ownership Statement; Possessory Interest. (a) Notwithstanding any other provision of law, a holder of a possessory interest in real property that is owned by a state or local governmental entity is not required to file a preliminary change in ownership report or change in ownership statement with respect to any renewal of that possessory interest. Instead, every state or local governmental entity that is the fee owner of real property in which one or more taxable possessory interests have been created shall either file any preliminary change in ownership report or change in ownership statement otherwise required to be filed with respect to any renewal of a possessory interest, or annually file with the county assessor, no later than the 15th day of the first month following the month in which the lien date occurs, a real property usage report. The report shall include all of the following information:

1. The name and address of the fee owner of the real property.
2. The name and address of each holder of a possessory interest in the real property.
3. The types of transactions in which the holders of the possessory interests acquired those interests, whether creations, renewals, subleases, or assignments.
4. The description of the subject real property.
5. The date of each transaction in which a holder of a possessory interest in the real property acquired that interest.
6. The terms of each transaction described in paragraph (5), including all of the following:
   (A) The consideration given for the possessory interest, whether paid in money or otherwise.
   (B) The terms of the possessory interest, including any renewal or extension option.
   (C) For any subleases, the original term and remaining term of the sublease, and the consideration paid for the master lease.
   (D) For any assignments, the original term and remaining term of the assignment, and the consideration paid for the underlying lease.
(b) The failure of a state or local governmental entity to comply with this filing requirement shall not give rise to any interest or penalties assessed against the holder of the possessory interest.

2190. Assessment of Possessory Interest in Tax Exempt Property. Notwithstanding any provision of law to the contrary, the assessment of any possessory interest in tax-exempt real estate to which the exemption authorized by Section 218 has been applied shall be entered on the secured roll. However, the assessment shall not be a lien on the tax-exempt real estate and that fact shall be noted on the secured roll.

If the tax thereon is unpaid when any installment of taxes on the secured roll becomes delinquent, the tax collector may use the procedures which are applicable to the collection of taxes on the unsecured roll.
If the tax thereon remains unpaid at the time set for the declaration of default for delinquent taxes, the tax applicable to the possessory interest together with any penalties and costs which may have accrued thereon while on the secured roll shall be transferred to the unsecured roll.

2190.1. REAL ESTATE OF VETERANS WELFARE BOARD. If the tax on an assessment of a possessory interest in real estate of the Veterans Welfare Board is not paid before delinquency, the amount of the tax, penalties and costs shall be paid by said board and added to the amount due under the contract for the property.

2190.2. POSSESSORY INTERESTS. Every tax on an assessment of a possessory interest or a tax on an assessment of improvements made pursuant to the provisions of Section 2188.2 shall become a lien on such possessory interest or such improvements, provided that in those instances where the real property that is the subject of such possessory interest or upon which such improvements are located is not tax-exempt land, the fact of such lien shall be indicated on the secured roll where the real property that is the subject of such possessory interest or upon which such improvements are located is listed.

2191.4. LIEN UPON ALL PROPERTY IN COUNTY. From the time of filing the certificate for record pursuant to Section 2191.3, the amount required to be paid together with interest and penalty constitutes a lien upon all personal and real property in the county owned by and then assessed to and in the same name as the assessee named in the certificate or acquired by him or her in that name before the lien expires, except that the lien upon unsecured property shall not be valid against a purchaser for value or encumbrancer without actual knowledge of the lien when he or she acquires his or her interest in the property. The lien has the force, effect, and priority of a judgment lien and continues for 10 years from the time of the recording of the certificate unless sooner released or otherwise discharged.

Within 10 years from the date of the recording of the certificate or within 10 years from the date of the last extension of the lien, the lien may be extended by filing for record a new certificate in the office of any county recorder and from the time of the filing the lien as obtained under the original certificate shall be extended to all personal and real property in the county owned by the assessee for 10 years unless sooner released or otherwise discharged. Execution shall issue upon the lien upon request of the tax collector or the official collecting taxes on the unsecured roll in the same manner as execution may issue upon other judgments, and sales shall be held under that execution as prescribed in the Code of Civil Procedure.

**Government Code**

7510. INVESTMENT OF ASSETS IN REAL PROPERTY; PAYMENT OF FEE FOR GENERAL GOVERNMENTAL SERVICES. (a)(1) Except as provided in subdivision (b),
a public retirement system, which has invested assets in real property and improvements thereon for business or residential purposes for the production of income, shall pay annually to the city or county, in whose jurisdiction the real property is located and has been removed from the secured roll, a fee for general governmental services equal to the difference between the amount that would have accrued as real property secured taxes and the amount of possessory interest unsecured taxes paid for that property. The governing bodies of local entities may adopt ordinances and regulations authorizing retirement systems to invest assets in real property subject to the foregoing requirements.

(2) This subdivision shall not apply to any retirement system which is established by a local governmental entity if that entity is presently authorized by statute or ordinance to invest retirement assets in real property.

(3) This subdivision shall not apply to property owned by any state public retirement system.

