



Memorandum

To : Mr. Verne Walton

Date February 2, 1988

From : Richard H. Ochsner *RHO*

Subject : Base-Year Value Corrections

In reviewing your letter of January 25 to Hunter & Associates regarding the application of Chapter 537 of the Statutes of 1987 (SB 587), I found a couple of statements which I believe deserve some comment.

During the course of its legislative journey, SB 587 received opposition from members of the business community because it was felt that allowing assessors to change base-year value to correct a "clerical error" would lead to widespread abuse. As a result, the definition of "clerical error" was added. The opposition was removed because the definition is very narrow in that it applies only where the defect resulted in a base-year value which was not intended by the assessor at the time it was determined. It applies to situations where it can be shown from the records in the assessor's office, or other evidence, that there was an error in addition, multiplication, or there was simple transposition of numbers which resulted in the entry of a figure which was not intended at the time it was made. As can be seen from the very restrictive nature of this definition, the concept of clerical error, as recognized in section 51.5 of the Revenue and Taxation Code is not intended to be a universal elixir which will cure every base-year value problem.

In order to keep faith with the Members of the Legislature and the business community who worked with us in bringing about the eventual enactment of SB 587, it is important that the Board staff fully recognize the limitations imposed by the definition of "clerical errors" and avoid loose interpretations of that term which could lead to the abuses which the definition is designed to prevent.

Your letter responds to certain questions relating to the assessment of rock quarry operations in Northern California. The second question asks:

Richard H. Ochsner

"Since the amount of the reserves was never determined, and therefore never valued, is it permissible to correct the original base-year value to reflect the heretofore unappraised reserves attributable to the properties?"

Answer:

"From the basic data you indicated the assessor with one exception directed the reporting package to the lessors of the properties, not the lessees. This action, misdirection of the reporting documents, is an error of a clerical nature. In this situation, the original base-year value should be corrected to reflect 'proved reserves' and escape assessments levied for the appropriate year.

"The basic data also indicates base-year values for these properties were determined by present worthing royalty income. This statement indicates some reserves were valued although they were not labeled as proved reserves."

While sending the property reports to the lessor rather than the lessee may have been an error and that error may have been committed by a clerk, that is not the kind of error which qualifies under the definition of "clerical errors" found in section 51.5. There is no evidence that the base-year value the assessor established for the property was anything other than the base-year value he intended at the time that it was determined. Characterizing this as a clerical error problem is exactly what we are attempting to prevent by our definition.

As I understand it, there was a base-year value established for the mineral reserves using the present worth of the royalty income. Thus, whatever error occurred involved the exercise of the assessor's judgment as to value. If that is the case, then the error in base-year value may be corrected only if the correction is made within four years after July 1 of the assessment year for which the base-year value was first established. Of course, if no base-year value was ever established for the mineral reserves, this would constitute an omission in the determination in the base-year value which could be corrected in any assessment year in which the error is discovered. After the base-year value is corrected, then escape assessments could be issued for any year open under the applicable statute of limitations in which an underassessment of the property occurred, considering the corrected base-year value.

I also noticed that your letter refers to "proved reserves." The term "proved reserves" comes from Rule 468 which applies to oil and gas producing properties. In this case we are talking about a rock quarry. Rule 469 is applicable to mines and quarries and, in its present form, makes no reference to "proved reserves." Until the present Rule 469 is either amended or repealed, it must be viewed as the controlling authority in this area.

With respect to your discussion of question 4, dealing with the issuance of a county use permit, it should be recognized that a change in a use permit or in zoning or other restrictions on the use of property does not constitute a change in ownership. Thus, a change in the permit or zoning cannot result in any reappraisal of the property. You are correct, however, that a change in the use permit may result in an increase or a decrease in the volume of the recoverable reserves. Such changes in recoverable reserves can be reflected in the valuation of the property on the next March 1 lien date.

The statement in the next to the last paragraph that SB 587 precludes assessors from correcting an error that is the result of an appraiser judgment is inaccurate. Subdivision (b) of section 51.5 permits an error or omission involving the exercise of an assessor's judgment as to value to be corrected within four years after July 1 of the assessment year for which the base-year value was first established.

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cc: Mr. James J. Delaney
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