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August 5, 2005

TO COUNTY ASSESSORS AND INTERESTED PARTIES:

No. 2005/051

PROPOSED PROPERTY TAX RULE 23.2,
VALUATION OF INTERESTS IN PUBLICLY OWNED PORTS AND HARBORS

On June 30, 2005, the Honorable Claude Parrish, Chairman of the Board's Property Tax Committee, presented proposed Property Tax Rule 23.2, *Valuation of Interests in Publicly Owned Ports and Harbors*, to the committee. After hearing testimony, the committee referred Rule 23.2 to the interested parties process for further discussions.

Enclosed is a copy of the current language of proposed Rule 23.2. We are soliciting comments on the current rule language and suggestions for additional topics that should be included in the proposed rule. Comments and suggestions should be submitted by September 30, 2005 to Ms. Sherrie Kinkle at sherrie.kinkle@boe.ca.gov, or mailed to:

Ms. Sherrie Kinkle
State Board of Equalization
Assessment Policy and Standards Division
P. O. Box 942879
Sacramento, CA 94279-0064

Upon reviewing the submitted comments and suggestions, this project will proceed as follows:

- ◆ Staff will meet with interested parties in November 2005 to discuss the proposed rule.
- ◆ Tentatively, the Property Tax Committee will hear presentations on issues regarding the language for proposed Rule 23.2 in January 2006.

This letter and all documents regarding this project will be posted on the Board's website at www.boe.ca.gov/proptaxes/portsharbors05.htm. If you have questions regarding this project, you may contact Ms. Kinkle at 916-322-2921.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:sk
Enclosure

DRAFT

PROPOSED RULE 23.2. VALUATION OF INTERESTS IN PUBLICLY OWNED PORTS AND HARBORS.

Authority: Section 15606(c), Government Code.

Reference: Article XIII, Section 1, California Constitution; Article XIII A, Section 2, California Constitution; Sections 51, 107, 110, and 110.1, Revenue and Taxation Code.

(a) The provisions of this rule apply to the valuation of taxable possessory interests that are interests created by a written agreement for the lease of terminals, cargo handling facilities, offices, retail facilities, automobile parking lots, storage and maintenance facilities and other buildings and land in publicly owned ports and harbors.

(b) GENERAL.

(1) The unique nature of publicly owned ports and harbors requires the application of specialized appraisal techniques designed to satisfy the requirements of article XIII, section 1, and article XIII A, section 2, of the California Constitution. To this end, taxable possessory interests in publicly owned ports and harbors shall be valued pursuant to the principles and procedures set forth in this section.

(2) Except as provided in this section, assessors will apply any appropriate valuation method described in section 21 of title 18 of this code when determining the assessed value of a taxable possessory interest in a publicly owned port or harbor.

(c) DEFINITION. For the purposes of this section:

(1) "Publicly owned port or harbor" means any port or harbor owned by the federal government, the State of California, or any of its political subdivisions.

(d) TERM OF POSSESSION FOR VALUATION PURPOSES. For the purposes of this section:

(1) The term of possession for valuation purposes shall be the reasonably anticipated term of possession. The term of possession stated in the written document creating the taxable possessory interest shall be deemed the reasonably anticipated term of possession unless it is demonstrated by a preponderance of the evidence that the reasonably anticipated term of possession is shorter or longer than the stated term of possession.

(2) Evidence demonstrating that the reasonably anticipated term of possession is shorter or longer than the stated term of possession must go beyond unsubstantiated expectations of the parties. In determining the reasonably anticipated term of possession, the assessor shall be guided by the stated term of the lease, as well as the intent of the public owner and the possessor, as evidenced by the following criteria:

(A) The sale price of the subject taxable possessory interest and sales prices of comparable taxable possessory interests.

(B) The rules, policies, and customs of the public owner.

(C) The customs and practices of the private possessor.

(D) The history of the relationship of the public owner and the private possessor and the histories of the relationships of that public owner and similarly situated private possessors.

(E) The actions of the parties to the subject taxable possessory interest, including any amounts invested in improvements by the public owner or the private possessor.

(F) The remaining economic life of any improvements owned by the possessor.

(G) The stated terms of comparable possessory interests as of the date of value demonstrating the intent of the public owner.