



Memorandum

To : Mr. Verne Walton

Date : June 3, 1987

From :

RKO

Subject :

This is in response to your memo of May 18, 1987, referencing requests for advice received from [redacted], Senior Property Tax Representative, ARCO, and Mr. [redacted] Supervising Auditor/Appraiser, Riverside County Assessor's office, relating to the assessment of service station fixtures.

The question arises from the treatment accorded certain service station fixture replacements by the Riverside County Assessor. After an audit of ARCO, the assessor found that certain fixtures, such as storage tanks, gasoline pumps, sign pylons, and hoists, had been replaced with new equipment. The assessor reappraised these items on the theory that they constituted new construction. ARCO contends that the reappraisal is improper because when originally assessed the service stations were treated as single structures without recognition of the individual fixtures. It is contended, therefore, that the replacement of tanks or pumps were merely "building maintenance expenditures" and not new construction.

ARCO bases its argument, in part, upon Assessors Handbook 581. The current edition, Equipment Index Factors, for use on 3/1/87 lien date, contains a section, commencing on page 17, providing advice on the classification of improvements as either structures or fixtures. It states, in part, that it is to be used as a guide in completing Schedule B of the business property statement. It then sets forth general principles for distinguishing a structure from a fixture. Briefly, it states that an improvement is a "structure" when its primary use and purpose is for housing or accommodation of personnel, personalty, or fixtures. An improvement is a "fixture" when its use or purpose directly applies to or augments the process or function of a trade, industry or profession. Items with a dual purpose are to be classified according to their primary purpose.

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The section also states, however, that service station equipment is not included in the designations unless the property is located on a situs where the primary activity is not that of a service station. In that case, items such as tanks, pumps or hoists should be considered to be fixtures. David Lucero informs me that this special service station rule arose from the practice of assessing stations as a single structure. For purposes of simplifying the appraisal process, service stations were assessed on a square foot basis without consideration of the individual items of property included thereon. This practice arose prior to the adoption of Proposition 13 and its various implementing statutes and regulations. Apparently, the subject ARCO stations were originally assessed on this basis and ARCO feels that they should continue to be assessed on this basis when making Proposition 13 determinations. Unfortunately, ARCO's position is based solely on the handbook, not the provisions of the Constitution, statutes or regulations.

Section 2(a) of article XIII A of the California Constitution provides, in part, that full cash value means the appraised value of real property when newly constructed after March 1, 1975. Section 70 of the Revenue and Taxation Code defines "new construction," in part, as any major rehabilitation of an improvement, including fixtures, since the last lien date. Moreover, it provides that any rehabilitation, renovation, or modernization which converts a fixture to the substantial equivalent of a new fixture is a major rehabilitation of such fixture.

Rule 463(b)(5) implements these particular provisions by providing that any substantial physical rehabilitation, renovation or modernization of any fixture which converts it to the substantial equivalent of a new fixture or any substitution of a new fixture is new construction. Further, adopting the same general principle found in Assessors Handbook 581, subdivision (c) of rule 463 provides that "fixture" is an improvement whose use or purpose directly applies to or augments the process or function of a trade, industry, or profession. Unlike the Assessors Handbook, however, there is no exception for service stations. Further, we are unaware of any basis on which such an exception could be granted since neither section 70 nor the provisions of the Constitution recognize such an exception. There is no indication that a fixture in one setting is not a fixture in the other. For example, if a hoist used in an auto repair shop is a fixture under (c) of Rule 463 and its replacement constitutes new construction for purposes of that regulation, the same analysis applies for purposes of a hoist replaced in a service station.

Thus, we conclude that the Riverside County Assessor properly treated the ARCO service station fixture replacements as new construction.

Since the question presented is whether the replacement of certain items constitutes new construction, we must be guided by the statutes and rules applicable to new construction. Those provisions are controlling. As we have often recognized, the provisions of the Assessors Handbook are advisory only, except to the extent that they reflect applicable statutes and regulations (which is not the case here). Therefore, the replacement of a service station fixture constitutes new construction even though the assessor may have originally classified the replaced item as part of the structure when the property was originally appraised using the AH 581 special rule for service stations.

Inclusion of the fixture as part of the original structure may create some valuation difficulty, however, since an appropriate adjustment should now be made to the original value to reflect the removal of the old fixture. While this may require some allocation of the total original value which it should be recognized that this is a valuation problem does not control the issue of whether new construction occurred.

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cc: Mr. Gordon P. Adelman
Mr. Robert H. Gustafson
Mr. Bob James
Mr. David Lucero