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Executive Director

March 28, 2001

**Subject: *Request for Legal Opinion – Supplemental Assessment and Base Year Value for Partial Interest Transfer***

Dear Mr. \_\_\_\_\_,

This is in reply to your letter of February 12, 2001 in which you request our opinion concerning the proper application of the supplemental assessment provisions of the Revenue and Taxation Code (§§ 75 et seq.) to a change in ownership resulting from a transfer of a 33% interest in real property. The change in ownership occurred in May, 1996, and you state that the assessor determined a value for supplemental assessment for the change in ownership as follows: 33% of the fair market value of the entire property as of the date of change in ownership for the interest transferred, plus 67% of the current base year value (established on lien date 1995) for the remaining interest.

You believe that the assessor incorrectly calculated the supplemental assessment by using the base year value enrolled on lien date 1995. In your view, section 75.11 requires that the assessor use the equalized roll values for lien dates 1996 and 1997, in computing the supplemental assessments. Those values were reduced by the assessment appeals board's findings on your applications for reduction to reflect declines in value for those years. You ask that we clarify which values should be used in calculating the new base year value and the supplemental assessments, and ask for our views on the meaning of the terms "taxable value on the current roll" and "taxable value to be enrolled on the roll being prepared."

For the reasons stated below, it is our opinion that the new base year value was properly calculated and the change in ownership resulted in two supplemental assessments, both of which were correctly enrolled. The assessor correctly calculated the new base year value in determining the first supplemental assessment because the taxable value on the current roll is the value on the roll as of the 1995 lien date. Further, the second supplemental assessment is correct because the taxpayer did not timely appeal the values established by the assessor.

**Facts Presented**

The assessor enrolled adjusted base year values for the subject real property of \$2,043,446 for lien date 1995 and \$2,066,127 for lien date 1996.

A 33% interest in the property was transferred on May 31, 1996 resulting in a change in ownership of that interest. In accordance with §75.10, the assessor established a new base year value of \$2,218,955 as of May 31, 1996 to reflect the change in ownership.<sup>1</sup>

The taxpayer did not file an application appealing the supplemental assessment or the new base year value. The assessor enrolled an adjusted base year value of \$2,263,330 for lien date 1997.

The taxpayer filed assessment appeals based on declines in value for lien dates 1996 and 1997. The assessment appeals board granted those applications and reduced the 1996 lien date value to \$1,400,000 and the 1997 lien date value to \$1,974,000.

You have also submitted an attachment to your letter titled "Scenario," which includes some background numbers and alternative calculations. That document is attached for reference.

### **Law and Analysis**

The statutory procedure for levying supplemental assessments, Revenue and Taxation Code section 75.11, provided, in relevant part at the time the transaction occurred:<sup>2</sup>

"If the change in ownership occurs or the new construction is completed on or after March 1 but on or before May 31, then there shall be two supplemental assessments placed on the supplemental roll. The first supplemental assessment shall be the difference between the new base year value and the taxable value on the current roll. . . . If the change in ownership is of only a partial interest in the real property, the second supplemental assessment shall be the difference between the sum of the new base year value of the portion transferred plus the taxable value on the roll being prepared of the remainder of the property and the taxable value on the roll being prepared of the whole property."

Section 75.2 defines "current roll" as "the roll for the fiscal year during which the change in ownership occurs or the new construction is completed." Section 75.3 defines "the roll being prepared" as "the roll for the fiscal year following the fiscal year in which the change in ownership occurs or the new construction is completed." Section 75.6 defines "fiscal year" as "a fiscal year beginning July 1 and ending June 30." Section 75.8 defines "new base year value" as "the full cash value of property on the date it changes ownership."

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<sup>1</sup> Your letter states that the new value was enrolled on 6/8/97. It is not clear why there is a difference between the May 31, 1996 date and the June 8, 1997 date.

<sup>2</sup> The lien date was changed from March 1 to January 1 effective January 1, 1997.

