

**M e m o r a n d u m**

**To:** Mr. Dean Kinnee, Chief (MIC:64)  
County-Assessed Properties Division

**Date:** December 4, 2012

**From:** J.K. McManigal, Jr.  
Senior Tax Counsel

**Subject:** *Request for Legal Opinion – Public Schools Exemption for Condominium Housing Project of Cal Poly Housing Corporation, San Luis Obispo County Assignment No. 12-124*

This is in response to your memorandum to Ms. Christine Bisauta whereby you inquired concerning the qualification for exemption of the "Bella Montana" condominium housing project in San Luis Obispo County, planned and intended to provide affordable housing to California State University, San Luis Obispo (Cal Poly), faculty and staff.

**Facts**

You forwarded copies of documents, including a Ground Lease, entered into by the Trustees of the California State University (University Trustees) and the Cal Poly Housing Corporation (CPHC). CPHC is a California public benefit non-profit corporation, an official auxiliary organization of The California State University formed for purposes supportive of Cal Poly, and a corporation separate from, independent of, and not under the control of the University Trustees or Cal Poly.

According to the Ground Lease, the University Trustees own real property, approximately 5.21 acres in San Luis Obispo County. They entered into the Ground Lease for the purpose of obtaining CPHC's agreement to design, develop, finance, construct and manage faculty and staff housing to be completed on that property on or before June of 2010 to support the recruitment and retention of Cal Poly faculty and staff. Such was consistent with CPHC's October 30, 2003, Amended Articles of Incorporation.<sup>1</sup>

Such was consistent also with CPHC's mission of implementing a long-term faculty and staff housing program to support the recruitment and retention of faculty and staff and sustain the academic quality of Cal Poly and the California State University system.

CPHC and faculty members and staff members of Cal Poly later entered into ground subleases for the members' respective units. According to the Ground Sublease, a homeowner owns his or her home during the term of the Ground Sublease and pays a monthly rental to CPHC for the interest in the ground sublease held by CPHC. A homeowner has the right to mortgage or assign

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<sup>1</sup> The October 30, 2003, copy of CPHC's Amended Articles of Incorporation is neither signed nor stamped "Endorsed/Filed" by the Secretary of State's Office.

all or part of his or her subleasehold interest under the Ground Sublease pursuant to a deed of trust or other appropriate security instrument as security to any lender that has advanced funds under a promissory note; and he or she may sell the unit to a qualified buyer subject to certain conditions. However, the resale price of the unit is limited to an amount determined according to provisions of the Ground Sublease, and CPHC has the right of first refusal to repurchase the unit. In addition, CPHC has an option to reacquire a unit if, for example, the homeowner is no longer employed by Cal Poly, a Cal Poly auxiliary, etc.; the homeowner no longer uses the unit as a principal residence;<sup>2</sup> the homeowner dies; or the homeowner retires.

The Ground Sublease provides further that the homeowner shall be responsible for the payment of ad valorem possessory interest taxes and assessments pertaining to the subleasehold interest in the land and for taxes and assessments pertaining to the unit. The homeowner shall also be responsible for obtaining fire and casualty insurance for his or her unit.

### Law & Analysis

Article XIII, section 1 of the California Constitution states, in part:

Unless otherwise provided by this Constitution or the laws of the United States.

(a) All property is taxable. . . .

Article XIII, section 3, subdivisions (a) and (b) of the California Constitution provides exemption from property taxation for property owned by the State and property owned by a local government.

Article XIII, section 3, subdivision (d) of the California Constitution provides an exemption from property taxation for "[p]roperty used for libraries and museums that are free and open to the public and property used exclusively for public schools, community colleges, state colleges, and state universities."<sup>3</sup> This exemption is implemented by Revenue and Taxation Code<sup>4</sup> section 202, subdivision (a)(3). Actual use of properties for public school purposes is required. Neither facilities in the course of construction nor the land upon which the facilities are being constructed can be eligible for the public schools exemption until the property is actually used for public school purposes.

*Connolly et al. v. Orange County* (1992) 1 Cal.4<sup>th</sup> 1105, holds that the public schools exemption is not available where a faculty member or staff member leases university-owned land and owns and resides in an improvement thereupon as his or her principal place of residence.