(b) (1) Whenever a state public retirement system, which has invested assets in real property and improvements thereon for business or residential purposes for the production of income, leases the property, the lease shall provide, pursuant to Section 107.6 of the Revenue and Taxation Code, that the lessee's possessory interest may be subject to property taxation and that the party in whom the possessory interest is vested may be subject to the payment of property taxes levied on that interest. The lease shall also provide that the full cash value, as defined in Sections 110 and 110.1 of the Revenue and Taxation Code, of the possessory interest upon which property taxes will be based shall equal the greater of (A) the full cash value of the possessory interest, or (B), if the lessee has leased less than all of the property, the lessee's allocable share of the full cash value of the property that would have been enrolled if the property had been subject to property tax upon acquisition by the state public retirement system. The full cash value as provided for pursuant to either (A) or (B) of the preceding sentence shall reflect the anticipated term of possession if, on the lien date described in Section 2192 of the Revenue and Taxation Code, that term is expected to terminate prior to the end of the next succeeding fiscal year. The lessee's allocable share shall, subject to the preceding sentence, be the lessee's leasable
square feet divided by the total leasable square feet of the property.

(2) Except as provided in this subdivision, the property shall be assessed and its taxes computed and collected in the same manner as privately owned property. The lessee's possessory interest shall be placed on the unsecured roll and the tax on the possessory interest shall be subject to the collection procedures for unsecured property taxes.

(3) An investment by a state public retirement system in a legal entity that invests assets in a real property and improvements thereon shall not constitute an investment by the state public retirement system of assets in real property and improvements thereon. For purposes of this paragraph, "legal entity" includes, but is not limited to, partnership, joint venture, corporation, trust, or association. When a state public retirement system invests in a legal entity, the state public retirement system shall be deemed to be a person for the purpose of determining a change in ownership under Section 64 of the Revenue and Taxation Code.

(4) Notwithstanding any other provision of law, fees charged pursuant to this section and collected prior to July 1, 1992, shall be deemed valid and not refundable under any circumstance. Notwithstanding any other provision of law, fees, interest and penalties, if any, asserted to be due pursuant to this section that were not charged or collected prior to July 1, 1992, shall be deemed invalid and not collectable under any circumstance.

(5) This subdivision shall apply to the assessment, computation, and collection of taxes for the fiscal year beginning on July 1, 1992, and each fiscal year thereafter. For the 1992-93 and 1993-94 fiscal years, in the case where a lessee's possessory interest existed for less than the full fiscal year for which the tax was levied, the amount of tax shall be prorated in accordance with the number of months for which the lessee's interest existed.

16181.5. Possessory Interests as Real Property. For purposes of this chapter, "real property" shall include possessory interests in real property for which property taxes have been postponed pursuant to the provisions of Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of the Revenue and Taxation Code.
BUSINESS AND PROFESSIONS CODE

19605.7. AMOUNT AND DISTRIBUTION OF DEDUCTIONS FROM WAGERS AT FACILITIES IN NORTHERN ZONE. The total percentage deducted from wagers at satellite wagering facilities in the northern zone shall be the same as the deductions for wagers at the racetrack where the racing meeting is being conducted and shall be distributed as set forth in this section. Amounts deducted under this section shall be distributed as follows:

(a) For thoroughbred meetings, 1.3 percent of the amount handled by the satellite wagering facility on conventional and exotic wagers shall be distributed to the racing association for payment to the state as a license fee, 2 percent shall be distributed to the satellite wagering facility as a commission for the right to do business, as a franchise, and this commission is not for the use of any real property, 2.5 percent or the amount of actual operating expenses, as determined by the board, whichever is less, shall be distributed to an organization described in Section 19608.2, and 0.54 percent shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b), (c) and (d) of Section 19617.2, and 0.033 percent distributed to the California Center for Equine Health and Performance and 0.067 percent distributed to the California Veterinary Diagnostic Laboratory System, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the 0.033 percent of funds distributed to the California Center for Equine Health and Performance shall supplement, and not supplant, other funding sources.

(b) For harness, quarter horse, Appaloosa, Arabian, or mixed breed meetings, 0.4 percent of the amount handled by the satellite wagering facility on conventional and exotic wagers shall be distributed to the racing association for payment to the state as a license fee, for fair meetings, 1 percent of the amount handled by the satellite wagering facility on conventional and exotic wagers shall be distributed to the fair association for payment to the state as a license fee, 2 percent shall be distributed to the satellite wagering facility as a commission for the right to do business, as a franchise, and this commission is not for the use of any real property, and 6 percent of the amount handled by the satellite wagering facility or the amount of actual operating expenses, as determined by the board,
whichever is less, shall be distributed to an organization described in Section 19608.2. In addition, in the case of quarter horses, 0.4 percent shall be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.7 and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.7; in the case of Appaloosas, 0.4 percent shall be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.9 and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.9; in the case of Arabians, 0.4 percent shall be held by the association to be deposited with the official registering agency pursuant to Section 19617.8, and shall thereafter be distributed in accordance with Section 19617.8; in the case of standardbreds, 0.4 percent shall be distributed for the California Standardbred Sires Stakes Program pursuant to Section 19619; in the case of thoroughbreds, 0.48 percent shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b), (c), and (d) of Section 19617.2; and 0.033 percent shall be distributed to the California Center for Equine Health and Performance and 0.067 percent shall be distributed to the California Veterinary Diagnostic Laboratory System, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the 0.033 percent of funds distributed to the California Center for Equine Health and Performance shall supplement, and not supplant, other funding sources.

