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No. 96/54

TO COUNTY ASSESSORS:

CHAPTERED LEGISLATION:
CHAPTER 76 (AB 1286) AND CHAPTER 171 (SB 713)

The Governor recently signed Assembly Bill 1286 (Chapter 76, Takasugi) and Senate Bill 713 (Chapter 171, Maddy). Both bills were urgency legislation and became effective immediately upon being chaptered. Chapter 76 became effective on June 28, 1996, and Chapter 171 on July 17, 1996. We will briefly discuss each bill separately.

CHAPTER 76 (AB 1286, TAKASUGI)

Chapter 76 adds Section 401.12 to, and adds and repeals Sections 401.10 and 401.11 of, the Revenue and Taxation Code (all statutory references are to the Revenue and Taxation Code unless otherwise indicated). This bill provides for the valuation of intercounty pipeline rights-of-way, for tax years 1984-85 through 2000-01, according to a prescribed dollars-per-mile schedule that would assign values according to the "density classification" of the property. The "density classification" of rights-of-way follows existing classifications assigned to those properties by the Board. Where two or more pipelines occupy the same right-of-way, the schedule per mile value of the right-of-way would be increased by 50 percent for each additional pipeline, up to a maximum of twice the scheduled value. This bill makes specific provisions for reducing the assigned values where the Board has determined that some or all of the pipeline(s) occupying the same rights-of-way have been abandoned as a result of physical removal or blockage.

For any intercounty pipeline right-of-way assessment that is made in accordance with the prescribed methodology, this bill precludes the taxpayer from challenging the legality of the assessment. Where a right-of-way is not assessed according to the prescribed methodology, this bill not only allows the taxpayer to challenge the legality of the

assessment, but also negates any presumption of correctness that the assessment would otherwise enjoy.

Generally, the law presumes that the assessor's assessment is correct, and thus a taxpayer applying for reduction to the assessment has the burden of proving that the assessment is not correct. Exceptions to this general rule occur in situations involving owner-occupied single family dwellings or penalty assessments. Thus, this bill adds another exception to the general rule.

Chapter 76 also provides that there shall be no interest or penalties levied on escape assessments made by assessors for years when the Board assessed the rights-of-way. However, these provisions would be superseded by any existing settlement agreement between a taxpayer and a county as to the assessment of any particular right-of-way.

The Legislature expressly declared that its intent in enacting this bill is for the purpose of providing "statutory clarification to ensure that proper and consistent assessment practices are followed in determining values for intercounty pipeline rights-of-way."

CHAPTER 171 (SB 713, MADDY)

This bill provides follow-up and technical clean-up amendments to Chapter 498 of the Statutes of 1995 (SB 657, Maddy).

POSSESSORY INTERESTS - REQUIRED INFORMATION. Chapter 498 transferred responsibility for filing change in ownership statements or preliminary change in ownership reports resulting from renewals of possessory interests from the holder of a possessory interest to the government entity that owns the property. As amended by Chapter 498, Section 480.6 requires state and local governmental entities to file a change in ownership statement or a preliminary change in ownership report whenever there is a renewal of a possessory interest.

Chapter 171 amends this section to give state and local government entities the option of a one-time annual filing of specified information with assessors rather than filing change in ownership statements or preliminary change in ownership reports each and every time there is a renewal of a possessory interest. The specified information includes the following:

- The name and address of the fee owner of the real property.
- The name and address of each holder of a possessory interest.
- The types of transactions in which the holders of the possessory interests acquired those interests, whether creations, renewals, subleases, or assignments.
- The description of the subject real property.

- The date of each transaction in which a holder of a possessory interest in the real property acquired that interest.
- The terms of each transaction described above, including all of the following:
    - The consideration given for the possessory interest, whether paid in money or otherwise.
    - The terms of the possessory interest, including any renewal or extension option.
    - For any subleases, the original term and remaining term of the sublease, and the consideration paid for the master lease.
    - For any assignments, the original term and remaining term of the assignment, and the consideration paid for the underlying lease.

ESCAPE ASSESSMENTS. Chapter 498 of the Statutes of 1995, in part, amended Section 4837.5 giving taxpayers the option of a four-year installment payment plan for <u>any</u> property tax bill over $500 resulting from an escape assessment, regardless of the circumstances. Previously the four-year payment option was limited to only those situations were the error causing the escape assessment was not that of the assessee or where the assessment was the result of the correction of an error which was made without fault on the part of the assessee. Taxpayers who elected this payment option were not charged interest on the outstanding balance of taxes due during the installment period.