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<sup>2</sup> Limited exceptions apply, one of which is that the homeowner may rent the entire unit if (i) said rental is only made to a party eligible under the Program; (ii) homeowner complies with the priority system of the Program by allowing CPHC at least thirty (30) days to find a tenant reasonably acceptable to homeowner who is an employee of Cal Poly or one of its auxiliaries prior to renting the unit to anyone else, and (iii) said rental is on a short-term basis (i.e., for a period not to exceed one (1) year), when homeowner is away from Cal Poly on an approved sabbatical, or as otherwise authorized in writing by CPHC.

<sup>3</sup> For ease of reference, this exemption will be referred to as the public schools exemption throughout this memorandum.

<sup>4</sup> All further statutory references are to the Revenue and Taxation Code, unless otherwise specified.

With this background, we turn to your questions.

1. Are properties owned by "auxiliary corporations" taxable or non-taxable?

Properties, including possessory interests in state-owned properties and such possessory interests owned by auxiliary corporations, are taxable unless exempt under the California Constitution or the laws of the United States. Although state and local government property is exempt from property taxation, auxiliary corporations are not state or local governments. Thus, properties owned by such corporations are not exempt for that reason. However, please see Question 2 for the application of the public schools exemption to properties of auxiliary corporations.

2. Are properties of auxiliary corporations eligible for exemption? If so, which? Does it make a difference if the auxiliary corporation is the fee owner of the land, versus if it is a lessee under a lease from the University Trustees?

Properties of auxiliary corporations are eligible for the public schools exemption. As stated in the August 7, 1985, letter upon which Property Tax Annotation No. 690.0070 is based, the phrase "property used exclusively for public schools" was construed by the California Supreme Court in *Ross v. City of Long Beach*, (1944) 24 Cal.2d 258. Plaintiffs had leased both real property and a building thereon to the Long Beach City High School District for use exclusively as and for a public school. As the property had been used exclusively for public school purposes, it was held exempt from property taxation on that ground. The Court pointed out that the exemption of property used for public school purposes is not for the benefit of the private owner who may rent his property for said purposes, but for the advantage of the school district which may be compelled to rent property rather than to buy land and erect buildings thereon to be used for the maintenance of its schools. (Id. at pp. 262 and 263)

Thereafter, relying upon *Ross v. City of Long Beach, supra*, the court of appeal held in *English v. Alameda County* (1977) 70 Cal.App.3d 226, that possessory interests of college administrators, professors, and students occupying quarters in college exempt properties were exempt from property taxation under Article XIII, section 3, subdivision (e). And relying upon *Ross v. City of Long Beach, supra*, and *English v. Alameda County, supra*, the court of appeal similarly held in *Mann v. Alameda County* (1978) 85 Cal.App.3d 505, that possessory interests of students residing in University of California owned housing were similarly exempt from property taxation under Article XIII, section 3(d). In sum, as the land and improvements were owned by the University, the occupants' possessory interests therein were exempt because their use of the property was reasonably necessary to the accomplishment of the purpose of the University/owner.<sup>5</sup>

There followed an inquiry, similar to this one, concerning the taxability of privately-owned student housing built on land leased from the University of California. The lessee was to build and operate a student family housing apartment complex, etc. In the January 13, 1988, letter

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<sup>5</sup> For detailed discussion concerning *English v. Alameda County, supra*, and *Mann v. Alameda County, supra*, see *Connolly v. Orange County, supra*, at pp. 1125-1127.

upon which Property Tax Annotation No. 660.0225<sup>6</sup> is, in part, based, it was concluded that although, unlike in *Mann v. Alameda County, supra*, there was a master tenant/Lessee, who presumably operated the property for profit, the Lessee's possessory interest in the land was exempt under Article XIII, section 3, subdivision (d). As to the possessory interests of the student tenants, it was concluded that those possessory interests were legally indistinguishable from those of students residing in University of California housing in *Mann v. Alameda County, supra*. The letter concluded as follows:

Based on the foregoing, we are of the opinion that the possessory interests in question are exempt except to the extent that on any lien date any unit is rented or subleased to persons none of whom is a Permitted Tenant or a faculty or staff member of U.C. Davis.

In this regard, as you have recognized in your questions, since the construction and management of the faculty and staff housing contemplated will most likely result in some units being exempt under the public schools exemption and other units not being exempt, exemption would apply only to those units exclusively used for public school purposes but not to any common areas used by all faculty and staff members, some of whose units are not exempt.