(c) In addition to the distributions specified in subdivision (a) and (b), for mixed breed meetings, 1 percent of the total amount handled by each satellite wagering facility shall be distributed to an organization described in Section 19608.2 for promotion of the program at satellite wagering facilities. For quarter horse meetings and harness meetings, 0.5 percent of the total amount handled by each satellite wagering facility shall be distributed to an organization described in Section 19608.2 for the promotion of the program at satellite wagering facilities, and 0.5 percent of the total amount handled by each satellite wagering facility shall be distributed according to a written agreement for each race meeting between the licensed racing association and the organization representing the horsemen participating in the meeting.
(d) Additionally, for thoroughbred, harness, quarter horse, mixed breed, and fair meetings, 0.33 percent of the total amount handled by each satellite wagering facility shall be paid to the city or county in which the satellite wagering facility is located pursuant to Section 19610.3 or 19610.4.

(e) Notwithstanding any other provision of law, a racing association is responsible for the payment of the state license fee as required by this section.

19605.71. Amount and distribution of deductions from wagers at facilities in central and southern zone. The total percentage deducted from wagers at satellite wagering facilities in the central and southern zone shall be the same as the percentage deducted from wagers at the racetrack where the racing meeting is being conducted and shall be distributed as set forth in this section. Amounts deducted by a satellite wagering facility under this section shall be distributed as follows:

(a) For thoroughbred meetings, 2 percent of the amount handled by the satellite wagering facility on conventional and exotic wagers shall be distributed to the racing association for payment to the state as a license fee, 2 percent shall be distributed to the satellite wagering facility as a commission for the right to do business, as a franchise, and this commission is not for the use of any real property, 2.5 percent or the amount of actual operating expenses, as determined by the board, whichever is less, shall be distributed to an organization described in Section 19608.2, and 0.54 percent deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and 0.033 percent shall be distributed to the California Center for Equine Health and Performance and 0.067 percent shall be distributed to the California Veterinary Diagnostic Laboratory System, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the 0.033 percent of funds distributed to the California Center for Equine Health and Performance shall supplement, and not supplant, other funding sources.

(b) For harness, quarter horse, Appaloosa, Arabian, or mixed breed meetings, 0.4 percent of the amount handled by the satellite wagering facility on conventional and exotic wagers shall be distributed to the racing association for payment to the state as a license fee, for fair meetings, 1 percent of the
amount handled by the satellite wagering facility on conventional and exotic wagers shall be distributed to the racing association for payment to the state as a license fee, 2 percent shall be distributed to the satellite wagering facility as a commission for the right to do business, as a franchise, and this commission is not for the use of any real property, and 6 percent of the amount handled by the satellite wagering facility or the amount of actual operating expenses, as determined by the board, whichever is less, distributed to an organization described in Section 19608.2. In addition, in the case of quarter horses, 0.4 percent shall be distributed as breeders' awards to breeders of quarter horses pursuant to Section 19617.6; in the case of Appaloosas, 0.4 percent shall be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.9 and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.9; in the case of Arabians, 0.4 percent shall be held by the association to be deposited with the official registering agency, pursuant to Section 19617.8, and thereafter shall be distributed in accordance with Section 19617.8; in the case of standardbreds, 0.4 percent shall be distributed for the California Standardbred Sires Stakes Program pursuant to Section 19619; in the case of thoroughbreds, 0.48 percent shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b), (c), and (d) of Section 19617.2; and 0.033 percent shall be distributed to the California Center for Equine Health and Performance and 0.067 percent shall be distributed to the California Veterinary Diagnostic Laboratory System, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the 0.033 percent of funds distributed to the California Center for Equine Health and Performance shall supplement, and not supplant, other funding sources.

(c) In addition, for Appaloosa and mixed breed meetings, 1 percent shall be distributed to an organization described in Section 19608.2 for promotion of the program at satellite wagering facilities. Notwithstanding any other provision of law, on wagers made in the Counties of Orange and Los Angeles on thoroughbred races conducted in the County of Orange or Los Angeles, or both, excluding the 50th District Agricultural Association, the amount deducted for promotion of the satellite wagering facilities.
wagering program at satellite wagering facilities shall be 0.5 percent. Any of the promotion funds that are not distributed in the year in which they are collected may be distributed in the following year. If promotion funds distributed in any year exceed the amount collected for that year, the funds distributed in the following year shall be reduced by the excess amount. For quarter horse and harness meetings, 0.5 percent of the total amount handled by each satellite wagering facility shall be distributed to an organization described in Section 19608.2 for the promotion of the program at satellite wagering facilities, and 0.5 percent of the total amount handled by each satellite wagering facility shall be distributed according to a written agreement for each race meeting between the licensed racing association and the organization representing the horsemen participating in the meeting. To the extent that funds representing a percentage greater than one-half of 1 percent of funds wagered on thoroughbred races conducted in the Counties of Orange and Los Angeles have been distributed, prior to July 27, 1992, to an organization described in Section 19608.2 for promotion activities, but remain unused, those funds shall be redistributed, 50 percent as commissions to the association that conducts the racing meeting, and 50 percent as purses to the horsemen participating in the racing meeting.

