

Memorandum

To: Ms. Cynthia Bridges
Executive Director, MIC: 73

Date: January 6, 2015

From: Randy Ferris *RMF*
Chief Counsel

Subject: Board Meeting, January 21, 2015
Item J – Chief Counsel’s Rulemaking Calendar
Regulation 472, Valuation of Real Property Interests in Timeshare Estates and Timeshare Uses
Regulation 902, Unitary Property Value Indicators and Staff Discussions
Regulation 904, Unitary and Nonunitary Property Value Determinations and Petitions for Reassessment

We request your approval to place proposed changes to Property Tax Rules (Rules)¹ 472, *Valuation of Real Property Interests in Timeshare Estates and Timeshare Uses*, 902, *Unitary Property Value Indicators and Staff Discussions*, and 904, *Unitary and Nonunitary Property Value Determinations and Petitions for Reassessment*, on the Chief Counsel’s Rulemaking Calendar for the January 21, 2015, Board meeting.

Property Tax Rule 472, *Valuation of Real Property Interests in Timeshare Estates and Timeshare Uses*

Subdivision (a) of Rule 472 currently refers to a “timeshare estate or timeshare use, as defined in Section 11003.5 of the Business and Professions Code.” However, section 4 of Assembly Bill No. (AB) 2252 (Stats. 2004, ch. 697) repealed Business and Professions Code (BPC) section 11003.5, including subdivisions (b) and (c), which formerly defined the terms “time-share estate” and “time-share use.” Section 14 of AB 2252 also added chapter 2 (commencing with section 11210) to part 2 of division 4 of the BPC, which may be cited as the “Vacation Ownership and Time-share Act of 2004” (the Act), to provide more comprehensive state regulation of time-share plans and exchange programs, effective July 1, 2005. As relevant here, BPC section 11212 was included in the Act, and section 11212, subdivision (x), currently defines the terms “time-share estate” and “time-share use” for purposes of the Act. The proposed changes make Rule 472 consistent with the repeal of BPC section 11003.5 and the enactment of BPC section 11212 by replacing the reference to section 11003.5 with a reference to section 11212, so that Rule 472 refers to the current statutory definitions of “timeshare estate” and “timeshare use.”

Property Tax Rule 902, *Unitary Property Value Indicators and Staff Discussions*

¹ All references to Property Tax Rules or Rules are to sections of title 18 of the California Code of Regulations.

Rule 902 currently refers to the “Valuation Division” as the State Board of Equalization (Board) division that prepares capitalization rate studies and develops value indicators applicable to the unitary property of each state assessee, and refers to the Chief of the “Valuation Division” as the person responsible for providing such information to each affected assessee upon request. As a result of a department-wide reorganization of the Board’s Property and Special Taxes Department, on January 1, 2007, the duties formerly assigned to the “Valuation Division” were assigned to the newly created “State-Assessed Properties Division.”² The proposed changes replace the rule’s references to the “Valuation Division” with references to the “State-Assessed Properties Division” to make Rule 902 consistent with the current name of the division responsible for performing the duties referred to in the rule. In addition, the proposed changes will make Rule 902 consistent with Rules for Tax Appeals Regulations³ 5311, subdivision (l), and 5322, subdivision (a), which respectively define “State-Assessed Properties Division” and explain that that “State-Assessed Properties Division” is currently responsible for performing the capitalization rate studies and developing the value indicators referred to in Rule 902.

Property Tax Rule 904, *Unitary and Nonunitary Property Value Determinations and Petitions for Reassessment*

Similar to Rule 902, discussed above, Rule 904 also refers to the “Valuation Division,” in this case, to identify the Chief of the “Valuation Division” as the person responsible for notifying state assesses of unitary and nonunitary property value determinations, allocated assessed unitary values, and of their deadlines to file petitions for reassessment and petitions for correction. In addition, subdivision (a) of Rule 904 contains a typographical error where it states that a petition for reassessment must be filed, if at all, “not later *then* July 20.” (Emphasis added.) Because of the department-wide reorganization of the Board’s Property and Special Taxes Department, as described above, the proposed changes update Rule 904 by replacing the reference to the “Valuation Division” with a reference to the “State-Assessed Properties Division.” In addition, the proposed changes make subdivision (a) of Rule 904 grammatically correct by replacing “then” with “than.”