Finally in these regards, it would make no difference as to eligibility for exemption if the auxiliary corporation were the fee owner of the land or a lessee of the land under a lease from the University Trustees, so long as in the case of the former, there is an agreement, in this case the Ground Sublease, by which Cal Poly obtained the use of the land. This is because ownership is not determinative of eligibility for the public schools exemption. If property is used exclusively<sup>7</sup> for public school purposes, the property should be eligible for the exemption regardless of ownership, assuming, of course, that the exemption is properly claimed.<sup>8</sup>

Finally we note that the August 30, 2002, letter upon which Annotation No. 660.0225<sup>9</sup> is, in part, based, opines that neither land owned by a state college or state university leased to another entity to construct and provide housing to college or university faculty, staff, or students, as the case might be, nor possessory interests in the land nor the housing or the possessory interests

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<sup>6</sup> A copy of Annotation No. 660.0225 and a copy of the January 13, 1988, letter also are attached. See also the August 30, 2002, letter re proposed residential housing at University of California, Irvine, which is factually similar, copy also attached.

<sup>7</sup> See *Honeywell Information Systems, Inc. v. Sonoma County* (1974) 44 Cal.App.3d 23, 28, wherein the court of appeal construed "exclusively used" to mean:

Under the rule of strict but reasonable construction the phrase "exclusively used" may not be given a literal interpretation so as to mean that the property exempted must be used only, solely and purely for the purposes stated to the total exclusion of any other use. Rather, the expression "exclusively used" has been interpreted to mean not only primary but also certain types of incidental use as well. However, contrary to appellant's position, in order to secure tax exemption based on "incidental use," such *incidental use must be directly connected with, essential to, and in furtherance of the primary use* (citation omitted) *and must be reasonably necessary for the accomplishment of the primary purpose for which the tax-exempt institution was organized.* (Citation omitted.)

Applying this construction to the facts of the case, the court held that a computer system installed on the County's premises and used 96.44 percent of the time for public schools and 3.56 percent for parochial schools and for private businesses was not eligible for the public schools exemption.

<sup>8</sup> See §§ 254, 255, 259.10, and 270.

<sup>9</sup> See Footnote 6, *supra*.

therein would be eligible for the welfare exemption under section 214 et. seq. Similarly, as indicated in the November 17, 1992, letter upon which Property Tax Annotation No. 660.0133 is based, neither would the possessory interests in the land nor the housing or the possessory interests therein be eligible for the exemption for property leased to government under section 231.

3. As a lessee, is CPHC eligible for an exemption while the land is still vacant?  
If so, which exemption, and on what effective date?

No. As indicated, the public schools exemption is for properties used exclusively for public schools. Actual use is required. As stated in the January 26, 1978, letter upon which Property Tax Annotation No. 690.0001 is based:

...facilities qualifying for the public school exemption do not qualify during the course of construction because Section 5 of Article XIII of the State Constitution does not include the exemption in its list of qualifying exemptions. The cases indicate that for an exemption based solely on use facilities under construction do not come within the definition of incidental use. (See *Cedars of Lebanon Hospital v. County of Los Angeles*, 35 Cal.2d 729, and *First Baptist Church v. County of Los Angeles*. 113 Cal.App.2d 392.)

As facilities qualifying for the public schools exemption do not qualify during the course of construction, so also does land to be used therefor not qualify when it is vacant and unused.

4. As a lessee of the land and owner of the improvements, is CPHC eligible for an exemption at the start and during the course of new construction of living units intended for Cal Poly faculty, staff, etc.?

No. See answer to Question 3, above.

5. As a lessee of the land and owner of the improvements, is CPHC eligible for exemption when the new construction is completed, and the units are vacant?  
If so which exemption? If not, at what date do the units become taxable?

See answer to Question 3, above. As to what date the units become taxable, as indicated in the answer to Question 3, above, the units are taxable at the inception of construction. They remain taxable until such time as the units, and land, are used exclusively for public school purposes.

6. When a unit is vacant on lien date, but held for occupancy by students, eligible staff/faculty, are apartment units or other housing exempt? (Does it make a difference if the unit is unrented or lease start date is, say Jan. 5?)

No. See answer to Question 3, above. As stated in the January 26, 1978, letter upon which Annotation No. 690.0001 is based:

The taxable status of property eligible for the public schools exemption is determined as of the lien date. . . .<sup>10</sup>

If a unit is vacant on the lien date, whether because it is unrented or because it is subject to a lease that will commence at a later date, the exemption is not available. But please see Question 8 for information on supplemental assessments.