Chapter 171 provides for the payment of interest on the outstanding balance of taxes due on escape assessments at the rate of ¾ of 1 percent per month (9 percent per annum) where the taxpayer elects a four year installment payment plan, unless the escape assessment was <u>not</u> the fault of the taxpayer.

MAXIMUM NUMBER OF ASSESSMENT APPEALS BOARDS - SUNSET DATE. Chapter 164 of the Statutes of 1995 (AB 1620, McDonald) established a January 1, 1999, sunset date on the expansion of the number of assessment appeals boards within a county from five to ten. Chapter 498 of the Statutes of 1995 also expanded the maximum number of assessment appeals boards within a county from five to ten. However, it did not provide a sunset date. Chapter 171 amends Section 1621 to restore the sunset provisions, but it extends the sunset date from January 1, 1999, to January, 1, 2005.

95 PERCENT ASSESSMENT RATIO. In 1986, legislation was enacted permitting counties to allocate to themselves, for purposes of administration of the supplemental roll, an amount not to exceed five percent of the additional revenues generated by supplemental assessments. However, under this legislation such allocation was permitted only if the county was certified as "eligible" by the Board.

Prior to the amendment made to Section 75.60 by Chapter 498, a county was deemed "eligible" by the Board if it achieved an assessment level ratio, as determined by the

Board staff in its periodic audit of the county's assessment procedures, of at least 95 percent. In determining whether a county is within the 95 percent requirement, Chapter 498 amended Section 75.60 to exclude any property in the sample where the assessor's value was higher than the Board's staff value. Thus, erroneously high assessments could not offset erroneously low assessments.

However, when the amendment was made by Chapter 498, some of the existing language was inadvertently struck. Chapter 171 restores that language for technical accuracy and now reads in subdivision (b):

> "(2) *'Eligible county' means a county that has been certified by the State Board of Equalization as an eligible county.* The State Board of Equalization shall certify a county as an eligible county only if both of the following are determined to exist:
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> "*Each certification of a county shall be valid only until the next survey made by the board. If a county is not certified by the board, it may request a new survey in advance of the regularly scheduled survey, provided that it agrees to pay for the cost of the survey.*"

SPECIAL FRANCHISES. Section 23154 requires the Board to assess "special franchises" of state assessees. The Board has traditionally fulfilled this statutory requirement by assessing state assessed property (public utility property) at fair market value on a unitary or going concern basis. In other words, no separate valuation of the special franchise was required because the value of the special franchise was accounted for when the public utility was valued using the unitary or going concern approach.

A special franchise is the right of a public utility to perform specified services in a designated area which is usually evidenced by a certificate of public necessity and convenience. A special franchise has also been defined as an exclusive privilege conferred by a governmental agency by which property devoted to public service is operated for private profit; however, previously a special franchise was treated as separate and distinct from a possessory interest. (See *Assessors' Handbook, The Appraisal of Public Utilities*, May 1981 edition, pages 4-5.)

Chapter 498 of the Statutes of 1995 redefined a special franchise to be a possessory interest, i.e., the right to use tax exempt government-owned real property. Chapter 171 added a statement to the noncodified language that the amendments to Section 23154 by Chapter 498 do not constitute a change in, but are declaratory of existing law.

POSSESSORY INTERESTS - DEFINITION. The phrase "possessor or operation of the property" in the last sentence of Section 107(a)(1) was grammatically inconsistent. Chapter 171 amended this phrase to read "*possession* or operation of the property."

PROPERTY TAX REFUND INTEREST RATES. Under existing law, there are different rules and procedures on the payment of interest on property tax refunds depending upon the mechanism which triggered the property tax refund. Chapter 88 of the Statutes of 1996 (AB 1668, Takasugi) amends Section 5151 to clarify the interest computation period for property tax refunds. This bill will take effect on January 1, 1997. However, Chapter 171 incorporates the changes made to Section 5151 by Chapter 88 and makes additional technical, clarifying changes.

If you have any questions regarding these bills, please contact our Real Property Technical Services Section at (916) 445-4982.

Sincerely,

Richard C. Johnson FOR

J. E. Speed
Deputy Director
Property Taxes Department

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