

Memorandum

To: Honorable Judy Chu, Ph.D., Chair
Honorable Betty T. Yee, Vice Chairwoman
Honorable Bill Leonard
Honorable Michele Steel
Honorable John Chiang

Date: May 13, 2008

From: Kristine Cazadd
Chief Counsel



Subject: **State-Assessed Property Tax Appeals – Guidelines for Review and
Consideration of Unsolicited, Untimely Materials
May 29, 2008 Board Meeting – Property Tax Matters – Item L**

This memorandum sets forth guidelines for the review, distribution, and consideration of unsolicited briefs and evidence submitted by petitioners in state-assessed property tax appeals after the stated regulatory deadlines have expired. These guidelines were developed in accordance with the Board's recommendations from the April 8, 2008, Board meeting. Under the guidelines, petitioners are expected to comply with the deadlines specified in the Rules for Tax Appeals (RTA), but copies of any unsolicited, late evidence will still be provided to the Appeals Division, the State-Assessed Properties Division (SAPD), the Tax and Fee Programs Division (T&FPD), and the Board Members so that it may be considered by the Board Members at their discretion. The remainder of this memorandum describes the deadlines for filing briefs and submitting evidence, explains that unsolicited, late briefs will be rejected, and describes how unsolicited, late evidence will be distributed, reviewed, and considered.

Procedures Under the RTA

Briefing Process

A petition is considered the opening brief in a state-assessed property tax appeal. The SAPD reviews the petition, prepares a written analysis in response to the arguments made in the petition, and submits it to the Board Proceedings Division (BPD) for distribution to the petitioner, the Appeals Division, and the Board Members. (RTA 5326 and 5327.6.) The petitioner may respond to the SAPD's analysis by filing a reply brief no later than 15 days after

the date the BPD distributes the analysis. Generally, a petitioner may not submit new or additional evidence with the reply brief, unless the evidence was requested by the SAPD or the Appeals Division. (RTA 5326.2 and 5326.6.) After the regular briefing schedule, the Appeals Division, an individual Board Member, or the Board may request additional briefing from the petitioner and the SAPD. (RTA 5341.) No other briefs will be accepted for filing or distributed to the Board Members. At the conclusion of the briefing process, the Appeals Division will prepare a Hearing Summary for a petition scheduled for an oral hearing or a Summary Decision for a petition scheduled on a nonappearance calendar.

RTA Requirements for the Timely Submission of Evidence

Petitioners must file all of their “supporting documents, including appraisal reports, financial studies, and any other materials relevant to determining the value of the petitioner’s property or reasons why the penalty should be abated,” at the time they file their petitions (RTA 5323.4) or at a later time, if an extension is granted by the Chief Counsel. (RTA 5324.2.) After a petition is filed, petitioners may meet with the SAPD and the T&FPD and exchange relevant information and evidence. (RTA 5325.) During the appeals process, the SAPD, T&FPD, and/or the Appeals Division may request additional evidence from petitioners in order to evaluate their petitions. (RTA 5324.6 and 5325.) In addition, “the Appeals Division may request additional information or analysis from the petitioner or the State-Assessed Properties Division to assist in resolving any issue to be decided by the Board,” during the pre-hearing review of a petition. (RTA 5325.6.) Additionally, any Board Member may, before or at the hearing, permit or request the submission of evidence that was not previously filed with the Board. (RTA 5324.6.) All of the evidence submitted pursuant to these provisions of the RTA will be reviewed and responded to by the SAPD and the T&FPD and summarized by the Appeals Division, and may be considered by the Board Members.

Guidelines for Handling Unsolicited, Untimely Evidence

If a petitioner submits evidence that has not been requested by the SAPD, the T&FPD, the Appeals Division, or a Board Member after filing its petition and meeting with SAPD to exchange evidence and information, the BPD will send the petitioner an acknowledgement letter and provide copies of the evidence to the SAPD, the T&FPD, the Appeals Division, and the Board Members. The acknowledgement letter will notify the petitioner that the evidence is untimely and may not be considered by the Board. If a petitioner submits unsolicited, late evidence directly to the Appeals Division, the Appeals Division will forward it to the BPD so that it can be acknowledged and copies sent in accordance with the foregoing process.