7. As a lessee of the land and owner of the improvements, is CPHC eligible for an exemption if a unit is rented? Does it make a difference if the unit is rented to its "target" audience (Cal Poly faculty, staff, etc.), or whether it is rented to someone from the general public? If it is eligible, for which exemption, and on what effective date?

Yes, for the public schools exemption, if on the lien date, the unit is rented to a faculty member, staff member, or student of Cal Poly and the requirements for exemption are met. If the unit is rented to other than a faculty member, staff member, or student of Cal Poly, CPHC's possessory interest in the land and its unit would not be eligible for exemption.

8. If a unit is taxable if rented to someone from the general public, and is eligible for exemption if rented to someone on the Cal Poly faculty, what should the assessor do, and as of what date, if the renter changed mid-year from "general public" to "Cal Poly faculty"? If it went from "Cal Poly faculty" to a "general public" renter mid-year? If it went from a "general public" renter to vacant mid-year?

As to the regular assessment roll, as indicated in the answers to Questions 3 and 6, above, qualifying use for public school purposes on the lien date is determinative. If all requirements for the public schools exemption are met on the January 1 lien date and a unit is exempted thereunder, the exemption remains in effect during the corresponding fiscal year, regardless of whether the original faculty member, staff member, or student tenant remains; a new tenant, Cal Poly or not, occupies the unit; or the unit becomes vacant. Consistent therewith is section 75.20, which states that a supplemental assessment shall not affect an exemption which has been granted the property for either the current roll or the roll being prepared.

Similarly, if a unit is not exempt on the January 1 lien date, the unit is not eligible for exemption until the next lien date, even if the renter changed mid-year from a general public member to a Cal Poly faculty renter.

In sum, whether a unit is exempt on the lien date or not, the assessor need do nothing with regard to the *regular assessment roll* if the renter changes in mid-year or if the unit becomes vacant.

As to the *supplemental assessment roll*, if the renter changed mid-year, the assessor would have to determine whether or not the creation of the possessory interest in the land was a change in ownership of a taxable possessory interest (Property Tax Rule 462.080, subd. (a) and (b)), and

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<sup>10</sup> See also Question 1 and Conclusion 1 of the July 8, 1975, Opinion of the Attorney General No. CV 75/60 upon which Property Tax Annotation No. 690.0005 is based, which is to the same effect. A copy of the Opinion also is attached.

whether or not the lease of the unit was a change in ownership of the unit (Property Tax Rule 462.100, subd. (a) and (b)). In the event of a change or changes in ownership, the assessor would have to make appropriate supplemental assessments pursuant to sections 75 et seq.

Therefore, if the renter changed mid-year from a general public renter to a Cal Poly faculty renter, and if a supplemental assessment or assessments were made as a result, the assessor would have to determine whether the public schools exemption was available for the supplemental assessments. (See Rev. & Tax. Code, §§ 75.21, subds. (a) and (c) and 75.22).

9. Currently, when a unit sells (whether to a faculty member or not), it is assumed the unit becomes taxable (based on *Connolly v. Orange County*). Suppose that the value on the roll prior to the purchase is \$150,000 (\$50,000 to land and \$100,000 to improvements). The value is being exempted under the public school exemption. The unit sells on August 28, 2011 for \$250,000 and the appraiser determines the purchase price is the value of the possessory interest for the effective date (\$75,000 to land and \$175,000 to improvements). What action should the assessor take and what taxes would result?

Consistent with *Connolly et al. v. Orange County, supra*, when a unit sells, there is a change in ownership, the unit becomes taxable, if not already taxable, and a supplemental assessment is to be made. Section 75.10 states, in part, that whenever a change in ownership occurs, the assessor shall appraise the property changing ownership at its full cash value on the date the change in ownership occurs. The value so determined shall be the new base year value of the property. Thus, the new base year value for the property as of August 28, 2011 would be \$250,000, assuming that the assessor agreed that that amount is the full cash value of the property on that date.

Section 75.11, subdivision (b) states that if the change in ownership occurs on or after June 1 but before the succeeding January 1, then the supplemental assessment placed on the supplemental roll shall be the difference between the new base year value and the taxable value on the current roll.