Conclusion

Based on the foregoing, Board staff will request the Board’s authorization to change Property Tax Rules 472, 902, and 904 under California Code of Regulations, title 1, section (Rule) 100, without the normal notice and public hearing process. These changes are appropriate for processing under Rule 100 because they make Rule 472 consistent with current law, update Rules 902 and 904 to refer to the division or the chief of the division currently responsible for performing the duties referred to in the rules, correct a typographical error in Rule 902, and do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Attached are strikeouts and underlined versions of Property Tax Rules 472, 902, and 904, illustrating the proposed changes.

²For more information regarding the department-wide reorganization, see Letter to Assessors 2007/009, *Realignment of the Property and Special Taxes Department*.

³ The Rules for Tax Appeals Regulations are codified in division 2.1 of title 18 of the California Code of Regulations.

If you have any questions regarding this request, please let me know or contact Mr. Bradley Heller at 916-323-3091.

Recommendation by:

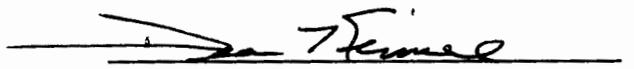
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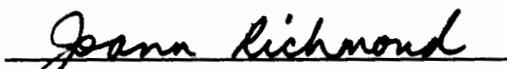

Randy Ferris, Chief Counsel


Cynthia Bridges, Executive Director

Approved:

BOARD APPROVED
At the 1-21-15 Board Meeting


Dean Kinnee, Acting Deputy Director
Property and Special Taxes Department


Joann Richmond, Chief
Board Proceedings Division

RF:BH:yg

Attachments

- cc: Mr. David Gau MIC:73
- Mr. Dean Kinnee MIC:64
- Ms. Joann Richmond MIC:80
- Mr. Robert Tucker MIC:82
- Mr. Richard Moon MIC:82
- Mr. Bradley M. Heller MIC:82
- Ms. Glenna Schultz MIC:64
- Mr. Benjamin Tang MIC:64

Text of Proposed Changes to
California Code of Regulations, Title 18, Section 472

Rule 472. Valuation of Real Property Interests in Timeshare Estates and Timeshare Uses.

(a) The full value of the real property interest of a timeshare estate or a timeshare use, as defined in ~~Section 11003.5~~section 11212 of the Business and Professions Code, shall be determined in accordance with the provisions of this section.

(b) In determining the value of the real property interest of a timeshare estate or use, consideration shall be given to the following factors which are unique to such interests:

(1) The fact that the timeshare estate or use is marketed in increments of time.

(2) The season of the year during which the owner is entitled to the right to use or possession of the property.

(c) The full value of the real property interest of a timeshare estate or use shall not include the value of any personal property or other nonreal property items. Such items include, but are not limited to, vacation exchange rights, vacation conveniences and services, and club memberships, as defined in subdivisions (d), (e), and (f).

The value of any nonreal property items included in the purchase price of a timeshare estate or use which are provided to the timeshare interest owner in exchange for a periodic fee or charge which is separate from the purchase price of the timeshare estate or use shall not be considered in the determination of the full value of the real property of the timeshare estate or use.

(d) "Nonreal property vacation exchange rights" shall include, but not be limited to, internal and external exchanges. An internal exchange means an exchange arranged by the timeshare project developer or operator for a timeshare estate or use owner between two or more resorts owned by the same developer or operator. An external exchange means an exchange arranged by an independent exchange network, which has a contractual relationship with either the timeshare project development or the individual timeshare owner.

(e) "Nonreal property vacation conveniences and services" shall include, but not be limited to:

(1) The owner's right to participate in exchange network.