The transaction described resulted in two supplemental assessments to be placed on the supplemental roll pursuant to §75.11 because it occurred after March 1 and before May 31. The first supplemental assessment is the difference between the new base year value and the taxable value on the current roll. In this case, the “current roll” is the roll for the 1995 fiscal year (July 1, 1995 – June 30, 1996) and the “taxable value on the current roll” which was established on the lien date for the 1995-96 roll, March 1, 1995.

A number of steps are required to properly calculate the difference between the new base year value and the taxable value on the current (1995-96) roll. As a first step, the assessor must determine the full cash value of the interest transferred, because that portion must be enrolled at its full cash value on the date it changed ownership. (§§50 and 75.10) To determine the full cash value of the 33% interest transferred, the assessor was required to reappraise the entire parcel at its full cash value and to allocate 33% of that value to the interest transferred. Based on your Scenario, it is apparent that the assessor calculated the current full cash value of the entire parcel to be \$2,575,290 at the date of the transfer. The full cash value of the interest transferred is determined by multiplying \$2,575,290 by 33%, resulting in a value of \$849,846.

The “new base year value” of the entire parcel is then calculated by adding the full cash value of the 33% interest transferred (\$849,846) to the taxable value on the current roll for the remaining portion of the property (67%) which did not change ownership. The taxable value on the current roll was \$2,043,446. That amount multiplied by 67% yields a value of \$1,369,109, which, when added to \$849,846 produces a “new base year value” for the entire parcel of \$2,218,955.

To calculate the first supplemental assessment, the difference between the new base year value and the taxable value on the current roll must be calculated. In this case, the taxable value on the current roll of \$2,043,446 is subtracted from the new base year value of \$2,218,955 to yield a first supplemental assessment of \$175,509.

The second supplemental assessment is the difference between the sum of the “new base year value of the portion transferred,” plus the “taxable value on the roll being prepared of the remainder of the property,” and the “taxable value on the roll being prepared of the whole property.” In this case, the “roll being prepared” was the roll for the 1996 fiscal year (July 1, 1996 – June 30, 1997) as provided in §75.3 since the change in ownership occurred on May 31, 1996 during the 1995-96 fiscal year.

Under the facts presented, the second supplemental assessment should be calculated as follows: the new base year value of the 33% interest transferred is \$849,846. The taxable value of the remainder of the property on the roll being prepared is 67% of \$2,066,127 or \$1,384,305. The total of those values is \$2,234,151. The taxable value on the roll being prepared is \$2,066,127. The second supplemental assessment is the difference between \$2,234,151 and \$2,066,127 which is \$168,024.

March 28, 2001

Page 4

The supplemental assessments and base year value were based on the values entered on the roll by the assessor on the lien dates in 1996 and 1997. Although the appeals board subsequently granted reductions on applications based on declines in value for lien dates 1996 and 1997, the supplemental assessments and base year value should not reflect those reductions because the property owner did not file timely applications appealing either of those assessments.

The procedure for applications for reduced assessment due to a decline in value under section 51 are different from the procedures for an application for a reduction of a supplemental assessment or a base year value determination, and different statutory requirements apply to each. (See *Assessment Appeals Manual*, Revised September 2000, pp. 24-28, relevant pages enclosed)

In accordance with section 50, the assessor established and entered on the roll a new base year value for lien date 1997, the lien date next succeeding the date of the change in ownership. In order to obtain a reduction in that base year value the taxpayer was required to file an application for contesting the base year value within the time limitations periods prescribed by section 80. In this regard, section 80 provides that an application for reduction must be filed during the regular filing period for equalization for the year in which the assessment is placed on the assessment roll or in any of the three succeeding years.

Under the facts presented, the taxpayer filed applications requesting reductions based on declines in value for lien dates 1996 and 1997 but did not request a base year value reduction in 1996 or 1997 or in any of the three succeeding years. Because the taxpayer did not file an application within the time limitations period, the base year value established by the assessor became final.

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,

/s/ Louis Ambrose

Louis Ambrose  
Tax Counsel

LA:tr

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Enclosure [Assessment Appeals Manual, September 2000 edition, pages 24-28]

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