Returning to your example, if the value on the current roll prior to the purchase is \$150,000 (\$50,000 to land and \$100,000 to improvements), exempt under the public schools exemption; the unit sells for \$250,000; and the appraiser determines that changes in ownership have occurred and the purchase price is the value of the possessory interest in the land on August 21, 2011 (\$75,000) and the value of the improvements on that date (\$175,000), the assessor should make a supplemental assessment in the amount of \$250,000, land \$75,000 and improvements \$175,000. (Rev. & Tax. Code, §§ 75.11, subd. (b) and 75.23.) Taxes would be based upon the amount of the supplemental assessment. (Rev. & Tax. Code, §§ 75.40-75.43 and 75.50-75.55.)

10. Suppose a unit has been purchased by a faculty member, and the owner has been paying taxes on the possessory interest assessment. What action should the assessor take if the owner transfers title back to CPHC? Is CPHC eligible for an exemption? Which one? How and on what should it be applied to the assessment?

If a faculty member/owner transfers his unit back to CPHC, there is a change in ownership of the unit, the unit remains taxable, and the assessor should make a supplemental assessment as the result of the change in ownership. (See answer to Question 9.)

As indicated in the answers to Questions 6 and 7, above, for a unit to be eligible for the public schools exemption, it must be rented to a faculty member, staff member, or student of Cal Poly and the requirements for exemption must be met. As indicated in the answers to Questions 5 and 6, the public schools exemption is not available to vacant units. As indicated in the answer to Question 5, when rented to a faculty member, staff member, or student of Cal Poly and the requirements for exemption are met, the public schools exemption's availability is based upon section 75.21, subdivisions (a) and (c) and section 75.22.

11. Suppose in the question above, after the owner transfers title back to CPHC, he continues as a renter in the property? What action should the assessor take? Is there an applicable exemption, how and on what should it be applied?

As indicated in the answers to Questions 8, 9 and 10, above, the assessor should make a supplemental assessment. At that time, however, as the requirements for the public schools exemption may be met, the assessor could allow the public school exemption for the unit if all the requirements for exemption were met within 90 days of the date of the supplemental assessment and if a claim for exemption were filed. (See Rev. & Tax. Code, §§ 75.21 and 75.22.) The exemption should be to the unit and to the renter's taxable possessory interest.

12. Suppose a unit owned by a faculty member transfers back to CPHC in February. The unit is vacant until December of the same year, when it is rented to another faculty member. What actions should the assessor take? What, if any, exemptions may be applied, and to what assessments?

As indicated in the answers to Questions 9 and 10 above, there is a change in ownership in February, the unit remains taxable, and the assessor should make supplemental assessments as the result of the change in ownership. As the unit remains vacant until December, no exemption from taxation as the result of the supplemental assessments is available. See answers to Questions 5, 6, and 10.

When the unit is rented to another faculty member of Cal Poly and the requirements for exemption are met, the public schools exemption's availability is based upon section 75.21, subdivision (a) and (c), and section 75.22.

13. Suppose that a unit is owned by a faculty member, and the owner defaults on his bank loan. The bank forecloses on the unit and takes over as the property owner. What actions should the assessor take.

When ownership of a unit owned by a faculty member or staff member changes, whether by transfer, sale, gift, or foreclosure, there is a change in ownership, the unit remains taxable, and the assessor should make a supplemental assessment as the result of the transfer, etc. of the unit. Were the bank to rent the unit to a faculty member, staff member, or student of Cal Poly, the assessor could allow the public schools exemption for the unit if there were an agreement



between Cal Poly and the bank by which Cal Poly obtained the use of the unit, if all the requirements for exemption were met within 90 days of the date of the supplemental assessment, and if a claim for the exemption were filed.

14. Suppose, in the question above, that after taking over the ownership of the unit (in February), the bank rents the property to a faculty member in December. What actions should the assessor take? Is there an applicable exemption, and how and on what should it be applied?

See answer to Question 13.

15. Suppose a unit is owned by a faculty member, and the owner goes on a 2 year sabbatical. During that period, he rents the unit to another faculty member. Is there an exemption that can be applied? If so, which one?

As indicated above, a limited exception to the requirement in the Ground Sublease that a homeowner use his or her unit as a principal place of residence is that of section 6.2.3 thereof providing for rental on a short-term basis, a period not exceeding one (1) year, in case of an approved sabbatical. Absent the applicability of this and the other exceptions permitted, section 6.1 of the Ground Sublease states, in pertinent part:

...The breach by Homeowner of the Principal Residence requirement under this Section 6.1 shall constitute an event of default under this Sublease, whereupon, in addition to Housing Corporation's rights pursuant to Section 19 hereof, Housing Corporation shall have the option, but not the obligation, to require the termination of the Sublease and to require Homeowner to sell the Home to Housing Corporation or its assignee on the terms and conditions specified in Section 16 hereof. . . .