(2) Maintenance and repair of buildings (interior and exterior) and grounds.

(3) Maid, meal, linen, and security guard services.

(4) Transportation, scheduling, and reservation services.

(5) Management services necessary for the administration of the operation of the property.

(6) The services of personnel charged with providing social or recreational instruction and planned activities.

(f) "Nonreal property club memberships" shall include memberships in recreational enterprises that are in the nature of licenses or permits to use real property but do not grant ownership interests in that property. Evidence that a membership grants a license or permit rather than an ownership interest includes, but is not limited to, the fact that the membership is offered as an option to timeshare purchases and that such memberships are also offered to others who do not own timeshare estates or uses.

(g) In determining the full value of the real property interest of a timeshare estate or use, the assessor shall consider the value concepts and approaches set forth in Sections 2, 3, 4, 6, and 8 of this chapter.

(h) The assessor may determine the value of the timeshare appraisal unit by the following method:

(1) Determine the full value of resort properties, condominiums, cooperatives, or other properties not marketed in increments of time but which are comparable to the subject property in terms of size, type, and location. Divide such full value by a unit of time equal to the timeshare interest being valued.

(2) Add to or subtract from the non-timeshare value quotient determined in (1), an amount necessary to reflect any increase or decrease in such value attributable to the fact that the subject property is marketed in increments of time and, if applicable, for a particular season.

(i) In addition to the method set forth in subdivision (h), the assessor may utilize any generally recognized alternative method of valuation to determine the full value of the real property of a timeshare estate or use.

(j) Nothing in this section shall be construed as requiring the assessment of a timeshare appraisal unit at less than full value as required by Section 401 of the Revenue and Taxation Code and as defined in Section 2 of this chapter.

(k) The provisions of this section are declaratory of, and not a change in existing law and are therefore applicable to the determination of all base year values for the real property interest of timeshare estates and uses.

Note: Authority cited: Section 15606, Government Code; and Section 998(e), Revenue and Taxation Code. Reference: Section 998, Revenue and Taxation Code.

Text of Proposed Changes to
California Code of Regulations, Title 18, Section 902

Rule 902. Unitary Property Value Indicators and Staff Discussions.

Each year the ~~Valuation~~State-Assessed Properties Division shall make capitalization rate studies and develop value indicators applicable to the unitary property of each state assessee. A copy of the appropriate capitalization rate study and a summary of the calculations of the value indicators shall be provided by the Chief, ~~Valuation~~State-Assessed Properties Division, to the affected assessee on request. The assessee shall be informed that the staff will be available to discuss the data supplied.

Note: Authority cited: Section 15606, Government Code. Reference: Section 721, Revenue and Taxation Code.

Text of Proposed Changes to
California Code of Regulations, Title 18, Section 904

Rule 904. Unitary and Nonunitary Property Value Determinations and Petitions for Reassessment.

(a) As soon as practical, the staff shall transmit unitary-value recommendations to the Board. Following this, but no later than May 31 each year, the Board will make and publicly announce individual value determinations. The Chief of the ~~Valuation~~State-Assessed Properties Division shall notify the state assessees of the values determined by the Board and the fact that a petition for reassessment of the unitary property must be filed, if at all, not later ~~than~~on July 20 of the year of the notice. The notice shall be accompanied by a copy of an appraisal data sheet containing the staff value indicators and value recommendation to the Board.

(b) On or before the last day of July, the Chief of the ~~Valuation~~State-Assessed Properties Division shall notify the state assessees of the values of nonunitary property. This notice shall inform the assessees that a petition for reassessment of nonunitary property must be filed, if at all, not later than September 20 of the year of the notice.

(c) On or before June 15, the Chief of the ~~Valuation~~State-Assessed Properties Division shall transmit notices of allocated assessed unitary values to each assessee. This notice will inform each assessee that a petition for a correction of an allocated assessment must be filed, if at all, no later than July 20 of the year of the notice.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 731, 732, and 746, Revenue and Taxation Code.