

Mar 29, 1994

Mr. Dick Tallman, Chief Deputy
Tangible Personal Property
Office of the Indian River
Property Appraiser
1840 25th Street
Vero Beach, Florida 32960

Re: Taxability of Mobile Homes
Section 193.075, F.S., as amended by
Chapter 93-132, Laws of Florida

Dear Mr. Tallman:

This is in response to your letter of February 2, 1994,
regarding the taxability of mobile homes under the following:

FACTS

1) An individual (or other legal entity) owns a mobile home dealership. Several mobile homes are set up, anchored, skirted, connected to water (not sewer) and electric and are located on a sales lot. These mobile homes seem to be used as "models" and have been on the property for several years.

Question: Are the "models" exempt from ad valorem taxation as inventory regardless of whether the individual owns the land or not? Does the taxable character of these mobile homes change if they are used as models and historically not sold but may be for sale? If so, are they taxable as tangible personal property if the individual does not own the real estate?

2) This same individual now sets up mobile homes in an organized mobile home park (not owned by him). They are anchored, connected to water, sewer and electric, skirted, etc. They are not tagged, used as models, and are for sale.

Question: If the mobile homes are owned by the individual or on a floor plan with a financing entity, are they taxable as tangible personal property since the real estate is not owned by either, and if so, to whom?

AUTHORITY

Section 193.075, F.S., as amended by section 6 of Chapter 93-132, Laws of Florida, States:

(1) A mobile home shall be taxed as real property if the owner of the mobile home is also the owner of the land on which the mobile home is permanently affixed. A mobile home shall be considered permanently affixed if it is tied down and connected to the normal and usual utilities. However, a mobile home that is permanently affixed shall not be taxed as real property if it is being held for display by a licensed mobile home dealer or a licensed mobile home manufacturer and is not rented, occupied, or located on property used for mobile home occupancy. A mobile home that is taxed as real property shall be issued an "RP" series sticker as provided in s. 320.0815.

(2) A mobile home that is not taxed as real property shall have a current license plate properly affixed as provided in s. 320.08(11). Any such mobile home without a current license plate properly affixed shall be presumed to be tangible personal property.

Section 320.77, F.S., governs the licensing of mobile home and recreational vehicle dealers and provides in part:

(6) ... The license, when so issued, shall entitle the licensee to carry on and conduct the business of a mobile home dealer... at the location set forth in the license for a period of 1 year...

(7) SUPPLEMENTAL LICENSE.--Any person licensed pursuant to this section shall be entitled to operate one or more additional places of business under a supplemental license for each such business under a supplemental license for each such business if the ownership of each business is

identical to that of the principal business for which the original license is issued.. Each supplemental license shall run concurrently with the original license and shall be issued upon application by the licensee on a form to be furnished by the department and payment of a fee of \$50 for each such license. Only one licensed dealer shall operate at the same place of business. A supplemental license authorizing off-premise sales shall be issued, at no charge to the dealer, for a period not to exceed 10 consecutive calendar days.

(9) EVIDENCE OF TITLE REQUIRED.--The licensee shall also have in his possession for each new mobile home or recreational vehicle a manufacturer's invoice of statement of origin, and for each used mobile home... a properly assigned certificate of title, or registration certificate... from the time the mobile home... is delivered to him until it has been disposed of by him.

Section 319.27 Notice of lien on motor vehicles or mobile homes; notation on certificate; recording of lien.--states in part:

(1) Each lien, mortgage, or encumbrance on a motor vehicle or mobile home titled in this state shall be noted upon the face of the Florida certificate of title or on a duplicate or corrected copy thereof, as provided by law; however, this section does not apply to any security agreement, retain title contract, conditional bill of sale chattel mortgage, or other like instrument covering any motor vehicle or mobile home floor plan stock of any licensed dealer. Except for the recording of liens upon motor vehicles or mobile homes for which no Florida certificates of title have been issued as provided in subsection (3), the department shall not be a recording office for liens on motor vehicles or mobile homes.

(3)(a) A person may file a notice of lien with regard to a motor vehicle or mobile home before a security agreement, retain title contract, conditional bill of sale, chattel mortgage, or other similar instrument is executed granting a lien, mortgage, or encumbrance on, or a security interest in, such motor vehicle or mobile home.

(b) As applied to a determination of the respective rights

of a secured party under this chapter and a lien creditor as defined by s. 679.301(3), or a nonpossessory statutory lienor, as a security interest under this chapter shall be perfected upon the filing of the notice of lien with the department, the county tax collector, or their agents.

Rule 12D-6.002, F.A.C., states in part:

(1)(d) This rule subsection shall apply to permanently affixed mobile homes which are held for display by a licensed mobile home dealer or a licensed mobile home manufacturer. The mobile home is considered tangible personal property and inventory not subject to the property tax if the following conditions are met:

1. It is being held strictly for resale as tangible personal property and is not rented or occupied; and
2. The mobile home is not used as a sales office by the mobile home dealer or mobile home manufacturer; and
3. The mobile home is not located on a parcel which is in a mobile home park, mobile home subdivision, or any other residential lot or residential parcel; and
4. The mobile home does not bear an "RP" series sticker.

RESPONSE

Response 1) Based upon the foregoing authority, the mobile homes in the first set of circumstances would be considered inventory on display whether the owner owned the lots or not, unless the models are being used by the dealer or his employees for office space, storage space, etc., and would not be subject to ad valorem taxation.

However, if the models are being utilized for other than strictly resale or display models and do not bear an "MH" tag, ad valorem tax would be due. In this event, the mobile homes would be assessed as tangible personal property of the dealer regardless of whether or not the dealer owns both the mobile home and the land since the mobile homes are not "permanently affixed: to the land as defined in section 193.075, F.S., because they do not have sewer hook ups.

Response 2) In your second situation, the mobile homes would not be taxed as real property. These mobile homes could be held as inventory for sale since they are tangible personal property and not taxed as real property.

You will note that per Department of Highway Safety and Motor Vehicle administered Chapter 320, the ownership of the property for a supplemental license must be identical to the principal business. Please note also that any other off-premise supplemental license allows sale for 10 days only. Since the mobile homes are "permanently affixed: in the mobile home park, I assume that they will be remaining on the supplemental premise (mobile home park) for longer than 10 days.

Therefore, in the event the ownership of the mobile home park and the dealership are the same, for example, where the dealer owns stock of the cooperative corporation which owns a cooperative mobile home park, the mobile homes would be assessed and taxed as real property.

The MSO or title (if applicable) would indicate ownership of these homes by the dealer, regardless of the financing arrangement since the lien, mortgage or encumbrance would be noted on the face of the title. Therefore, it would be the dealer's tax liability in any of the situations where the mobile homes would be assessable.

CONCLUSION

This response constitutes technical advice which may be determinative with respect to the Department only under the facts and circumstances described in the request for advice. The response is predicated upon those facts and the specific situations summarized herein. Subsequent statutory or administrative rule changes or judicial interpretation of the statutes or rules upon which this advice is based may subject similar future transactions to a different treatment than expressed in this response.

Should you care to discuss this further, please feel free to write or call me at (904) 488-9479.

Sincerely,

Jane Courson
Technical Assistant