Evidence submitted at least 7 business days prior to a Board meeting

If a petitioner submits evidence that has not been requested by the SAPD, the T&FPD, the Appeals Division, or a Board Member, after filing its petition and meeting with SAPD to exchange evidence, but the evidence is submitted *at least seven business days* before scheduled Board action on the petition:

1. The SAPD will review the evidence and submit a response to the Appeals Division. The SAPD's response may include comments on the relevancy of the evidence and an objection that the evidence is untimely and should not be considered by the Board. (RTA 5523.6.)
2. The Appeals Division will review and summarize the evidence and the SAPD's response in a revised Hearing Summary or revised Summary Decision. The revised Hearing Summary or revised Summary Decision will also note that the evidence is late and include the Appeals Division's comments about its relevance. The SAPD's response will be attached as an exhibit to the revised Hearing Summary or revised Summary Decision.
3. No less than 3 days before the date of the Board meeting, the Appeals Division's revised Hearing Summary or revised Summary Decision will be distributed to the petitioner, the SAPD, the T&FPD, and the Board Members.
4. The Board Members may choose to give the evidence little or no weight based upon its relevancy or reject the evidence in its entirety because it was late. (RTA 5324.6 and 5523.6.)

Evidence submitted less than 7 business days before Board meeting

If a petitioner submits additional evidence of value that was not requested by the SAPD, the T&FPD, the Appeals Division, or a Board Member *less than seven business days* prior to the scheduled Board action on the petition:

1. The SAPD and the T&FPD may review the evidence, if time permits, but will not be expected to provide a response to the petitioner, the Appeals Division, or the Board Members prior to scheduled Board action on the petition. At the petitioner's hearing, the SAPD may object to the Board's consideration of the evidence because it is late and recommend that the Board Members give the evidence little or no weight or reject it in its entirety because it was not thoroughly reviewed by SAPD and/or T&FPD. (RTA 5324.6 and 5523.6.)
2. The Appeals Division may review the evidence, if time permits, but will not prepare a revised Hearing Summary or revised Summary Decision to summarize the evidence. If requested by a Board Member prior to or at the petitioner's hearing, the Appeals Division will comment on the relevancy of the unsolicited, late evidence and may concur with the SAPD's objection to the Board's consideration of the evidence.
3. The Board Members may choose to give the evidence little or no weight based upon its relevancy or because the evidence was not thoroughly reviewed by the SAPD, the T&FPD, and the Appeals Division, or reject the evidence in its entirety because it was late. (RTA 5324.6 and 5523.6.)

If these procedures are satisfactory, staff will post these guidelines on the Board's Website and revise the Notices of Unitary Value, Allocated Assessed Value and Nonunitary Value to reference and direct state assessees to the guidelines on the website. Drafts of the revised notices are attached. In addition, the Appeals Division will provide petitioners with a copy of the guidelines at their appeals conferences.

If you have any questions please contact Louis Ambrose, Tax Counsel IV, Appeals Division, at (916) 445-5580.

Approved by: _____


Ramon J. Hirsig

KC:bb

Attachments: Notices of Unitary Value, Allocated Assessed Value and Nonunitary Value to reference

cc: Mr. Ramon Hirsig MIC:73
Mr. David Gau MIC:63
Mr. Jeff Vest MIC:85
Mr. Randy Ferris MIC:82
Mr. Stanley Siu MIC:61
Mr. Louis Ambrose MIC:85
Mr. Richard Moon MIC:82
Mr. Brad Heller MIC:82



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MICHELLE STEEL
Third District, Rolling Hills Estates

JUDY CHU
Fourth District, Los Angeles

JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

June 1, 2007

Mail Merge

Dear :

NOTICE OF UNITARY ASSESSED VALUE
(Revenue and Taxation Code section 731)

This is to notify you of the 2007 assessed value of the above company's unitary property as determined by the Board. The assessed value will be 100 percent of the Board-adopted unitary value. Any penalty assessed pursuant to Revenue and Taxation Code section 830 will be added to the Board-adopted unitary value.

Board-Adopted Unitary Value	\$
Penalty	_____
Total Board-Adopted Unitary Value	<u> </u> \$

Enclosed is a copy of the *Appraisal Data Report* containing the State-Assessed Properties Division staff's value indicators and the staff's recommendation to the Board. Summary worksheets for these indicators are available and will be provided upon request. You may also examine and copy any documents related to the assessed value, which do not constitute confidential or privileged communications. Please contact the State-Assessed Properties Division if you have any questions.

If you wish to appeal the Board-adopted unitary value or penalty, a petition for reassessment and/or abatement of the penalty must be filed no later than July 20, 2007, pursuant to Revenue and Taxation Code section 731. The Board must decide all petitions on or before December 31, 2007, pursuant to Revenue and Taxation Code section 744.

Petitions must conform to the requirements set forth in Regulation 5323.4, Title 18, California Code of Regulations and include all of your supporting documents, such as appraisal reports, financial studies, and other evidence of value. Please complete form BOE-529-A, *Petition for Unitary Property Reassessment*, as part of your petition. Form BOE-529-A is available on the Board's website at www.boe.ca.gov/proptaxes/pdf/boe529A.pdf.

