190.0008 **Allocation of Value.** A local assessment appeals board has jurisdiction to hear supplemental assessment and base year value appeals involving the proper allocation of a total property value between land and improvements for applications filed within the time limitations periods of Revenue and Taxation Code section 1605(b) for supplemental assessments or Revenue and Taxation Code section 80 for base year value appeals. C 1/4/99. (2000-1).

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
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JOHN CHIANG
Acting Member
Fourth District, Los Angeles

E. L. SORENSEN, JR.
Executive Director

January 4, 1999

Honorable John N. Scott, Alameda County Assessor
County Administration Building
1221 Oak Street
Oakland, CA 94612-4288
Attn: [illegible] Supervising Appraiser II

Re: Assessment Appeals Board Hearing on Base Year Allocation

Dear [illegible]

This is in reply to your letter of December 15, 1998 in which you request a legal opinion concerning an assessment appeals board's authority to hear an appeal of a base year value, where the applicant agrees with the assessor's determination of the total base year value but believes that the value has been incorrectly allocated between the land and the improvements. Based on these facts, you ask: "[I]s this particular situation an equalization matter and under what circumstances, if any, can the Assessment Appeals Board consider appeals of land and improvement allocations?"

As set forth in detail below; (1) an applicant who believes that the assessor has established a base year value for a portion of his property, either land or improvements, that is too high may appeal the base year value of that portion of the property. However, when an application for review includes only a portion of an appraisal unit, the appeals board may review and increase the assessment on other unappealed portions of the property; (2) an applicant who wishes to appeal only the allocation of the property may do so only as an appeal of the allocation of the base year value and not as an appeal of an allocation resulting from a decline in value. As to the former, although we believe that a taxpayer should have the right to appeal a base year value allocation, in the absence of any legal authority to that effect, an appeals board has the authority to determine its jurisdiction in the first instance and, therefore, has sole discretion to accept or reject such appeals.

Law and Analysis

Appeal of a Portion of an Appraisal Unit

While most applications appeal the value of entire appraisal units, property tax rules governing the conduct of assessment appeals proceedings clearly contemplate the appeal of a portion of an appraisal unit. For example, Rule 307, subdivision (a) sets forth certain required information included in the notice of hearing by providing, in part

> The notice shall include a statement that an application for a reduction in the assessment of a portion of an improved real property (e.g., land only or improvements only) . . . may result in an increase in the unprotested assessment of the other portion or portions of the property, which increase will offset, in whole or in part, any reduction in the protested assessment.

Moreover, Property Tax Rule 324, subdivision (b) gives direction to an appeals board when deciding an application which appeals only a portion of the property by providing, in relevant part

> When an application for review includes only a portion of an appraisal unit, whether real property, personal property, or both, the [county board] may nevertheless determine the taxable value of other portions that have undergone a change in ownership, new construction or a decrease in value. Additionally, the [county board] shall, on its own motion or at the assessor's request, determine the market value of the entire appraisal unit whenever that is necessary to the determination of the market value of any portion thereof.

In the situation presented, by contesting the allocation of the total base year value between the land and improvements the applicant is, in effect, contending that the assessor has established a base year value that is too high on either the land or the improvements. Thus, the applicant may appeal the base year value of that portion which he or she believes is too high.

When deciding an application requesting a reduction in the base year value of a portion of the property, an appeals board is not restricted to a determination of the value of only that portion but may, if appropriate, reappraise the entire property. In this regard, Revenue and Taxation Code section 1610.8 provides

> After giving notice as prescribed by its rules, the county board shall equalize the assessment of property on the local roll by determining the full value of an individual property and by reducing or increasing an individual assessment as provided in this section. The full value of an individual property shall be determined without limitation by reason of the applicant's opinion of value stated in the application for reduction in assessment pursuant to subdivision (a) of Section 1603.

> The applicant for a reduction in an assessment on the local roll shall establish the full value of the property by independent evidence. The records of the assessor may be used as part of such evidence.
>
> The county board shall make a determination of the full value of each parcel for which an application for equalization is made.

For purposes of determining all or any portion of an appraisal unit, section 1610.8 clearly requires that an appeals board must determine the value of the entire appraisal unit. Furthermore, such a determination may necessarily result in increases in the value of uncontested portions of the property because the appeals board is not restricted by the applicant's opinion of value. As shown above, Rule 307, subdivision (a) implicitly recognizes that such increases may occur and requires that an applicant be so notified.

Appeal of Allocations

Article XIII, section 13 of the California Constitution requires that an assessor separately assess land and improvements. Thus, when establishing a base year value upon a change in ownership or completion of new construction, the assessor must determine a new base year value for land and/or a new base year value for improvements. The total of the separate base year values become the total base year value for the entire property.

The correct allocation of the total base year value is important because subsequent adjustments resulting from an event such as removal of an improvement must correctly reflect the separate base year values and, thereby, avoid an overallocation of the total base year value to the land. Thus, in our view, the possibility that a misallocation made at the time the base year value is established may result in adverse tax consequences at some later time requires that a taxpayer have the right to appeal the allocation of the base year value within the time limitations period of either section 1605, subdivision (b) for supplemental assessments or section 80 for base year value appeals.

On the other hand, a taxpayer who appeals a decline in value of the property should not be allowed to appeal the allocation. Pursuant to section 51, the taxable value of real property shall be the lower of the adjusted base year value or the current fair market value as of the lien date. Thus, decline in value appeals are made on an annual basis and the value determination made as a result of such an appeal is typically effective for only the year appealed. This value determination applies to the entire property, without regard to the separate components, and a recalculation of the allocation would have no effect on the tax liability. In some instances, reallocation could result in alternating annual changes that would merely consume scarce county resources.

Although we conclude that a taxpayer should have the right to appeal a base year value allocation, in the absence of any specific legal authority to that effect, the jurisdictional determination should be made by the assessment appeals board. As a quasi-judicial body, an appeals board has the right to pass upon its own jurisdiction in the first instance. *County of Sacramento v. Assessment Appeals Bd. No. 2* (1973) 32 Cal.App.3d 654, 663.

The views expressed in this letter are only advisory in nature; they represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Very Truly Yours,

Louis Ambrose
Tax Counsel

LA:lg
property/precednt/equalizn/99/00011ou

cc: Mr. Dick Johnson, MIC:63
Mr. David Gau, MIC:64
Ms. Jennifer Willis, MIC:70

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PROPERTY TAXES