(d) Additionally, for thoroughbred, harness, quarter horse, mixed breed, and fair meetings, 0.33 percent of the total amount handled by the satellite wagering facility shall be paid to the city or county in which the satellite wagering facility is located pursuant to Section 19610.3 or 19610.4.

(e) Notwithstanding any other provision of law, a racing association is responsible for the payment of the state license fee as required by this section.

**HEALTH AND SAFETY CODE**

33673. TAXATION OF LEASED PROPERTY. Whenever property in any redevelopment project has been redeveloped and thereafter is leased by the redevelopment agency to any person or persons or whenever the agency leases real property in any redevelopment project to any person or persons for redevelopment, the property shall be assessed and taxed in the same manner as privately owned property, and the lease or contract shall provide that the lessee shall pay taxes upon the assessed value of the entire property and not merely the assessed value of his or its leasehold interest.
Appendix 2

STREETS AND HIGHWAYS CODE

104.13. Department as agent for payment of possessory interest taxes due from lessees. (a) The department shall act as agent for the payment of possessory interest taxes due from persons to whom the department leases property of a type described in subdivision (e).

(b) The department shall annually provide a current list of all such property located in each county to the assessor of the county. Notwithstanding any other provision of law, the assessor shall submit the possessory interest tax bill for each property directly to the department, and the department shall be responsible for the payment of the tax in the manner described in subdivision (c).

(c) All funds distributed to a county pursuant to Section 104.10 shall be deemed to be in full or partial payment on the total possessory interest taxes due on the property described in subdivision (e) located in the county. If the amount transferred to a county pursuant to Section 104.10 in any year is less than the total possessory interest tax due on all the property located in the county, the department shall promptly forward to the county the amount of the balance due.

(d) In lieu of the information required by Section 107.6 of the Revenue and Taxation Code, all leases of property of a type described in subdivision (e) shall contain a statement that the department will pay all possessory interest taxes arising from the lease and that the amount of rent charged reflects the cost of this added responsibility of the department.

(e) This section shall apply only to real property held for future state highway needs and to real property originally held for that purpose, which the department has determined is no longer needed for that purpose, prior to its sale or exchange by the department.
APPENDIX 3: PROPERTY TAX RULES

Rule 2. THE VALUE CONCEPT.

References: Article 2, Chapter 3, Part 2, Division 1, Revenue and Taxation Code. Sections 110, 110.1, 401, Revenue and Taxation Code.

(a) In addition to the meaning ascribed to them in the Revenue and Taxation Code, the words "full value," "full cash value," "cash value," "actual value," and "fair market value" mean the price at which a property, if exposed for sale in the open market with a reasonable time for the seller to find a purchaser, would transfer for cash or its equivalent under prevailing market conditions between parties who have knowledge of the uses to which the property may be put, both seeking to maximize their gains and neither being in a position to take advantage of the exigencies of the other.

When applied to real property, the words "full value", "full cash value", "cash value", "actual value" and "fair market value" mean the prices at which the unencumbered or unrestricted fee simple interest in the real property (subject to any legally enforceable governmental restrictions) would transfer for cash or its equivalent under the conditions set forth in the preceding sentence.

(b) When valuing real property (as described in paragraph (a)) as the result of a change in ownership (as defined in Revenue and Taxation Code, Section 60, et seq.) for consideration, it shall be rebuttably presumed that the consideration valued in money, whether paid in money or otherwise, is the full cash value of the property. The presumption shall shift the burden of proving value by a preponderance of the evidence to the party seeking to overcome the presumption. The presumption may be rebutted by evidence that the full cash value of the property is significantly more or less than the total cash equivalent of the consideration paid for the property. A significant deviation means a deviation of more than 5% of the total consideration.

(c) The presumption provided in this section shall not apply to:

(1) The transfer of any taxable possessory interest.

(2) The transfer of real property when the consideration is in whole, or in part, in the form of ownership interests in a legal entity (e.g., shares of stock) or the change in ownership occurs as the result of the acquisition of ownership interests in a legal entity.

(3) The transfer of real property when the information prescribed in the change in ownership statement is not timely provided.

(d) If a single transaction results in a change in ownership of more than one parcel of real property, the purchase price shall be allocated among those parcels and other assets, if any, transferred based on the relative fair market value of each.
Rule 20. TAXABLE POSSESSORY INTERESTS.

Reference: Section 107, Revenue and Taxation Code

(a) POSSESSORY INTERESTS. "Possessory interests" are interests in real property that exist as a result of:

(1) A possession of real property that is independent, durable, and exclusive of rights held by others in the real property, and that provides a private benefit to the possessor, except when coupled with ownership of a fee simple or life estate in the real property in the same person; or

(2) A right to the possession of real property, or a claim to a right to the possession of real property, that is independent, durable, and exclusive of rights held by others in the real property, and that provides a private benefit to the possessor, except when coupled with ownership of a fee simple or life estate in the real property in the same person; or

(3) Taxable improvements on tax-exempt land.