Subdivision (b)(6) of Regulation 5323.4 requires that, if a petition is filed by an agent, other than an attorney licensed to practice in the State of California, form BOE-892, *Statement of Authorization*, or a power of attorney satisfying the requirements of Regulation 5523.1, must be

filed with the petition. Form BOE-892 is available on the Board's website at <http://www.boe.ca.gov/proptaxes/pdf/boe892.pdf>.

Additionally, please be advised that Regulation 5323.6 requires that the original petition and supporting documents, together with 10 copies thereof, be submitted to the Chief of Board Proceedings. However, you may submit a compact disc containing an electronic file conforming to the requirements of the Board Proceedings Division in lieu of the 10 copies. Please submit such documents to:

**Chief Board Proceedings Division
State Board of Equalization
450 N Street, MIC: 81
PO Box 942879
Sacramento, CA 94279-0081**

If your petition is valid and timely filed, and you have requested an oral Board hearing in your petition, you will be notified of the time and place of the hearing.

Please see _____ for additional information regarding the submission of evidence and briefs during the petition process. Also, please contact Ms. Joann Richmond, Property Tax Appeals Analyst, at 916-322-1931 if you have any questions concerning the petition process.

Sincerely,

Stanley Y. Siu, Chief
State-Assessed Properties Division

SYS:mlt
Enclosure



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JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

[date]

Mail Merge

Dear :

**NOTICE OF ALLOCATIONS OF UNITARY ASSESSED VALUE
AND PROPOSED ASSESSED VALUES OF NONUNITARY PROPERTY**
(Revenue and Taxation Code section 746)

Enclosed is the lien date 2007 *Allocations of the Assessed Value of State-Assessed Property* report for the above state assessee. This report provides the following:

- The assessee’s unitary assessment allocations
- Proposed assessed values of the assessee’s nonunitary property as of January 1, 2007

For your convenience, the following documents are also enclosed:

- *Non-Fee Status Long Description List* - This list can be used to determine the description of the non-fee status of land parcels that contain a description number in the “Description of Property” section of the report.
- *Class of Property Table List* - This list contains a description for each class of property code used in the *Allocations of the Assessed Value of State-Assessed Property* report.

The assessments and the data upon which they are based are available for inspection in this office.

Please check this report carefully. If you find any errors or omissions, please notify the State-Assessed Properties Division immediately at 916-322-2323.

PETITION FOR CORRECTION OF ALLOCATED ASSESSMENT

If you wish to petition for a correction of an allocated assessment, California Revenue and Taxation Code section 746 provides that a petition must be filed with this agency no later than July 20, 2007. California Revenue and Taxation Code section 749 provides that a hearing on such a petition shall be held and a decision rendered on or before December 31, 2007.

Petitions must conform to the requirements set forth in Regulation 5323.4, Title 18, California Code of Regulations and include all of your supporting documents, such as appraisal reports, financial studies, and evidence of value. Please complete form BOE-529-A, *Petition for Unitary*

Property Reassessment, which is available on the Board's website at www.boe.ca.gov as part of your petition.

Subdivision (b)(6) of Regulation 5323.4 requires that if a petition is filed by an agent, other than an attorney licensed to practice in the State of California, then a form BOE-892, *Statement of Authorization*, or a power of attorney satisfying the requirements of Regulation 5523.1, must be filed with the petition. Form BOE-892 is available on the Board's website.

Additionally, please be advised that Regulation 5323.6 requires that the original petition and supporting documents, together with 10 copies thereof, must be submitted to the Chief of Board Proceedings. However, you may submit a compact disc containing an electronic file conforming to the requirements of the Board Proceedings Division in lieu of the 10 copies. Please submit such documents to:

**Chief Board Proceedings Division
State Board of Equalization
450 N Street, MIC: 81
PO Box 942879
Sacramento, CA 94279-0081**

If your petition is valid and timely filed, and you have requested an oral Board hearing in your petition, you will be notified of the time and place of the hearing.

Please see _____ for additional information regarding the submission of evidence and briefs during the petition process. Also, please contact Ms. Joann Richmond, Property Tax Appeals Analyst, at 916-322-1931 if you have any questions concerning the petition process.

PETITION FOR REASSESSMENT OF NONUNITARY VALUE

The nonunitary assessed values shown on the enclosed report are the State-Assessed Properties Division's recommendations to the Board. The Board is scheduled to adopt nonunitary values on July 18, 2007. Upon adoption of the nonunitary values, you will receive official notice of the total adopted nonunitary value and of your appeal rights.

Sincerely,

Stanley Y. Siu, Chief
State-Assessed Properties Division

SYS:mlt
Enclosures



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JOHN CHIANG
 State Controller

RAMON J. HIRSIG
 Executive Director

[Date]

[address]

NOTICE OF ASSESSMENT AND LEVY OF TAX
PRIVATE RAILROAD CAR TAX
 (Revenue and Taxation Code section 11336)

THIS IS NOT A BILL. DO NOT PAY FROM THIS NOTICE.

