

Memorandum

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

Date : January 18, 2008

From : Kristine Cazadd
Chief Counsel 

Subject : **Staff Report on Cable Television
February 1, 2008 Board Meeting – Chief Counsel Matters – Item M2**

On September 24, 2007, and on December 11, 2007, the California Cable and Telecommunications Association (CCTV) submitted letters to the Board of Equalization urging the Board to provide guidance in the form of a Letter to Assessors on the assessment of certain taxable possessory interests held by cable television companies. Specifically, CCTV requested guidance, clarifying to all interested parties that when appraising the taxable possessory interests of cable television companies, the methodology in Revenue and Taxation Code section 107.7 (b) should be uniformly applied and that revenues derived from broadband should be excluded in utilizing the income approach to value for the following reasons:

1. Federal law prohibits including the broadband revenues in the right of way calculations.
2. Federal law precludes a possessory interest tax on broadband revenues.
3. Possessory interest taxes on broadband service would violate federal law by unlawfully burdening an information service.
4. The inclusion of broadband revenue for cable television companies would impair assessment parity and lead to discrimination vis-à-vis state assessed telephone companies offering video service.

Having completed our initial review of these requests, the Property and Special Taxes Department and the Legal Department acknowledge that the issues presented to the Board are both broad and complex, requiring extensive research. In addition, the process of developing sound analysis and advice in response to these questions presents federal legal issues of first impression to the Board. For these reasons, we recommend that the Board staff proceed by bifurcating the issues, in order to first gain a fundamental understanding of the state and federal legal principles involved, and thereafter address the assessment policy issues underlying the requested guidance.

To that end, we have tentatively planned that issue number 4, the local assessment versus state assessment parity issue, be deferred while the Board considers the first three, more fundamental issues. With respect to the Board's consideration of those first three issues, we propose to present the Board with a memorandum and analysis that fully and completely

addresses the underlying state and federal legal and appraisal principles, for discussion and further direction at the March 2007 Board meeting. Accordingly, if the Board approves this schedule, we will place such memorandum and analysis on the March 2008 calendar as a Chief Counsel Matter.

Approved: _____


Ramon J. Hirsig
Executive Director

KEC:rl

cc: Mr. Ramon J. Hirsig - MIC: 73
Mr. Robert Lambert – MIC: 82
Ms. Carole Ruwart – MIC: 82
Mr. Dean Kinnee – MIC: 64
Mr. David Yeung – MIC: 64