(b) TAXABLE POSSESSORY INTERESTS. "Taxable possessory interests" are possessory interests in publicly-owned real property. Excluded from the meaning of "taxable possessory interests", however, are any possessory interests in real property located within an area to which the United States has exclusive jurisdiction concerning taxation. Such areas are commonly referred to as federal enclaves.

(c) DEFINITIONS. For purposes of this regulation:

(1) "Real property" is defined in section 104 of the Revenue and Taxation Code and includes public waters such as tidelands and navigable waters and waterways.

(2) "Possession" of real property means actual physical occupation. "Possession" requires more than incidental benefit from the public property, but requires actual physical occupation of the property pursuant to rights not granted to the general public; thus, the use of property such as hallways, common areas, and access roads at airports, stadiums, convention centers, or other public facilities by customers or employees of those who may lease other public property at the public facility of which they have exclusive use does not constitute "possession" of those hallways, common areas, or access roads by the lessee of the public property.

(3) A "right," or a "claim to a right," to the possession of real property means the right, or claim to a right, to actual physical occupation of real property. For purposes of this subdivision, a right, or a claim to a right, to the possession of real property may exist as a result of the possessor having or claiming to have: (i) a leasehold estate, an easement, a profit a prendre, or
any other legal or equitable interest in real property of less than fee simple or life estate, regardless of how the interest may be identified in a deed, lease, or other document; or (ii) a use permit or agreement, such as a federal grazing permit, a permit to use a berth at a harbor, or a county use permit authorizing professional rafting outfitters to commercially operate on a river, that creates a legal or equitable interest in real property of less than fee simple or life estate.

(4) "Possessor" means the party or parties who hold the possessory interest, and any successors or assigns to such party or parties.

(5) "Independent" means a possession, or a right or claim to possession, if the possession or operation of the real property is sufficiently autonomous to constitute more than a mere agency. To be "sufficiently autonomous" to constitute more than a mere agency, the possessor must have the right and ability to exercise significant authority and control over the management or operation of the real property, separate and apart from the policies, statutes, ordinances, rules, and regulations of the public owner of the real property. For example, the control of an airport runway or taxiway by the Federal Aviation Administration (FAA) or another government agency or its agent is so complete that it precludes the airlines from exercising sufficient authority and control over the management or operation of the runways or taxiway and does not constitute sufficient "independence" to support a possessory interest.

(6) "Durable" means for a determinable period with a reasonable certainty that the possession of the real property by the possessor, or the possessor's right or claim with respect to the possession of the real property, will continue for that period.

(7) "Exclusive of rights held by others in the real property" means the enjoyment of an exclusive use of real property, or a right or claim to the enjoyment of an exclusive use together with the ability to exclude from possession by means of legal process others who may interfere with that enjoyment.

(A) For purposes of this subdivision, "exclusive uses" include the following types of uses of real property, as well as rights and claims to such types of uses of real property:

(1) The sole possession, occupancy, or use of real property,

(2) The possession, occupancy, or use of real property by co-tenants or co-owners as to leaseholds, easements, profits a prendre, or any other legal or equitable interests in real property of less than fee simple or life estate, where the uses constitute but a single use jointly enjoyed.
(3) The concurrent use of real property, not amounting to co-tenancy or co-ownership under subdivision (A)(2) above, by a person who has a primary or prevailing right to use the real property and/or to have its designees use the real property. For example, a public marina leases boat slips with a lease provision that allows the marina to rent a leased boat slip to a short-term user if the primary lessee is away; subject to the primary lessee's right to exclude the short-term user on the primary lessee's return. Under these facts, the primary lessee has a primary and prevailing right to use the leased boat slip. For purposes of this subdivision, concurrent use of real property demonstrating a primary or prevailing right also includes alternating uses of the same real property by more than one party, such as the case when certain premises are used by a professional basketball team on certain days of each week while a professional hockey team uses the same premises on certain other days.

(4) Concurrent uses of real property, not amounting to co-tenancy or co-ownership under subdivision (A)(2) above, by persons making qualitatively different uses of the real property. For purposes of this subdivision, qualitatively different uses of real property include: (i) those by persons making different kinds of uses of the same real property, such as the case when one person is developing mineral resources on real property while others are concurrently enjoying recreational uses on the same real property; and (ii) those where different persons have the right to concurrently enter onto and take different things from the same real property.

(5) Concurrent uses of real property, not amounting to co-tenancy or co-ownership under subdivision (A)(2) above, by persons engaged in qualitatively similar uses that diminish the quantity or quality of the real property. For purposes of this subdivision, uses that diminish the quantity and/or quality of the real property include: (i) grazing cattle; (ii) mining; (iii) the extraction of oil or gas; and (iv) the extraction of geothermal energy.