That said, (1) assuming a unit is owned by faculty member, the owner goes on a one year sabbatical, and during that period, he rents the unit to another faculty member, as provided for in section 6.2.3. of the Ground Sublease; or, (2) assuming a unit is owned by a faculty member, the owner goes on a two year sabbatical, during that period, he rents the unit to another faculty member, as provided for in said section 6.2.3, and CPHC declines to pursue its default rights pursuant to section 19 of the Ground Sublease and its right to require the termination of the Ground Sublease and to require the homeowner to sell the unit to it as specified in section 16 of the Ground Sublease, at first blush, it would seem that *Connolly, et al. v. Orange County, supra*, would preclude availability of the public schools exemption since the faculty member continues to own the unit. As indicated in the answers to Question 3, however, it is whether property is used exclusively for public schools which is determinative for purposes of the public schools exemption. In two court of appeal decisions<sup>11</sup> involving properties used for public school purposes issued subsequent to *Mann v. Alameda County, supra*, the court focused almost entirely upon the properties, their uses, and the requirements for the public schools exemption, to the exclusion of the nature of the owners of the properties, the nature of their businesses, their for-

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<sup>11</sup> *Ytrup Homes v. Sacramento County* (1977) 73 Cal.App.3d 279, and *Oates v. Sacramento County* (1978) 78 Cal.App.3d 745, copies also attached.

profit statuses, etc. To the extent properties, or portions thereof, were used exclusively for public school purposes, they were held to be eligible for the public schools exemption.

Against this background then, it would appear that the fact the owner of the unit continuing to own the unit would not be a basis for finding that the unit was not eligible for the public schools exemption. Since there is the Ground Sublease between Cal Poly and the owner of the unit, the Ground Sublease contemplates the possibility of a one year sabbatical, and the Ground Sublease does not require termination in the event of a two year sabbatical, if all the requirements for exemption were met within 90 days of the supplemental assessment, and if a claim for the exemption were filed, in our opinion, the unit would be eligible for the public schools exemption.

16. Would there be a change to any of the answers above if the property were owned in fee by the auxiliary corporation?

Basically, no. See answer to Question 2, above, as to the land. As indicated therein, eligibility for exemption would be the same whether the auxiliary corporation were the fee owner of the land or the lessee of the land, so long as there is an agreement by which Cal Poly obtains the use of the land. As to the ownership of the improvements/units, the facts indicate, and the answers to Questions 4 and following proceed from the premise that CPHC is the owner of them, not the University Trustees. Thus, the "alternative" of the improvements/units being owned by CPHC has been addressed in the answers to the questions.

17. Suppose that instead of buying a unit with a sublease of the land, it was set up so that a faculty member purchased a sublease of the land and a lease of the living unit for a 10 year term, with two 5 year options. Would the possessory interest in the land be taxable, or would it be eligible for an exemption? Which exemption, if any?

The possessory interest would be taxable, but it would be eligible for the public schools exemption. As indicated in the answers to Question 11, if, upon the making of a supplemental assessment, the requirements for the public schools exemption are met, the assessor could allow the public schools exemption if all the requirements for exemption were met within 90 days of the date of the supplemental assessment and if a claim for exemption were filed. (See §§ 75.21 and 75.22.)

18. Using the supposition in the question above, suppose further that the faculty member entered into a lease of the land in September 2010, and there was just a building shell. The faculty member undertook to have the construction of the house completed. As part of the agreement, the faculty member was given certain monies toward the construction, and was given 6 months with no rent while the construction was completed. The construction was completed and the faculty member moved in February 2011. On what date does the possessory interest become taxable – on the date of the lease or the date the faculty member can move into the house?

The possessory interest becomes taxable on the date of the lease in September 2010. The property may qualify for the public schools exemption on the February 2011 date on which the occupancy commenced. See answers to Questions 1, 2, and 3.

JKM:yg

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Attachments

cc: (w/out attachments)  
Mr. David Gau MIC:63  
Mr. Todd Gilman MIC:70  
Mr. Mike Harris MIC:64  
Ms. Diane Yasui MIC:64  
Ms. Ladeena Ford MIC:64  
Ms. Margie Wing MIC:64  
Ms. Terry Leung MIC:64