Taxable Possessory Interests

General

A taxable possessory interest is defined as a possession, a right to the possession, or a claim to a right of the possession of publicly owned real property that is independent, durable, and exclusive of rights held by others, and that provides a private benefit to the possessor. A taxable possessory interest is further defined as the taxable interest held by a private possessor in publicly owned real property. Some examples of taxable possessory interests include cabins located on publicly owned land, aircraft hangars and tie-downs at publicly owned airports, grazing permits issued on publicly owned land, and concessionaires at county owned fairgrounds.

Taxable possessory interests are subject to taxation pursuant to article XIII, section 1 of the California Constitution, which provides that all property is taxable unless otherwise provided by the California Constitution or federal law. While publicly owned real property is generally exempt from taxation, under certain conditions, the private, beneficial right to the possession of publicly owned real property is subject to separate assessment as a taxable possessory interest.

Section 107 and Rule 20 provide the definition of a taxable possessory interest, and limit that definition to interests held in real property (land and improvements) only. Current statutory and regulatory provisions do not authorize the taxation of possessory interests in personal property, with one exception. In accordance with section 201.5, taxable possessory interests in property acquired by or for the California Pollution Control Financing Authority, whether in real or personal property, are subject to taxation. In all other cases, a possessory interest in personal property is not taxable.

In general, the provisions of article XIII A of the California Constitution and related statutes and regulations also apply to the assessment of taxable possessory interests. As such, taxable possessory interests are subject to the following:

- A taxable possessory interest receives a base year value according to section 110.1.
- Annually thereafter, the taxable value of the possessory interest is the lesser of its factored base year value or its fair market value, as prescribed in section 51.
- A taxable possessory interest is subject to the change in ownership and new construction provisions of section 60 (and the following) and section 70 (and the following).
- A taxable possessory interest is subject to supplemental assessment under section 75.10 (and the following), unless the section 75.5 exclusion applies.

A detailed discussion regarding the assessment of taxable possessory interests can be found in Assessors' Handbook Section 510, *Assessment of Taxable Possessory Interests* (AH 510).

Scope of Review

The BOE's assessment practices survey includes a review of the assessor's practices and procedures for discovering and assessing all taxable possessory interests in the county.

The specific areas of review may include, but are not limited to, the following:

- **General Program Elements**
- **Discovery**
- **Term of Possession**
- **Valuation (Post-*De Luz*)**
- **Change in Ownership**
- **Declines in Value**
- **New Construction**
- **Supplemental Assessments**
- **Special Assessment Issues**