

Senate Bill No. 1103

Passed the Senate August 19, 1998

Secretary of the Senate

Passed the Assembly August 13, 1998

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor



CHAPTER ____

An act to amend Sections 64, 465, 834, 995.2, and 5802 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1103, Alpert. Property taxes: document retention.

Under existing law, county assessors and the State Board of Equalization are responsible for collecting property taxes. The assessors and the board may destroy any documents containing information obtained from taxpayers 7 years after the lien date for the taxes for which the information was obtained. The assessors may destroy documents 3 years after the lien date if the documents have been microfilmed.

This bill would reduce the time for destruction of documents from 7 years to 6 years after the lien date. In addition, the bill would permit destruction of documents 3 years after the lien date if the documents have been microfiched, imaged, or otherwise preserved. The bill would conform the provisions governing document destruction by the board to those governing the assessors.

The bill would also make technical and conforming changes.

The people of the State of California do enact as follows:

SECTION 1. Section 64 of the Revenue and Taxation Code is amended to read:

64. (a) Except as provided in subdivision (i) of Section 61 and subdivisions (c) and (d) of this section, the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership or limited liability company interests, does not constitute a transfer of the real property of the legal entity. This subdivision is applicable to the purchase or transfer of ownership interests in a partnership without regard to whether it is a continuing or a dissolved partnership.



(b) Any corporate reorganization, where all of the corporations involved are members of an affiliated group, and that qualifies as a reorganization under Section 368 of the United States Internal Revenue Code and that is accepted as a nontaxable event by similar California statutes, or any transfer of real property among members of an affiliated group, or any reorganization of farm credit institutions pursuant to the federal Farm Credit Act of 1971 (Public Law 92-181), as amended, shall not be a change of ownership. The taxpayer shall furnish proof, under penalty of perjury, to the assessor that the transfer meets the requirements of this subdivision.

For purposes of this subdivision “affiliated group” means one or more chains of corporations connected through stock ownership with a common parent corporation if both of the following conditions are met:

(1) One hundred percent of the voting stock, exclusive of any share owned by directors, of each of the corporations, except the parent corporation, is owned by one or more of the other corporations.

(2) The common parent corporation owns, directly, 100 percent of the voting stock, exclusive of any shares owned by directors, of at least one of the other corporations.

(c) (1) When a corporation, partnership, limited liability company, other legal entity, or any other person obtains control through direct or indirect ownership or control of more than 50 percent of the voting stock of any corporation, or obtains a majority ownership interest in any partnership, limited liability company, or other legal entity through the purchase or transfer of corporate stock, partnership, or limited liability company interest, or ownership interests in other legal entities, including any purchase or transfer of 50 percent or less of the ownership interest through which control or a majority ownership interest is obtained, the purchase or transfer of that stock or other interest shall be a change of ownership of the real property owned by the corporation, partnership, limited liability company, or other legal entity in which the controlling interest is obtained.



(2) On or after January 1, 1996, when an owner of a majority ownership interest in any partnership obtains all of the remaining ownership interests in that partnership or otherwise becomes the sole partner, the purchase or transfer of the minority interests, subject to the appropriate application of the step-transaction doctrine, shall not be a change in ownership of the real property owned by the partnership.

(d) If property is transferred on or after March 1, 1975, to a legal entity in a transaction excluded from change in ownership by paragraph (2) of subdivision (a) of Section 62, then the persons holding ownership interests in that legal entity immediately after the transfer shall be considered the “original coowners.” Whenever shares or other ownership interests representing cumulatively more than 50 percent of the total interests in the entity are transferred by any of the original coowners in one or more transactions, a change in ownership of that real property owned by the legal entity shall have occurred, and the property that was previously excluded from change in ownership under the provisions of paragraph (2) of subdivision (a) of Section 62 shall be reappraised.

The date of reappraisal shall be the date of the transfer of the ownership interest representing individually or cumulatively more than 50 percent of the interests in the entity.

A transfer of shares or other ownership interests that results in a change in control of a corporation, partnership, limited liability company, or any other legal entity is subject to reappraisal as provided in subdivision (c) rather than this subdivision.

(e) In order to assist in the determination of whether a change of ownership has occurred under subdivisions (c) and (d), the Franchise Tax Board shall include a question in substantially the following form on returns for partnerships, banks and corporations (except tax-exempt organizations):

If the corporation (or partnership or limited liability company) owns real property in California, has cumulatively more than 50 percent of the voting stock (or



more than 50 percent of total interest in both partnership or limited liability company capital and partnership or limited liability company profits) (1) been transferred by the corporation (or partnership or limited liability company) since March 1, 1975, or (2) been acquired by another legal entity or person during the year? (See instructions.)

