



TATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-4588

WILLIAM M. BENNETT
First District, Kentzie

CONWAY H. COLLIS
Second District, Los Angeles

ERNEST J. DRONENBURG, JR.
Third District, San Diego

PAUL CARPENTER
Fourth District, Los Angeles

GRAY DAVIS
Controller, Sacramento

CINDY RAMBO
Executive Director

March 15, 1990

Honorable James J. Gallagher
Sonoma County Assessor
585 Fiscal Drive, Room 104F
Santa Rose, CA 95403-2872

Dear Mr. Gallagher:

This is in response to your letter of December 7, 1989, requesting advice regarding the application of Revenue and Taxation Code section 75.5 and Property Tax Rule 461(d).

As I understand it, your question relates to the assessment of continuing new construction arising out of an ongoing geothermal steam producing property. Your county has followed the practice of considering such new construction as an extension of the established appraisal unit determined at inception. The new construction is considered to be a part of the originally defined appraisal unit by virtue of its economic dependence on the established unit. When the assessee reports new construction of an additional well which includes the extension of the pipeline gathering system and the connection of machinery, your office follows the practice of issuing a supplemental assessment for the entire reported construction on the theory that it is within the originally defined appraisal unit. Where the assessee reports the purchase of machinery that is deemed to be the same type included in the original appraisal unit, your policy is to levee a supplemental assessment on this purchase as it is also a part of the established appraisal unit.

Your letter summarizes the new construction occurring in a Sonoma County geothermal project for the years 1985/86 through 1988/89. This information shows the number of wells drilled each year and the number abandoned, as well as the value associated with each classification. You state that the steam gathering system consists of pipes ranging from 12 to 48 inches in diameter which are elevated about four feet above the ground with support stanchions cemented in the ground. The pipeline is insulated with two to four inches of material with an outer covering of aluminum. The pipelines remain in place for the life of the steam field and are not modified except to facilitate new construction.

*Supplemental
Special Assessment*

You ask whether your practice of issuing supplemental assessments in connection with the completion of new wells which involve the extension of the pipeline and the connection of machinery to the well is consistent with Revenue and Taxation Code section 75.5. You ask the same question in connection with your practice of issuing a supplemental assessment for the purchase of machinery of the same type as included in the original appraisal unit.

Generally speaking, the assessor is required to issue supplemental assessments when new construction resulting from actual physical new construction on the site is completed. See Revenue and Taxation Code sections 75.10 and 75.11. For purposes of implementing these provisions, the term "property" which is the subject of supplemental assessment is defined in Revenue and Taxation Code section 75.5, as last amended by Chapter 261 of the Statutes of 1987, as "real property, other than fixtures which are normally valued as a separate appraisal unit from a structure. . . ." Real property includes, of course, both land and improvements and improvements include buildings, structures, and fixtures affixed to the land. See Revenue and Taxation Code sections 104 and 105. Thus, supplemental assessments apply to the new construction of real property, including the new construction of buildings, structures and fixtures, unless, as described in section 75.5, the fixtures are normally valued as a separate appraisal unit. Based upon your statement that you treat all such new construction as an extension of the established appraisal unit and not as a separate appraisal unit, then it appears that your supplemental assessments are correct. I have been advised by our Assessment Standards Division that they are in agreement with this conclusion. Thus, to the extent that the new construction includes items which are property classified as fixtures, we conclude that those fixtures should not be excluded from supplemental assessment.

In light of our telephone conversation regarding your request, I would offer the additional observation that "new construction" is defined in Revenue and Taxation Code section 70, in part, as any addition to real property. Further, Revenue and Taxation Code section 71 provides that the assessor shall determine the new base year value for the portion of any taxable real property which has been newly constructed. It goes on to state that the base year value of the remainder of the property assessed, which did not undergo new construction, shall not be changed. Similar statements may be found in Property Tax Rule 463. The import of these provisions is that the assessor is limited in these situations to establishing the new base year value of the new construction only. It seems clear that changes in value to the remainder of the property which did not undergo new construction cannot be considered.

Your second question relates to Property Tax Rule 461(d) which provides, in part, that for purposes of determining declines in value fixtures and other machinery and equipment classified as improvements constitute a separate appraisal unit. You ask whether Rule 461(d) is applicable to geothermal property. The question is whether Property Tax Rule 468(c)(6) which treats certain oil and gas producing properties as a single-appraisal unit is applicable to geothermal producing properties and, therefore, supplants Rule 461(d).

Rule 468, by its express terms, is limited to oil and gas producing properties. Nothing in Rule 468 makes it applicable to geothermal producing properties. As you know, the Board intends to promulgate a rule for geothermal properties some time in the near future. We believe that, when adopted, such a rule will be quite similar to the principles set forth in Rule 468 and in proposed Rule 469 which has not yet been adopted. In the meantime, we do not have an adopted rule reflecting this conclusion. Therefore, Rule 461(d) is the only rule applicable to declines in value of geothermal properties at this time.

I regret that this response had to be delayed pending advice from our Assessment Standards Division. I trust that the above discussion will be helpful to you.

Very truly yours,



Richard H. Ochsner
Assistant Chief Counsel

RHO:cb
2375D

cc: Mr. John W. Hagerty
Mr. Verne Walton
Mr. Charlie Knudsen
Mr. Bruce Dear
Mr. Ray Rothermel
Mr. Jim McCarthy