



STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
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August 5, 2005

TO INTERESTED PARTIES:

PROPOSED PROPERTY TAX RULE 474,
PETROLEUM REFINING PROPERTIES

At the March 22, 2005 Property Tax Committee meeting, the committee heard discussion regarding proposed Property Tax Rule 474, *Petroleum Refining Properties*. The committee directed staff to initiate the interested parties process to gather comments on the proposed rule. In Letter To Assessors 2005/028, interested parties were invited to provide comments on the proposed rule language. Enclosed is a matrix summarizing the comments received.

An interested parties meeting will be held on August 23, 2005 to discuss the proposed rule. The meeting will begin at 9:30 a.m. at the Board's headquarters in Sacramento, 450 N Street, Room 122. The proposed rule is scheduled for discussion before the Property Tax Committee at the December 13, 2005 meeting.

All documents regarding this project are posted to the Board's website at www.boe.ca.gov/proptaxes/rule474.htm. If you plan to attend the interested parties meeting on August 23, please advise Mr. David Yeung at david.yeung@boe.ca.gov or 916-324-2812. If you are unable to attend the meeting in Sacramento but would like to participate by telephone, you may contact Mr. Yeung to receive conference call information.

Sincerely,

/signed

Dean R. Kinnee, Chief
Assessment Policy and Standards Division

DRK:sk
Enclosure

**PROPOSED PROPERTY TAX RULE 474,
PETROLEUM REFINING PROPERTIES**

NO.	SOURCE	COMMENTS
1	Rick Auerbach, Los Angeles County Assessor	<p>We feel the rule accurately reflects sound refinery appraisal practices and the law. Rule 474 clarifies the "appraisal unit" for refinery appraisals by stating that it "consists of the real and personal property that persons in the marketplace commonly buy and sell as a unit."</p> <p>We recommend that the Board staff accept the proposed language as written, which addresses a relatively narrow subject, and avoid additional items. While the staff has expressed the idea that the rule be expanded to cover all aspects of refinery appraisals, we believe that goal is better served via the Assessors' Handbook process. Any attempt to develop comprehensive approaches to valuing refineries, which are complex properties with myriad issues, would exhaust the rule-making process. A property tax rule should focus on interpreting and implementing a statute, which will be accomplished by the proposed language.</p>
2	Bob Poole, Western States Petroleum Association	<p>Most refiners and WSPA have opposed the amendments to Rule 461 which, in essence, gave the assessor the discretion to remove Proposition 13 protection from land and Proposition 8 protection from fixtures for any properties the assessor deemed to be in a single appraisal unit.</p> <p>The assessors now support proposed Rule 474 that seeks to <i>automatically</i> remove that protection for all refineries on the theory that they are special properties and should be accorded special treatment with respect to appraisal unit theory as has been done for oil and gas producing properties and mineral producing properties. That proposal ignores that extractive processes are completely different from manufacturing and are possessory rights where the right to extract is taxed, not the minerals themselves. In such a case, any fixture attendant to such a possessory right is logically within the same appraisal unit as that possessory right.</p> <p>To the contrary, a refinery is no different than any manufacturing assembly line and should not be treated differently in appraisal unit theory. Fixtures are purchased separately and applied to refinery property in exactly the same manner, <u>as is the case with every other manufacturing facility</u>. The SBE specifically wanted to protect the declines in value for affixed machinery and equipment in enacting Rule 461 and that protection should not be undone piecemeal in a setting given to advocacy rather than one driven by overall assessment policy. If Rule 474 passes in its current form, no other manufacturing property could be logically</p>

NO.	SOURCE	COMMENTS
2 Cont		<p>distinguished and the system would be out of balance. Further, the assessors would be forced to consider the impact of land contamination in relation to the positive values on machinery and equipment under the concept of the appraisal unit advanced under Rule 474.</p> <p>If refinery properties are truly unique as the Assessors' Association purports, then they should embrace a comprehensive rule to cover all aspects of such properties similar to the scope of Rules 468 and 469, which they cite as authority for their current proposal. <i>None of the other rules narrowly tackle a single aspect of a special property.</i></p> <p>Some of the topics of concern to taxpayers that must be addressed in any rule are as follows:</p> <p><i>Income Approach:</i> •Discount rates which do not reflect the risk of owning a single refinery asset •Product pricing based on assets not present at the refinery (i.e., rack vs. spot prices) •Removal of intangible business enterprise values •Proper calculation of working capital</p> <p><i>Cost Approach:</i> •Capital expenditures for sustaining items (maintenance, environmental compliance, etc.) are added to the value conclusion when only strategic capital adds value •Equipment lives in calculating depreciation •Calculation of economic depreciation</p> <p><i>Sales Comparison Approach:</i> •Assessors failure to consider sales of comparable property •Units of comparison</p> <p>These are only a few of the concerns that must be addressed in any rule purporting to establish guidelines for assessing refineries. We would insist that such items be considered otherwise the rulemaking process becomes nothing more than advocacy outside the judicial arena.</p> <p>From time to time, WSPA has proposed an Assessors' Handbook on refineries. If Rule 474 is necessary as the assessors say, then a comprehensive handbook should be developed prior to the adoption of this rule.</p>