(6) Concurrent uses of real property, not amounting to co-tenancy or co-ownership under subdivision (A)(2) above, by persons engaged in qualitatively similar uses that do not diminish the quantity or quality of the real property, provided that the number of concurrent use grants is restricted. For purposes of this subdivision: "concurrent use grants" includes grants, permits, deeds, agreements, and other documents providing rights to the concurrent use of real property; and the number of concurrent use grants is "restricted" when the number of concurrent use grants is restricted either by law or pursuant to the policies or management decisions of the public owner of the real property or other public agency.
Example 1: Commercial rafting outfitters have a county use permit to commercially operate on a river. While any private recreational user may raft on the river without limitation or regulation, only approximately 80 commercial rafting outfitters are presently allowed to operate under permit on the river. The commercial rafting outfitters' use of the river is exclusive for purposes of this regulation since the number of commercial use permits issued by the county to commercial rafting outfitters is restricted, regardless of whether or not the commercial rafting outfitters' use of the river diminishes its quantity or quality.

Example 2: X operates a shuttle van service, picking up passengers at their homes and other locations, and transporting them to the airport. When the shuttle van reaches the airport, it utilizes the public street which surrounds the airport to drop passengers off at the various terminals at the airport. The street around the airport is available to all licensed drivers, for commercial and noncommercial uses. Neither the traffic laws, nor the policies or management decisions of the public owner of the airport facility restrict the number of users of the public street. In addition, under the assumed facts of this hypothetical, X's use of the public street surrounding the airport does not diminish the quantity or quality of the real property. Given that (i) the shuttle vans using the public street are making qualitatively similar uses of that real property; (ii) there are no facts indicating that the quality or quantity of the real property is being diminished; and (iii) the number of users of the real property is not restricted, X's right to use the public street surrounding the airport is not exclusive, and X does not have a possessory interest in the public street surrounding the airport. (B) A use of real property, or a right or claim to a use of real property, that does not contain one of the elements in subdivisions (A)(1) to (6) above, inclusive, shall be rebuttably presumed to be nonexclusive.

(C) In no event shall the presence of occasional trespassers or occasional interfering uses be sufficient in and of itself to make nonexclusive a use, or a right or claim to a use, that is otherwise exclusive for purposes of this regulation.

(8) "Private benefit" means that the possessor has the opportunity to make a profit, or to use or be provided an amenity, or to pursue a private purpose in conjunction with its use of the possessory interest. The use should be of some private or economic benefit to the possessor that is not shared by the general public. The fact that a possession of real property is not for a business or commercial purpose or that the possessor is a non-profit corporation does not preclude the possessor from being found to have received a "private benefit" from that possession.
Rule 21. POSSESSORY INTEREST DEFINITIONS.

Section 15606, subdivision (c), Government Code.

The following definitions govern the construction of these words in the rules pertaining to possessory interests.

(a) "Contract rent" means payments in money or in kind for the right to use real property as required by the terms of the possessory interest agreement. It includes royalty payments and other rights to share in production, the value that the public owner is expected to realize from improvements erected at the expense of the possessor which will remain when the possessory interest terminates, and any other form of compensation paid or payable for the right to occupy the property. It does not, however, include payments for services such as utilities and janitorial labor or for the use of property not subject to the possessory interest.

(b) "Economic rent" means the amount that would be paid in money or kind for the right to use real property if (1) the contract rent were currently negotiated under the conditions which exist in a free and competitive market and (2) the fee owner paid property taxes on the value of the fee.

(c) "Extended or renewed" means the lengthening of the term of possession of an agreement by mutual consent or by the exercise of an option by either party to the agreement.

(d) "Created" includes (1) the addition of land or improvements not previously subject to the agreement and (2) the addition of valuable permitted uses not previously permitted.

Rule 22. CONTINUITY OF POSSESSORY INTERESTS.


(a) The continuity of possession or exclusive use necessary to establish a possessory interest will vary according to the location and character of the property. The continuity of use necessary for finding a possessory interest to exist is satisfied when the possessor of the property uses it to substantially the same extent as would an owner engaged in the same activity.

(b) Standards for determining the existence of taxable possessory interests based on continuity are:

(1) Actual or constructive possession or exclusive use of property on the lien date for the current year.

(2) Recurrent possession or exclusive use, whether or not the period extends through the lien date, when there is a history on the lien date of recurring use by the present or former possessors making a similar use of the property.

(3) Infrequent actual possession or exclusive use on a recurrent basis when the continuation of the right to possession or exclusive use is conditioned on or evidenced by the possessor having
made a contribution to the value of the property by way of investment on or near the property occupied.

Rule 23. WRITTEN AGREEMENTS AS TO TERM OF POSSESSORY INTERESTS.


(a) When a written instrument creating a possessory interest specifies a period of occupancy which is to exist, the stated period shall be taken as the term of possession for purposes of valuation except as provided in this section. An option period shall be considered part of the stated period if it is reasonable to conclude that the option will be exercised.

(b) Should a period thus determined be in conflict with the reasonably anticipated term of possession by the possessor and any successor to or assignee of the property interest, the reasonably anticipated term of possession, whether shorter or longer, shall be used instead of the stated period. In determining the reasonably anticipated term of possession, the assessor shall be guided by the intent of the public owner and the possessor, as indicated by such evidence as (1) sale prices of the subject or similar possessory interests, (2) the history of the property's use, (3) the policy of the public agency administering the lands, and (4) the actions of the possessor. No reduction or increase of the specified period shall be based on the life expectancy of the possessor if it is reasonably anticipated that possession will continue under his successors or assigns.