This is to inform you of the 2007 value of your private railroad car(s) as determined by the Board. The 2007 assessed value is 60.97 percent of the Board-adopted value calculated pursuant to Revenue and Taxation Code section 11292, plus penalty if applicable.

Equivalent Number of Cars in California	
Board-Adopted Value	\$
Assessed Value	
Penalty for Late Filing (R&T Code section 11273)	
Penalty for Failure to File (R&T Code section 11316)	
Penalty for Willful Failure to File (R&T Code section 11316)	
Total Assessed Value	\$
Tax at the Rate of 1.096% of Assessed Value	\$

Enclosed with this notice is a copy of staff's working papers. **Do not pay from this notice.** A tax bill will be mailed on or before October 15, 2007.

Please contact Ms. Brandi Blasi at 916-324-2747 or at Brandi.Blasi@boe.ca.gov if you have any questions concerning this notice.

If you wish to appeal the Board-adopted value or penalty, a petition for reassessment and/or abatement of the penalty must be filed no later than September 20, 2007, pursuant to Revenue and Taxation Code section 11338. California Revenue and Taxation Code section 11338 provides that a hearing on such a petition shall be held and a decision rendered on or before January 31, 2008.

Petitions must conform to the requirements set forth in Regulation 5323.4, Title 18, California Code of Regulations and include all of your supporting documents, such as appraisal reports, financial studies, and evidence of value. Please complete form BOE-529-A, *Petition for Unitary Property Reassessment*, which is available on the Board's website at www.boe.ca.gov as part of your petition.

Subdivision (b)(6) of Regulation 5323.4 requires that, if a petition is filed by an agent, other than an attorney licensed to practice in the State of California, then a form BOE-892, *Statement of*

Authorization, or a power of attorney satisfying the requirements of Regulation 5523.1, must be filed with the petition. Form BOE-892 is also available on the Board's website.

Additionally, please be advised that Regulation 5323.6 requires that the original petition and supporting documents, together with 10 copies thereof, must be submitted to the Chief of Board Proceedings. However, you may submit a compact disc containing an electronic file conforming to the requirements of the Board Proceedings Division in lieu of the 10 copies. Please submit such documents to:

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Please see _____ for additional information regarding the submission of evidence and briefs during the petition process. Also, please contact Ms. Joann Richmond, Property Tax Appeals Analyst, at 916-322-1931 if you have any questions concerning the petition process.

Sincerely,

Stanley Y. Siu, Chief
State-Assessed Properties Division

SYS:mlt
Enclosure



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JOHN CHIANG
 State Controller

RAMON J. HIRSIG
 Executive Director

[Date]

Mail Merge

Dear :

NOTICE OF NONUNITARY ASSESSED VALUE
 (Revenue and Taxation Code section 732)

This is to inform you of the lien date 2007 total assessed value of the above company's nonunitary property as determined by the Board. The assessed values of nonunitary rail transportation property are 60.97 percent of the Board-adopted values. The assessed values of all other nonunitary property are 100 percent of the Board-adopted values. Any penalty assessed pursuant to the Revenue and Taxation Code section 830 will be added to the Board-adopted nonunitary value.

Board-Adopted Nonunitary Assessed Value	\$
Penalty	_____
Total Board-Adopted Nonunitary Assessed Value	\$ _____

Appraisal worksheets for these values are available for inspection in this office. Please contact Mr. Murl Poynter at 916-322-2528 or at Murl.Poynter@boe.ca.gov if you have any questions.

If you wish to petition the Board-adopted value or penalty, a petition for reassessment and/or abatement of the penalty must be filed no later than September 20, 2007, pursuant to Revenue and Taxation Code section 732. California Revenue and Taxation Code section 744 provides that a hearing on such a petition shall be held and a decision rendered on or before December 31, 2007.

Petitions must conform to the requirements set forth in Regulation 5323.4, Title 18, California Code of Regulations and include all of your supporting documents, such as appraisal reports, financial studies, and evidence of value. Please complete form BOE-529-B, *Petition for Nonunitary Property Reassessment*, which is available on the Board's website at www.boe.ca.gov as part of your petition.

Subdivision (b)(6) of Regulation 5323.4 requires that, if a petition is filed by an agent, other than an attorney licensed to practice in the State of California, then a form BOE-892, *Statement of Authorization*, or a power of attorney satisfying the requirements of Regulation 5523.1, must be filed with the petition. Form BOE-892 is available on the Board's website.

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Please see _____ for additional information regarding the submission of evidence and briefs during the petition process. Also, please contact Ms. Joann Richmond, Property Tax Appeals Analyst, at 916-322-1931 if you have any questions concerning the petition process.

Sincerely,

Stanley Y. Siu, Chief
State-Assessed Properties Division

SYS:mlt