

Plumas County Counsel

December 2, 2024

Confidential Memorandum for Board of Supervisors

Board of Supervisors

Re: Legal Opinion on the legality of Retroactive Application of Tax Assessments, Notice Requirements for Property Assessments, and Possibility of Deferred Payments on Tax Debt to County

I have been requested by you to provide a legal opinion regarding the legality of Retroactive Application of Tax Assessments, Notice Requirements for Property Assessments, and Possibility of Deferred Payments on Tax Debt to County. After careful consideration of the facts presented to me and my review of the applicable law, I hereby provide the following legal opinion:

- 1. The County is able to assess properties in order to provide a correction to the past value of the assessed properties.**
- 2. The County did not fail to meet the requirement to provide notice when the properties were reassessed.**
- 3. The County has the possibility of deferring payments for land-owner tax debt in this situation but would require a rewrite of Plumas County Municipal codes.**

Introduction

In approximately 2009, as a result of the statewide housing market crash, the Plumas County Assessor's Office reduced the assessed value of a series of homes in Plumas County under Proposition 8, which allows for the reduction in the assessed value of a home so as to reflect a disaster or inflationary pressures.

As the value of homes in Plumas County returned to normalcy after the recovery from the 2008 housing crash, the assessor's office failed to adjust the assessed values in these homes, and they continued to be valued under Proposition 8 values. This provided a discounted tax rate for those whose houses were assessed at values that were oftentimes considerably lower than their market value. During 2023 and 2024, the assessor's office realized that their valuations of these select homes were significantly below the actual market value of the homes. The assessor published this information on their website.

The Treasurer's office received these new tax rolls and sent out bills reflecting the new valuations which resulted in some very significant differences between last year's tax bill and the current year's. There were two meetings with a public discussion regarding this issue and County Counsel was instructed to draft a legal memo based on the following legal questions.

Is the County able to assess properties in order to provide a correction to the past value of the assessed properties?

Short Answer: Yes

In the California Constitution it states:

“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.

Cal Const, Art. XIII § 1 “Full cash value,” as the term is used in Cal Const Art XIII § 37 (now Cal Const Art XIII § 1) and Rev & Tax C § 401, requiring that, with certain exceptions, property be taxed at its “full cash value,” means market value. The assessor’s duty to assess escaped property on discovery is one which is imposed on him not only by statute but by the self-executing provisions of Cal Const Art XIII § 1, requiring uniformity of assessments. *California Computer Products, Inc. v. County of Orange (Cal. App. 4th Dist. 1980), 107 Cal. App. 3d 73.*

When, as is the case here, there are undervalued properties, and it comes to the attention of the Assessor’s office, there is no doubt that the Assessor’s office is absolutely obligated to capture those escape assessments.

In a Letter to County Assessors on September 8, 2009, from the State Board of Equalization to the various County Assessors, the Letter spells out the responsibility of Assessors as relates to Revenue and Taxation Code Section 531 which requires a county assessor to issue an escape assessment whenever it is discovered that property has been underassessed. “Even absent this

statutory authority, however, the courts have held that the constitutional requirement that all property be assessed and taxed in proportion to its value is self-executing; that is, the constitutional requirement alone requires county assessors to levy escape assessments against underassessed property even when the underassessment is due to an assessor's mistake in judgment of value. This requirement encompasses situations where the error involves a Proposition 8 value that is discovered to be erroneously low."

In this matter, when the assessor's office realized a mistake had been made in valuing these properties, they were required by law to correct the assessment of the properties in order to ensure compliance with the State Constitution and State statutes.

Did the County fail to meet the requirement to provide notice when the properties were reassessed?

Short Answer: No

The notice requirements for an increase in a secured property assessment by the Assessor's Office in California are outlined in Tax and Revenue Code § 619, which states: "The assessor must inform each assessee of real property on the local secured roll whose property's full value has increased over its full value for the prior year of the assessed value of that property as it will appear on the completed local roll. This notification must include information about hearings by the county board of equalization, the period during which assessment protests will be accepted, and the place where they may be filed. Additionally, it must include an explanation of the stipulation procedure set forth in Section 1607 and the manner in which the assessee may request use of this procedure."

A review of the County website under the Assessor's page shows that all of this information is available on the County Assessor's website with the exception of the stipulation procedure. Additionally, effective January 1, 2011, section § 621 of the Tax and Revenue Code is amended to provide: "In any county the assessor, with the approval of the board of supervisors, may give the information required by Section 619, and similar information with reference to personal property, as an alternative to giving the information by United States mail, by having published lists of assessments in newspapers, or by posting the information to the assessor's Internet Web

site, or any combination of the above.” In Plumas County, the Board of Supervisors provided for notice via website by unanimously passing resolution 12-7780 in 2012.

This office finds that the Assessor’s office has substantially complied with the notice requirements relating to value notices.

It is important to note that despite any deficiencies in notice, this would not invalidate the assessment. Section 619 (e) of the Revenue and Taxation Code states that “Neither the failure of the assessee to receive the information nor the failure of the assessor to so inform the assessee shall in any way affect the validity of any assessment or the validity of any taxes levied pursuant thereto.”

Does the County have the possibility of deferring payments for land-owner tax debt in this situation?

Short Answer: Likely, under certain circumstances.

There are several statutes that appear to provide for the deferment of payments. For example, under Cal Rev & Tax Code § 4837.5 (a) “Notwithstanding any other provision of law, taxes due, whether secured or unsecured, on escape assessments for prior fiscal years may be paid over a four-year period at the option of the assessee if: (1) the additional tax is over five hundred dollars (\$500), and (2) a written request for installment payment is filed by the assessee with the tax collector prior to the time the second installment of taxes on the secured roll becomes delinquent, or by the last day of the month following the month in which the tax bill is mailed, whichever is later. The tax collector shall include with the property tax bill a notice of the payment provisions of this section. For unsecured taxes, the written request for installment payment shall be filed with the tax collector prior to the date on which those taxes become delinquent.”

Additionally, it appears that Cal Rev and Tax Code § 194.1, 194.9, 195.1, and 4222.5 all deal with deferment of tax payments, but each statute applies to a different scenario and has different requirements for eligibility.

Recently, Yolo County had a similar issue with an error causing the County to not collect taxes on a school bond for the 2022-2023 tax year, which required the tax rate to double the next year. In response, the tax collector developed a tax assistance program that allowed homeowners to apply for a deferral for up to a year.

https://destinyhosted.com/agenda_publish.cfm?id=96561&mt=BOS&vl=true&get_month=10&get_year=2023&dsp=agm&seq=13896&rev=0&ag=3592&ln=124306&nseq=&nrev=&pseq=&prev=&vl=true#ReturnTo124306

The County has options for deferment of payment, but any implementation or clarification of this possibility would be at the direction of the Treasurer/Tax Collector and beyond the scope of this legal opinion.

Conclusion

I would stress that this legal opinion is a legal opinion only. Without specific facts regarding specific property assessments, I can only generalize, and any further analysis would be in effect, an investigation.

This legal opinion is provided for your confidential use and is intended solely for the purpose of assisting you with the matter described herein. It should not be relied upon or used for any other purpose without our prior written consent.

Respectfully,

Joshua Brechtel

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