(c) When there is no stated term of possession, the term shall be determined in accordance with subsection (b).

Rule 24. POSSESSORY INTEREST RIGHTS TO BE VALUED.


Except as otherwise provided in sections 26 and 27 of this title, the taxable value of a possessory interest is the sum of the value of all property rights in land and improvements held by the possessor. This value is not diminished by any obligation to pay rent or to retire debt secured by the possessory interest. Stated in other terms, the taxable value of a possessory interest is the value of the fee simple estate reduced by the value of any rights, except security interests, held by the public owner (other than the right to receive rent) or granted by the public owner to other persons. Examples of rights held by the public owner are:

(a) The right to take possession of the property upon termination of the possessory interest by reason of expiration of the term or the happening of a condition or breach of a limitation contained in the agreement granting possession.

(b) The right to put the property to a higher and better use or otherwise restrict the possessor's use of the property.

(c) The right to terminate possession on notice.

(d) The right to approve a sublessee or assignee.
(e) The right to approve a loan secured by the possessory interest.

**Rule 25. VALUATION OF POST-DE LUZ POSSESSORY INTERESTS.**


The value of a taxable possessory interest created, extended, or renewed after December 24, 1955 (other than one for production of gas, petroleum, or other hydrocarbons) may be measured by one or more of the following methods:

(a) The "comparative sales approach," wherein the possessory interest is valued by either direct or indirect comparison as follows:

In the direct comparison method, the subject property is compared with itself on the date of a prior subsequent sale or with similar possessory interests which have been sold on dates prior or subsequent to the date as of which the property is being valued. To the sale price of such an interest there shall be added (1) the present worth of any unpaid future contract rents for the estimated remaining term of possession, (2) the value of any debt (other than the debt for future rents) assumed by the purchaser of the possessory interest, and (3) the present worth of any obligated costs of the purchaser, such as the cost of site restoration at the end of the term, less the present worth of any contractual benefits to the purchaser, such as salvage value of, or reimbursement for, improvements at the end of the term. The interest sold should be reasonably comparable to the possessory interest being valued in location, physical characteristics, term of possession, risk of cancellation, and permitted use.

In the indirect comparison method, the value of the possessor's rights is first measured as if perpetual by comparison with fee interests which have been sold, which have similar locations and physical characteristics, and for which the highest and best use corresponds to or is comparable with the permitted use of the property subject to the possessory interest. This value is reduced by the present worth of those rights for the period subsequent to the estimated term of possession. This method is not well suited to valuation of a short-term possessory interest when the fee interests in the comparable properties are sold at prices that appear to reflect the expectation of higher incomes after the expiration of the possessory interest than during its existence.

(b) The "income approach," wherein the possessory interest is valued either directly by capitalizing all future net income that the possessory interest is capable of generating under typical management during the estimated term of possession, or indirectly by first capitalizing the net income to estimate the value of the possessor's rights as if perpetual and then deducting the present worth of those rights for the period subsequent to the term of the possessory interest.

The direct income method is preferred over the indirect income method when the remaining economic life of wasting assets does not exceed the estimated term of possession or when a constant income stream is projected. The indirect income method is preferred when the remaining economic life of wasting assets exceeds the estimated term of possession. The net income to be capitalized is either the imputed economic rent, which may be estimated by
reference to rentals recently negotiated in a competitive market or, if such evidence is inadequate, by reference to the anticipated gross income of a typical operator of the property subject to the possessory interest, less costs of goods sold and typical management and other operating expenses. When the second of these methods of estimating economic rent is employed, the "other operating expenses" to be deducted do not include amortization, depreciation, depletion charges, debt retirement, interest on funds invested in the possessory interest, the contract rent for the possessory interest, property taxes on the possessory interest, income taxes, or state franchise taxes measured by income.

The imputed economic rent or gross income estimate is to reflect the restrictions on use inherent in the possessory interest.

When using a recently negotiated or percentage contract rent for a possessory interest as an indicator of the economic rent, the appraiser shall:

(1) include in the contract rent his estimate of the amount, if any, by which the cash or share rent has been reduced because the possessor has assumed the cost of improvements that will revert to the public owner on expiration of the possessory interest;

(2) add to the contract rent his estimate of the taxes that will be paid on the possessory interest if the capitalization rate contains a property tax component;

(3) add to the contract rent his estimate of the amount, if any, by which the contract rent was reduced because the possessor has agreed to bear the cost of restoring the property to its original condition when it reverts to the public owner, or the cost of removing improvements and restoring the site to its original condition (less any estimated salvage value), or any similar obligations.

The capitalization rate shall be derived (1) by extraction of a rate from sale prices of comparable possessory interests or from sale prices of fee interests in similar properties that are not expected to yield substantially higher incomes after expiration of the possessory interest being valued than during its existence or (2) by combining weighted components for debt and equity yields as described in section 8, subsection (g)(2) of this chapter. In either case, the capitalization rate shall include a property tax component as required by section 8, subsection (f) of this chapter when the property tax has not been netted out of the rent or other income being capitalized.

