



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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Executive Director

No. 2000/003

January 7, 2000

TO COUNTY ASSESSORS;  
COUNTY COUNSELS; AND  
OTHER INTERESTED PARTIES:

NOTICE OF PROPOSED REGULATORY ACTION  
BY THE  
STATE BOARD OF EQUALIZATION

ADOPT PROPERTY TAX RULE 153 - LIQUEFIED PETROLEUM GAS TANKS

PUBLIC HEARING: WEDNESDAY, FEBRUARY 23, 2000 AT 1:30 P.M.

NOTICE IS HEREBY GIVEN:

The State Board of Equalization, pursuant to the authority vested in the Board by section 15606 (c) of the Government Code, proposes to adopt Rule 153 - Liquefied Petroleum Gas Tanks, in Title 18, Division 1 of the California Code of Regulations. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on February 23, 2000. Any person interested may present statements or arguments orally at that time and place. Written statements or arguments will be considered by the Board if received by February 23, 2000.

INFORMATIVE DIGEST

Rule 153 is proposed to be added to provide guidance on the valuation of propane tanks pursuant to the authority given the Board under Government Code section 15606, subdivision (c), to prescribe rules and regulations to govern local boards of equalization when equalizing and assessors when assessing. The proposed rule clarifies issues related to this type of property which are not specifically addressed in statutes or rules, and provides for uniformity in the assessment of liquefied petroleum gas tanks.

Liquefied petroleum gas tanks, similar to most other types of property, must be valued at the price to the consumer of the property, in most instances. (An exception set forth in Property Tax Rule 10 regarding property leased for a period of six months or less is carried forward in proposed Rule 153.) It is often difficult to determine whether the consumer of the tank is the consumer of the propane gas, or the supplier of the gas. Proposed Rule 153 identifies the ultimate consumer of the tank for assessment purposes by providing specific criteria to be

applied to the factual determination in each situation. The proposed rule also defines the term “liquefied petroleum gas tank” to include related equipment, apparatus, gauges and meters attached to or installed on the tank.

The express terms of the proposed action, written in plain English, are available from the agency contact person named in this notice.

#### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed adoption of Rule 153 does not impose a mandate on local agencies or school districts. Further, the Board has determined that the new rule will result in no additional direct or indirect costs to any State agency or any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, and that there are no other non-discretionary costs or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

#### EFFECT ON BUSINESS

Pursuant to Government Code Section 11346.53(c), the Board of Equalization finds that the adoption of Rule 153 will not have a significant adverse economic impact on business, because the new rule only clarifies existing constitutional and statutory interpretations.

The adoption of this rule will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The adoption of the rule as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed adoption of the rule will not affect small business because the new rule only clarifies existing statutory interpretations.

#### ADVERSE ECONOMIC IMPACT ON PRIVATE PERSONS/BUSINESSES

There will be no adverse economic impact on private businesses or persons because the proposed new rule only clarifies existing statutory interpretations.

#### SIGNIFICANT EFFECT ON HOUSING COSTS

The adoption of Rule 153 will not have any significant effect on housing costs.

#### FEDERAL REGULATIONS

Rule 153 has no comparable Federal regulations.

#### PLAIN ENGLISH STATEMENT

Preparation of the proposed amendment to Rule 153 included consideration of the “plain English” requirement. Any technical terms that may be unfamiliar to the intended users and are not industry-recognized are defined or explained.

**AUTHORITY**

Government Code section 15606, subdivision (c).

**REFERENCE**

California Constitution, article XIII, section 1(a). Revenue and Taxation Code sections 110 and 401.

**CONTACT**

Questions regarding the content of the proposed regulation should be directed to: Mr. Daniel G. Nauman, Tax Counsel, at P.O. Box 942879, 450 N Street, MIC:82, Sacramento, CA 94279-0082. Telephone: (916) 324-2655; FAX (916) 323-3387.

Written comments for the Board's consideration or requests to present testimony and bring witnesses to the public hearing should be directed to Ms. Mary Ann Stumpf, Regulations Coordinator, at P. O. Box 942879, 450 N Street, MIC:80, Sacramento, CA 94279-0080. Telephone: (916) 322-9569. FAX: (916) 324-3984.

**ALTERNATIVES CONSIDERED**

The Board must determine that no alternative considered would be more effective in carrying out the purpose for which this action is proposed or be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF STATEMENT OF REASONS AND OF TEXT OF PROPOSED REGULATIONS**

The Board has prepared a statement of reasons and underscore version of the proposed rule. Those documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. Requests for copies should be addressed to Ms. Mary Ann Stumpf, Regulations Coordinator, (916) 322-9569, at P. O. Box 942879, 450 N Street, MIC:80, Sacramento, CA 94279-0080. The express terms of the proposed rule are available on the internet at the Board's website <http://www.boe.ca.gov>.

**ADDITIONAL COMMENTS**

Following the hearing, the State Board of Equalization may in accordance with law adopt the proposed rule if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified rule will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified rule will be available to the public from Ms. Stumpf. The State Board of Equalization will consider written comments on the modified rule for fifteen days after the date on which the modified rule is made available to the public.

TO COUNTY ASSESSORS

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January 7, 2000

Dated: December 20, 1999

STATE BOARD OF EQUALIZATION

/s/ Janice Masterton

Janice Masterton, Chief  
Board Proceedings Division

**Rule 153. LIQUEFIED PETROLEUM GAS TANKS**

(a) Definition. For purposes of this regulation, the term "liquefied petroleum gas tank" (LPG tank) means and includes a tank used as a means of storage, delivery, or transfer of liquefied petroleum gas products. The term also includes related equipment, apparatus, gauges and meters, attached to or installed on the tank.

(b) An LPG tank shall be considered leased or rented if the purchaser of the liquefied petroleum gas is required to pay: (1) sales or use tax measured by the purchase price or a separately stated lease or rental price of the tank; or (2) installation fees or charges, maintenance fees or charges, rent, or any other separately stated periodic charge on the LPG tank.

(c) The ultimate consumer of an LPG tank is determined as follows:

(1) A lessee or renter of an LPG tank, as defined in subdivision (b), is the ultimate consumer of the tank for the purposes of this regulation if the property is leased or rented for an extended but unspecified period or for a term of more than six months.

(2) The owner of the LPG tank is the ultimate consumer of the tank for purposes of this regulation if the property is leased or rented, as defined in subdivision (b), for a period of six months or less.

(3) The owner of the LPG tank is the ultimate consumer of the tank if: (i) the LPG tank is not considered leased or rented pursuant to subdivision (b) of this regulation; and, (ii) the LPG tank is not considered exempt business inventory in accordance with regulation 133.

(d) LPG tanks shall be valued in the hands of the ultimate consumer as defined in subdivision (c) of this regulation, and in accordance with regulations 4, 6, 8, and 10; provided, however, that in applying regulation 10, the term "loaned" in reference to tanks and references to the tax situs in subdivisions (c) and (d) shall not be factors in valuing the LPG tanks.

Note: Authority: Section 15606(c), Government Code.

Reference: Article XIII, section 1(a), California Constitution. Sections 110 and 401, Revenue and Taxation Code.