

TAXATION: REAL PROPERTY TAX – BOARD OF EQUALIZATION — TANGIBLE PERSONAL PROPERTY, ETC. - SPECIAL PROVISIONS FOR MOBILE HOMES.

Assessment of manufactured home that has become affixed to, and is taxed as, real estate is subject to review by local board of equalization. Assessment of manufactured home that has not become affixed to real estate and is classified as tangible personal property is not subject to review by local board.

The Honorable Mary Lou Ebinger
Commissioner of the Revenue for Middlesex County
December 28, 2001

You ask whether the local board of equalization may review assessments of manufactured homes.

You relate that Middlesex County has been reassessing the real estate in the county. You also relate that the county has an appointed board of equalization involved in this process.

The 1994 Session of the General Assembly amended the statutory procedure for taxing manufactured homes.¹ The legislation changed all references to "mobile home(s)" in §§ 58.1-3520 and 58.1-3521 of the *Code of Virginia* to "manufactured home(s),"² and added § 58.1-3522 as follows:

Manufactured homes installed according to the Uniform Statewide Building Code shall be assessed at the same time as the assessment of the real property on which the manufactured home is installed. Such homes shall be assessed in the same manner and using the same methods applied to improvements and buildings which are assessed in accordance with Article 7 (§ 58.1-3280 et seq.) of Chapter 32 of [Title 58.1].^[3]

Prior opinions of the Attorney General conclude that these homes should be classified and taxed as real or personal property, depending on how the common law doctrine of fixtures applies to the facts and circumstances of each case.⁴ The three tests applied by the Supreme Court of Virginia in determining whether an item of personal property placed upon realty becomes a fixture are: "(1) annexation of the property to the realty, (2) adaptation to the use or purpose to which that part of the realty with which the property is connected is appropriated, and (3) the intention of the parties."⁵ Thus, a manufactured home that has become affixed to real

estate is classified and taxed as real estate and must be treated as such for all purposes, including administrative and judicial review. Section 58.1-3379 requires boards of equalization to hear and consider complaints related to equalization of real estate assessments. Accordingly, an assessment of such real estate is subject to review by a board of equalization.

With respect to manufactured homes that have not become affixed to real estate and are taxed as a separate class of tangible personal property, § 58.1-3522 does not purport to change the classification of the property to real estate. Rather, this section merely requires that manufactured homes classified as tangible property be taxed in the same manner, using the same methods as real estate. Such homes, therefore, although assessed in the same manner, using the same methods, and taxed at the same rate as real estate, are still treated as tangible personal property for all other purposes, such as applications for the correction of tangible personal property assessments under § 58.1-3980. Because a board of equalization reviews real estate assessments,⁶ and not tangible personal property assessments, the local board of equalization would not review a tangible personal property assessment of a manufactured home.

¹1994 Va. Acts ch. 152, at 251.

²*Id.* at 251-52.

³*Id.* at 252.

⁴See Op. Va. Att'y Gen.: 1987-1988 at 576; 1985-1986 at 300; 1981-1982 at 368, 369; 1977-1978 at 427.

⁵*Transco Corp. v. Prince William Co.*, 210 Va. 550, 555, 172 S.E.2d 757, 761 (1970).

⁶See 1987-1988 Op. Va. Att'y Gen. 543, 543-44.

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