(c) The "cost approach," wherein the cost of replacing reproducible property with new property which offers utility that will satisfy the requirements of the possessor's permitted use, less accrued depreciation and less the present worth of the estimated value, if any, of such property at the termination of possession, is added to the value of the restricted right to occupy the land for the limited term derived by the comparative sales or income method.

Rule 26. VALUATION OF PRE-DE LUZ POSSESSORY INTERESTS.

The value of a taxable possessory interest created prior to December 25, 1955, and not since extended or renewed (other than one for the production of gas, petroleum, or other hydrocarbons) is the excess of the market value of the possessory interest over the present worth of unpaid future contract rents for the unexpired term of possession. Such value may be measured by one or more of the following methods:

(a) The "comparative sales approach," wherein the possessor's interest is valued either directly or indirectly as previously described in section 25, subsection (a), except that, in the direct comparison method, the present worth of unpaid future contract rents is not added to the sale price of a possessory interest and, in the indirect comparison method, the value of a fee interest is reduced by the present worth of unpaid future contract rents of the possessory interest being appraised as well as by the present worth of the property rights for the period subsequent to the estimated term of possession.

(b) The "income approach," wherein the possessor's interest is valued either directly or indirectly as described in section 25, subsection (b), except that, in the direct method, the unpaid future contract rents, as well as other expenses, are deductible and, in the indirect method, the present worth of unpaid future contract rents, as well as the present worth of the property rights for the period subsequent to the term of the possessory interest, is deductible.

(c) The "cost approach," wherein the possessor's interest is valued as described in section 25, subsection (c), and the present worth of any unpaid future contract rents for the term of the possessory interest is deducted.

Rule 27. VALUATION OF POSSESSORY INTERESTS FOR THE PRODUCTION OF HYDROCARBONS.


(a) The taxable value of all possessory interest for the production of gas, petroleum, and other hydrocarbon substances from beneath the surface of the earth shall be determined by application of the comparative sales or income approach in the manner prescribed in subsection (a) or (b) of section 25 except as provided in subsection (b) of this section.
(b) The taxable value of a possessory interest for the production of hydrocarbon substances from beneath the surface of the earth shall be determined by application of the comparative sales or income approach in the manner prescribed in subsection (a) or (b) of section 26 if:

(1) the interest was created or last extended or renewed on or before July 26, 1963, and the rate of royalties or other right to share in production was not reduced because of an increase in the assessed value of such interest or

(2) the interest was created on or before July 26, 1963, and has been extended or renewed thereafter pursuant to authority which prohibits reduction of the rate of royalty or other right to share in production because of an increase in the assessed value of such interest.

Rule 28. EXAMPLES OF TAXABLE POSSESSORY INTERESTS.

The following are examples of commonly encountered taxable possessory interests:

(a) The right to explore for, capture, and reduce to possession gas, petroleum, and other hydrocarbons in public lands.

(b) The possession of an employee in housing owned by a public agency, irrespective of whether occupancy of the housing is a condition of employment except when the facility also serves as the employee's work area to which the employer has full access.

(c) The right to cut and remove standing timber on public lands.

(d) The right to graze livestock or raise forage on public lands.

(e) The possession of public property at harbors, factories, airports, golf courses, marinas, recreation areas, parks, and stadiums. Possessory interests may include land subject to the ultimate grant of a United States patent, commercial and industrial sites, and water rights.

Rule 462.080. CHANGE IN OWNERSHIP—POSSESSORY INTERESTS.
Reference: Section 60, 61, 62, 67, Revenue and Taxation Code.
Section 15606, Government Code.

(a) GENERAL RULE. The creation, renewal, extension, sublease, or assignment of a taxable possessory interest in tax exempt real property for any term is a change in ownership. "Renewal" and "extension" do not include the granting of an option to renew or extend an existing agreement pursuant to which the term of possession of the existing agreement would, upon exercise of the option, be lengthened, whether the option is granted in the original agreement or
subsequent thereto. "Assignment" of a possessory interest means the transfer of all rights held by a transferor in a possessory interest.

(b) EXCEPTIONS. The following do not constitute changes in ownership of taxable possessory interests:

(1) An interest, whether an estate for years or an estate for life, created by a reservation in an instrument deeding the property to a tax exempt governmental entity.

(2) Any renewal or extension of a taxable possessory interest during the reasonable anticipated term of possession used by the assessor in establishing the initial base year value of the interest, in which case, a change in ownership occurs at the end of the reasonably anticipated term of possession used by the assessor to value that interest.

(3) A sublease of a taxable possessory interest for a term including renewal options, that does not exceed half the length of the remaining term of the leasehold, including renewal options.

(4) The termination of a sublease of a taxable possessory interest with an original term, including renewal options, that did not exceed half the length of the remaining term of the leasehold, including renewal options, when the sublease was entered into.

(5) Any transfer of a sublessess's interest in a taxable possessory interest, with a remaining term, including renewal options, that does not exceed half of the remaining term of the leasehold.

(6) Any transfer of a taxable possessory interest subject to a sublease with a remaining term, including renewal options, that exceeds half the length of the remaining term of the leasehold, including renewal options.