



STATE BOARD OF EQUALIZATION

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State Controller

CYNTHIA BRIDGES
Executive Director

October 24, 2013

Re: *Assessment Appeals Board Jurisdiction*
Assignment No.: 13-089

Dear Mr. _____ :

This is in response to your letter requesting an opinion regarding whether the County Assessment Appeals Board (AAB) was correct in determining that it does not have the jurisdiction to decide whether your client's aircraft qualified for the business inventory exemption from property taxation. As explained below, while the AAB does not have jurisdiction to grant or deny exemptions, it does have jurisdiction to determine classification issues including whether property should be classified as inventory.

Facts

Your client owns a large cabin business jet which was assessed for the 2011 roll year by the _____ County Assessor. You claim that the aircraft is business inventory and should be exempt from property taxation. The assessor rejected this claim and you subsequently appealed to the _____ County AAB. On appeal, the AAB concluded that it lacked jurisdiction to determine whether or not the aircraft qualified for the business inventory exemption.

Law & Analysis

Pursuant to the California Constitution, article XIII, section 14, all property taxed by local government shall be assessed in the county, city, and district in which it is situated. General aircraft are assessable at the location where the aircraft is habitually situated. (Assessors' Handbook Section 577, *Assessment of General Aircraft* (November 2003) at p. 21; Property Tax Rule¹ (Rule) 205, subd. (b).) Pursuant to Revenue and Taxation Code² section 5391, aircraft may qualify for the business inventory exemption: "Aircraft which are considered business inventories, within the meaning of Section 129 of the Revenue and Taxation Code, shall be included in the inventory exemption."

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

² All further statutory references are to the California Revenue & Taxation Code, unless otherwise specified.

Section 16 of article XIII of the California Constitution provides for the establishment of local boards of equalization and, pursuant to that authority, the Legislature has mandated guidelines for the functioning of those boards by enacting sections 1601 through 1645.5 of the Revenue and Taxation Code, and the State Board of Equalization has adopted sections 301 through 326 of Title 18, Public Revenues, California Code of Regulations.

The jurisdiction of assessment appeals boards is set forth in Rule 302, as follows:

(a) The functions of the board are:

- (1) To lower, sustain, or increase upon application, or to increase after giving notice when no application has been filed, individual assessments in order to equalize assessments on the local tax assessment roll,
- (2) To determine the full value and, where appealed, the base year value of the property that is the subject of the hearing,
- (3) To hear and decide penalty assessments, and to review, equalize and adjust escaped assessments on that roll except escaped assessments made pursuant to Revenue and Taxation Code section 531.1,
- (4) To determine the classification of the property that is the subject of the hearing, *including classifications within the general classifications of real property, improvements, and personal property. Such classifications may result in the property so classified being exempt from property taxation,*
- (5) To determine the allocation of value to property that is the subject of the hearing, and
- (6) To exercise the powers specified in section 1605.5 of the Revenue and Taxation Code.

(b) *Except as provided in subdivision (a)(4),* the board has no jurisdiction to grant or deny exemptions or to consider allegations that claims for exemption from property taxes have been improperly denied.

(Emphases added.)

As stated in Rule 302, subdivision (b), AABs have no jurisdiction to grant or deny exemptions, but Rule 302 was amended in 2000 to, among other things, add subdivision (a)(4) which provides that AAB's have the jurisdiction "to determine the classification of the property that is the subject of the hearing, including classifications within the general classifications of real property, improvements, and personal property. Such classifications may result in the property so classified being exempt from property taxation."

Classification of property is necessary for proper enrollment and valuation. For enrollment purposes, all property on the roll must be classified as land, improvements, or personal property. (Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures* (AH 504) (October 2002) p. 7.) For valuation purposes, property must be classified as land, structure items (improvements), fixtures (improvements), or personal property. (AH 504, p. 12.) For personal property, further sub-classifications include equipment, supplies, vessels, aircraft, and manufactured homes, licensed vehicles and business inventory. (AH 504, p. 21-22.)

In your case, in our view, the classification of the subject aircraft as inventory is a proper classification that the AAB has jurisdiction to determine. Although the classification may result in the property being exempt from taxation, it is allowed by subdivision (a)(4) of Rule 302.

Based on the foregoing it is our opinion that the AAB was incorrect in determining that it did not have the jurisdiction to determine whether your client's aircraft could be classified as business inventory. Finally, we note that while you ask us to direct the County AAB to hear your case, our role in oversight of assessment appeals boards allows us to prescribe rules and regulations to govern local boards of equalization when equalizing but it does not include the authority to direct assessment appeals boards to take a specific action in any particular case. (Gov. Code, § 15606, subd. (c).)

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. Should you have any additional questions, please feel free to contact me.

