205.0061

Mr. Gene Meyer July 23, 1984

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Division of Assessment Standards
SACRAMENTO

Ken McManigal

Business Inventory Exemption Application to
PG&E's Natural Gas in Storage

This is in response to your May 30, 1984, letter to Richard Ochsner wherein you enclosed a copy of a June 3, 1968, Agreement between PG&E and Union Oil Company pertaining to the acquisition and exchange of natural gas and copies of other documents, and you asked whether exchange gas, defined in the Agreement as "any gas designated by Pacific from time to time as exchange gas which is delivered to said Participants [Union Oil and others] by Pacific at the delivery point hereunder in exchange for delivery of gas at a later time to Pacific under the terms hereof," was eligible for the exemption in prior years.

As noted, Revenue and Taxation Code Section 129 and Property Tax Rule 133 contemplate that property must be held for sale or lease on the lien date to be eligible for the exemption. Thus, Section 129 states, in part, that "business inventories" shall not include any goods actually leased or rented on the lien date or any item held for lease which has been or is intended to be used by the lessor prior to or subsequent to the lease, and Rule 133 states, in part that property eligible for the exemption does not include property in the hands of a vendee, lessee, or other recipient on the lien date which has been purchased, leased, rented, or borrowed primarily for use by the vendee, lessee or other recipient of the property.

In our view, the Agreement supports the conclusion that the exchange gas was delivered to Union Oil and others, was used by them in the course of their recovery of oil, and hence, given Section 129 and Rule 133, was not eligible for the exemption. That PG&E apparently reported in its FERC reports and classified the exchange gas as "gas on loan to producers in the Coalinga oil field" further supports the conclusion.

Copy: Cannon, Conley, McKenzie
7-23-84 VW

Such is similar to Q & A C16 in the April 25, 1980, Letter to Assessors No. 80/69, Business Inventory Exemption:

> "A retailer selling office machines and equipment periodically removes equipment from inventory for use [as his office equipment]. The equipment is used for a period of time then returned to inventory for sale. The retailer insists the equipment is still for sale even though it is in use [and has been removed from display].
>
> "Is the equipment eligible for the business inventory exemption while being used [as office equipment by the retailer]?
>
> "Answer: No. The equipment is in use at the consumer level and is not being [displayed or otherwise] offered for sale."

Accordingly, we advise that such exchange gas was not eligible for the exemption in prior years.

JEM:fr

cc: Mr. Gordon F. Adelman
Mr. Robert H. Gustafson
Mr. Verne Walton
Mr. William Jackson
Mr. Bud Florence
Mr. Ron China
Legal Section