Title 18, Public Revenue, California Code of Regulations provide the legal basis for taxable possessory interests in California. Under the California State Constitution and case law, there is a clear legal authority for taxation of private possessory interests in government owned tax-exempt property.

10. Are there any exemptions for possessory interest assessments?

Yes, if you are a religious organization or a 501(c)3 non-profit you may qualify for church, religious, or welfare exemptions. For more information contact the Assessor's office at 707-445-7663 or toll-free at 866-240-0485.

11. What if I disagree with the value of the possessory interest?

If you disagree with the taxable value of your possessory interest, you may request a review of the assessment with the County Assessor's Office, or file an appeal with the Humboldt County Clerk of the Board, 825 5th Street, Room 111, Eureka, CA 95501, 707-476-2390; or visit the website at http://humboldtgov.org/455/Clerk-of-the-Board.

12. Taxes

The lien date for taxes is January 1 each year. The person in possession of the possessory interest on the lien date is liable for the entire subsequent fiscal year's taxes. Unfortunately, no provision is made for the assessor to prorate the taxes if the possessory interest is terminated after the lien date.

January 1, 2019

FACTS ABOUT POSSESSORY INTERESTS

MARI A. WILSON

Assessor

County of Humboldt

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(866) 240-0485 Toll Free

- Office Hours –
8:30 am – 5:00 pm Monday thru Friday
Except County Holidays

FACTS ABOUT POSSESSORY INTERESTS

1. What is a possessory interest?

A possessory interest is generally defined as the use of real property that is owned by a government agency. These interests result from either an actual possession of real property, or the right to possess real property. They may also relate to improvements that have been made to, or placed on land owned by a government agency.

2. What is a <u>taxable</u> possessory interest?

A taxable possessory interest may occur whenever a private person or entity rents, leases, occupies, controls, or has the right to beneficial use of publicly-owned real property with or without a rent or fee. These interests result from either an actual possession of government-owned real property, or the right to possess government-owned real property. It may be created or acquired through a contract, lease, concession agreement, license, permit, verbal agreement, or simply by possession or occupation without agreement. The use of the property may be concurrent or alternating with another use or user. The interests may also relate to taxable improvements that have been made to or placed on, tax-exempt land.

3. Examples of taxable possessory interests.

In Humboldt County, a partial list of taxable possessory interests would include any of the following, which exist or occur on government-owned, tax-exempt real property:

a. The right to graze and/or keep livestock
b. Employee or other private housing
c. Space leased for privately owned trailers/manufactured homes
d. Lease of classroom/school space to private entities
e. Airport tie-downs, spaces, or hangers
f. Any lease or use by an individual, corporation, or business
g. Lease of boat berth in public marinas
h. Horse stalls
i. Concessions at publicly-owned parks, fairgrounds, and other facilities

4. Must the individual or entity be physically using or occupying the property to qualify as a taxable possessory interest?

No. Possession may be either actual possession (physical use of the property), or constructive possession (right to use the property even if not actually using it). For example, the possessory interest starts with the date of commencement of the lease and not with the actual occupation by the tenant.

5. Is a lease, or other written document, necessary to establish a possessory interest?

No. The essential requirement for a possessory interest is that there is an "exclusive right to a beneficial use of tax-exempt publicly owned real property." The possession may be by a verbal agreement, a tacit approval, a written document or even an encroachment by a private entity. If written documents do exist, they may be in the form of a contract, permit, lease, agreement, letter of authorization, reservation, etc.

6. Are possessory interests new?

In the 1850's and 1860's assessment rolls in many counties consisted in large part of possessory interests. Today, possessory interests in California constitute thousands of property assessments and amount to a significant part of the property tax base for our counties, cities, and school districts.

7. How are possessory interest discovered?

The assessor, by law, must search out and value all taxable property in the county as of the lien date, January 1, each year. This includes taxable possessory interests. Annually, pursuant to Revenue and Taxation Code section 480.6, assessor's staff requests every governmental agency in the county to provide various items of information such as leases and other agreements that are related to the real property they own. This information includes the name, mailing address, situs, etc. for each property. The assessor analyzes this information when making the possessory interest assessments.

8. How are possessory interests valued?

The assessor is required, as with all locally assessed real property, to establish a base year value of all taxable possessory interest assessments under Proposition 13. The major components for estimating the value include permitted use, term of possession, and economic rent and/or estimated value of land and/or improvements.
There is no provision for proration of the taxes. Upon termination of the taxable possessory interest, the taxpayer is still responsible for the remaining portion of the tax bill.

9. What is the legal authority for the taxation of a possessory interest?

Section 1 of Article XIII of the California State Constitution, section 107 of the Revenue and Taxation Code, and Property Tax Rules 21-28 of