Sincerely,

/s/ Daniel Paul

Daniel Paul
Tax Counsel (III) Supervisor

DP:yg

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cc: Honorable
County Assessor

Clerk of the Board
County Assessment Appeals Board

Mr. David Gau MIC:63
Mr. Dean Kinnee MIC:64
Mr. Todd Gilman MIC:70



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Fourth District, Los Angeles

JOHN CHIANG
State Controller

CYNTHIA BRIDGES
Executive Director

April 7, 2014

Mr.
Chief Deputy Assessor
County Assessor

Re: *Assessment Appeals Board Jurisdiction*
Assignment No.: 13-303

Dear Mr. :

This is in response to your letter requesting a reconsideration of our legal opinion dated October 24, 2013 (assignment number 13-089). In that letter, we concluded that the County Assessment Appeals Board (AAB) has the jurisdiction to determine whether aircraft subject to appeal was properly classified as inventory, even though that determination would result in the aircraft being qualified for the business inventory exemption from property taxation. As explained below, our opinion is unchanged.

Facts

A taxpayer owns a large cabin business jet which was assessed for the 2011 roll year by the County Assessor. The taxpayer claimed that the aircraft is business inventory and should be exempt from property taxation. The assessor rejected this claim and the taxpayer subsequently appealed to the County AAB. On appeal, the AAB concluded that it lacked jurisdiction to determine whether or not the aircraft qualified for the business inventory exemption. The taxpayer requested an opinion from the Board of Equalization's Legal Department, which was issued on October 24, 2013. Your office requested that the Legal Department reconsider our position, arguing that our opinion contradicted advice contained in Property Tax Annotation³ (Annotation) 100.0026, issued by the Board on June 29, 2004.

Law & Analysis

³ Property tax annotations are summaries of the conclusions reached in selected legal rulings of State Board of Equalization counsel published in the State Board of Equalization's Property Tax Law Guide. (See Cal. Code Regs., tit. 18, § 5700 for more information regarding annotations.)

The analysis in our October 24, 2013 letter concluded that aircraft, like other property, may be exempt from taxation if it is classified as business inventory within the meaning of section 129 of the Revenue and Taxation Code.⁴ (See Rev. & Tax. Code, § 5391.)

Our October 24, 2013 letter also concluded that the purpose of the 2000 amendments to Property Tax Rule⁵ (Rule) 302, was to, among other things, provide that AAB's have the jurisdiction "to determine the classification of the property that is the subject of the hearing, including classifications within the general classifications of real property, improvements, and personal property. Such classifications may result in the property so classified being exempt from property taxation." Therefore, the classification of the subject aircraft as inventory was a proper classification that the AAB has jurisdiction to determine. Although the classification may result in the property being exempt from taxation, it is allowed by subdivision (a)(4) of Rule 302.

Annotation 100.0026, which was also cited by the AAB's findings as support for the proposition that the AAB lacked jurisdiction in this matter, provides:

The dismantling of an aircraft is not a modification qualifying purpose within the meaning of Property Tax Rule 138. The other qualifying activities, of Rule 138 repair, service and overhaul, have the purpose of keeping an aircraft in operation or returning an aircraft to operation. However, the act of dismantling is not consistent with repairing or servicing an aircraft but rather has the effect of taking an aircraft out of operation. Thus, an aircraft in the state for the purpose of being dismantled is not being modified within the meaning of Rule 138 and would not qualify for the exemption. However, such an aircraft may qualify for the business inventory exemption if held for sale or lease in the ordinary course of business.

Annotation 100.0026 addressed whether the "dismantling" of aircraft is an activity that qualifies aircraft for the exemption of Rule 138 for aircraft being repaired, overhauled, modified or serviced. To answer the question, it was necessary to determine the meaning of the words "being modified" as used by Rule 138. Since the inquiry required an interpretation of a Rule providing for an exemption by defining the terms used therein it was our opinion that it was a matter outside the jurisdiction of the AAB pursuant to Rule 302, subdivision (b).

Thus, Annotation 100.0026 did not address a situation where the AAB was asked to determine the classification of property, but rather, the AAB was asked to engage in statutory interpretation of a Property Tax Rule exempting property from taxation. It is unchallenged that an AAB does not have jurisdiction to define words, legal issues and concepts for the purpose of deciding exemption issues. As explained in Annotation 100.0026, this prohibition applies to all exemptions.

However, as specifically authorized by Rule 302, subdivision (a)(4), an AAB has the jurisdiction to determine the classification of the property that is the subject of the hearing, including classifications that may result in the property so classified being exempt from property taxation. In fact, this same point was emphasized in the Back-up letter to Annotation 100.0026. It stated:

⁴ All section references are to the Revenue and Taxation Code unless otherwise specified.

⁵ All "Rule" references are to sections of title 18 of the California Code of Regulations.

Thus, an appeals board has no jurisdiction to hear and decide an application involving any matter of exemption qualification, *except to determine the proper classification of property that may cause the property to be exempt*. An appeals board in the exercise of the valuation function must necessarily determine the proper classification of property in order to value it correctly. *For that reason, an appeals board has the authority to make such determinations, notwithstanding the fact that property may qualify for an exemption based on its classification.*

Because it is our understanding that the issue in your appeal is whether the property should be classified as inventory, we believe the AAB has jurisdiction to make that determination.

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.

Sincerely,

/s/Richard S. Moon

Richard S. Moon
Tax Counsel IV

RSM:yg

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cc: Mr.

Mr. David Gau	MIC:63
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