If the entity answers “yes” to (1) or (2) in the above question, then the Franchise Tax Board shall furnish the names and addresses of that entity and of the stock or partnership or limited liability company ownership interest transferees to the State Board of Equalization.

SEC. 2. Section 465 of the Revenue and Taxation Code is amended to read:

465. The assessor may destroy any document containing information obtained from taxpayers when six years have elapsed since the lien date for the taxes for which that information was obtained. Those documents may be destroyed when three years have elapsed since the lien date if the documents have been microfilmed, microfiched, imaged, or otherwise preserved on a medium that provides access to the documents.

SEC. 3. Section 834 of the Revenue and Taxation Code is amended to read:

834. The board may destroy any documents containing information obtained from taxpayers when six years have elapsed since the lien date for the taxes for which that information was obtained. Those documents may be destroyed when three years have elapsed since the lien date if the documents have been microfilmed, microfiched, imaged, or otherwise preserved on a medium that provides access to the documents.

SEC. 4. Section 995.2 of the Revenue and Taxation Code is amended to read:

995.2. The term “basic operational program,” as used in Section 995 means a computer program that is fundamental and necessary to the functioning of a computer. A basic operational program is that part of an operating system including supervisors, monitors,



executives and control or master programs that consist of the control program elements of that system.

For purposes of this section the terms “control program” and “basic operational program” are interchangeable. A control program, as opposed to a processing program, controls the operation of a computer by managing the allocation of all system resources, including the central processing unit, main storage, input/output devices and processing programs. A processing program is used to develop and implement the specific applications that the computer is to perform. Its operation is possible only through the facilities provided by the control program. It is not in itself fundamental and necessary to the functioning of a computer.

Excluded from the term “basic operational program” are processing programs, which consist of language translators, including but not limited to, assemblers and compilers; service programs, including but not limited to, data set utilities, sort/merge utilities, and emulators; data management systems, also known as generalized file-processing software; and application programs including but not limited to payroll, inventory control and production control. Also excluded from the term “basic operational program” are programs or parts of programs developed for or by a user if they were developed solely for the solution of an individual operational problem of the user.

A control program, as used in this section, includes functions as: selection, assignment and control of input and output devices; loading of programs, including selection of programs from a system resident library; handling the steps necessary to accomplish job-to-job transition; controlling the allocation of memory; controlling concurrent operation of multiple programs or computers; and protecting data from being inadvertently destroyed as a result of operator program error.

SEC. 5. Section 5802 of the Revenue and Taxation Code, as amended by Section 14 of Chapter 1222 of the Statutes of 1994, is amended to read:



5802. (a) Except as provided in subdivisions (b) and (c), “base year value” as used in this part means the full cash value of a manufactured home on the date the manufactured home is purchased or changes ownership. If the manufactured home undergoes any new construction after it is purchased or changes ownership, the base year value of the new construction is its full cash value on the date on which the new construction is completed, and if uncompleted, on the lien date.

(b) The base year value of a manufactured home for which the license fee is delinquent shall be its full cash value on the lien date for the fiscal year in which it is first enrolled.

(c) The base year value of a manufactured home converted pursuant to Section 18119 of the Health and Safety Code from taxation under Part 5 (commencing with Section 10701) of Division 2 to taxation under this part shall be its full cash value on the lien date for the fiscal year in which that manufactured home is first enrolled.

(d) Notwithstanding any other provision of law, the assessor shall determine the base year value of a manufactured home, located in a resident-owned mobilehome park or a rental park in the process of being changed to resident ownership, that is converted to property taxation by the registered owner pursuant to Section 18555 of the Health and Safety Code, so that the property taxes levied, after adjustment for any applicable exemption, shall be the same amount as the vehicle license fee that was imposed for the registration year in which the home was converted to property taxation.

(e) This section shall remain in effect until January 1, 1999, and on that date is repealed.

SEC. 6. Section 5802 of the Revenue and Taxation Code, as amended by Section 15 of Chapter 1222 of the Statutes of 1994, is amended to read:

5802. (a) Except as provided in subdivisions (b) and (c), “base year value” as used in this part means the full cash value of a manufactured home on the date the manufactured home is purchased or changes ownership. If the manufactured home undergoes any new



construction after it is purchased or changes ownership, the base year value of the new construction is its full cash value on the date on which the new construction is completed, and if uncompleted, on the lien date.

(b) The base year value of a manufactured home for which the license fee is delinquent shall be its full cash value on the lien date for the fiscal year in which it is first enrolled.

(c) The base year value of a manufactured home converted pursuant to Section 18119 of the Health and Safety Code from taxation under Part 5 (commencing with Section 10701) of Division 2 to taxation under this part shall be its full cash value on the lien date for the fiscal year in which that manufactured home is first enrolled.

(d) This section shall become operative on January 1, 1999.



Approved _____, 1998

Governor

