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No. 2014/043

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TO COUNTY ASSESSORS:

EFFECTIVE ADMINISTRATIVE PRACTICES – MINING PROPERTIES

The valuation and assessment of mining properties for tax purposes, especially under the mandate of article XIII A of the California Constitution (Proposition 13), represents a complex and sometimes controversial challenge to county assessors. The passage of Proposition 13 left many questions unanswered in the appraisal of mining properties. To answer these questions, the State Board of Equalization (BOE) adopted Property Tax Rule¹ 469, *Mining Properties*, in order to apply the provisions of Proposition 13 to the valuation of mines. Rule 469 is a property specific rule which takes precedence over any other conflicting rule.

There is an ongoing need to enhance uniformity in the assessment of mining properties in order to provide equal and consistent treatment to all taxpayers. To ensure compliance with the California Constitution and the applicable statutes related to the valuation of mining properties, assessors' staff must have a working knowledge of how to properly identify appraisal units of mining properties, particularly for the purposes of decline in value assessments.

Assessment practices surveys completed during the past few years have discovered several issues for the valuation of mining properties, resulting in a number of recommendations in the final reports. Although there are a number of resources currently available² to assist assessors' staff in the proper valuation of mining properties, we have considered two of the more frequent recommendations and offer guidance on the proper assessment of appraisal units associated with mining properties. This letter addresses the following issues in the attached documents:

- Appraising mineral properties, including fixtures, as a unit
- Treating leach pads, settling ponds, and tailing facilities as separate appraisal units

Eff. 1/1/18, leach pads, settling ponds, and tailing facilities are no longer treated as separate appraisal units (AB 1718, Stats. 2017, ch. 592).

¹ All references to Rules or Property Tax Rules are section references to Title 18, Public Revenues, California Code of Regulations.

² Resources include Assessors' Handbook Section 560, annotated letters and other legal opinions, Letters To Assessors, BOE website information, and assessor in-house processing manuals/guidelines.

If you have any questions regarding the proper assessment of appraisal units associated with mining properties for property tax purposes, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ Dean R. Kinnee

Dean R. Kinnee
Acting Deputy Director
Property Tax Department

DRK:mc
Attachments

Appraise Mining Properties as a Unit

Reappraise mining properties each year

Treat fixtures as part of the appraisal unit

Remove base year values of depleted or reduced reserves

Use either factored base year value or current market value

References: Property Tax Rule 469, *Mining Properties*³; Assessors' Handbook Section 560, *Assessment of Mining Properties*⁴; and article XIII A of the California Constitution

By statute and case law, mining properties are taxable as real property. They are subject to the same laws and appraisal methodology as all real property in the state. There is, however, a mineral-specific property tax rule that applies to the assessment of mining properties—Rule 469. Rule 469, along with Assessors' Handbook Section 560, gives guidance on the appraisal process for mining properties.

Under article XIII A, all real property receives a base year value and, on each lien date, the taxable value of the real property unit should be the lesser of its adjusted base year value or current market value. Failure to properly determine the decline in value of a mining property using the entire mining property appraisal unit could result in an underassessment of the fixtures and equipment or an overassessment of the mineral rights.

Rule 469 requires mining properties be appraised as a single appraisal unit for purposes of determining declines in value. In general, fixtures are a separate appraisal unit for decline in value purposes as provided in Rule 461, *Real Property Value Changes*. However, Rule 469(e)(2)(C) specifically provides that when measuring for decline in value, the appraisal unit of a mining property is defined as land, improvements including fixtures, and reserves. Treating fixtures associated with a mining property as a separate appraisal unit for decline-in-value purposes is in conflict with Rule 469(e)(2)(C) and may result in the incorrect determination of the taxable value of a mining property. The assessor should use the entire unit for the purpose of measuring a possible decline in value. This requires special handling of fixtures and reported reserves to ensure proper values are developed and compared.

To make the proper value determination, the adjusted base year value of the fixtures must be tracked each year so this value can be combined with the factored base year value of the land and mineral rights. This aggregated value is then compared to the current market value of the land, improvements including fixtures, and reserves. The lesser of these two values should then be enrolled.

³ www.boe.ca.gov/proptaxes/pdf/rules/Rule469.pdf.

⁴ www.boe.ca.gov/proptaxes/pdf/ah560.pdf.

Consequently, after the initial enrollment of value, mining properties must be reviewed annually for possible declines in value. Rule 469 provides that depletion of proved reserves and reductions in recoverable amounts of minerals constitute reductions in the measure of mineral rights. This reduction in the measure of mineral rights shall correspondingly reduce value on the subsequent lien date because depleted or reduced reserves' base year values must be removed.⁵ Therefore, since productive mineral resources are a depleting asset, there must be an annual estimate of the current market value of a mining property and a comparison of this value to the property's factored base year value adjusted for reduced reserves, again with the lesser of these two values enrolled as the taxable value.

To correctly enroll the taxable value of a mining property, the assessor must use either the current market value for all components in the defined unit, or the factored base year value for all components in the defined unit. For example, changes to the mineral rights value and other land value can create a situation where the factored base year value is lower than market value. This means that the factored base year value of the entire unit, which includes land, fixtures, and reserves, should be enrolled. In this case, adding the current market value of fixtures to the factored base year value of the other components in the unit could result in a value for the total appraisal unit that is too low, resulting in an incorrect assessment. Any mixture of current market value and factored base year value is in conflict with the intent of Rule 469.

⁵ Rule 469(e)(2)(A)(4).

Eff. 1/1/18, section 53.5 is repealed (AB 1718, Stats. 2017, ch. 592). Thus, leach pads, settling ponds, and tailing facilities are no longer treated as separate appraisal units.

Leach Pads, Settling Ponds, and Tailing Facilities are Separate Appraisal Units

Treat leach pads, settling ponds, and tailing facilities as separate appraisal units

References: Property Tax Rule 469; and Revenue and Taxation Code⁶ section 53.5

Most mining operations will include some area designated as a location for waste material produced by the mining operation. These settling ponds and tailings facilities are typically used to collect water used for washing the gravel to provide a clean product that meets the customer's specifications and needs. The wash water is then collected to allow the small particulate matter to settle before the water is recycled. Some mining operations use leach pads to extract metals from their ore by placing them on a pad and sprinkling a leaching solvent over them. This process dissolves the metals which then collect at the bottom of the pad. Site inspections, use permit application reviews, or reviews of satellite photos of the mineral property can easily determine the existence of leach pads, settling ponds, and tailing facilities.

Rule 469(c)(6) states:

"Appraisal unit" consists of mineral property that persons in the marketplace commonly buy and sell as a unit or that is normally valued separately. However, for assessments made after January 1, 1999, each leach pad, tailings facility, and settling pond shall be a separate appraisal unit.

Section 53.5 provides that the assessor must establish a base year value for each leach pad, settling pond, and tailing facility, and that each leach pad, settling pond, and tailing facility must be considered a separate appraisal unit for purposes of determining its taxable value on each lien date subsequent to the lien date upon which the initial base year value was determined. Failure to properly account for the decline in the value of the leach pads, settling ponds, or tailings facilities could result in an overassessment of the property and is contrary to statute.

An acceptable method to value these components would be to determine the cost to construct the improvement and establish a base year value. For each lien date thereafter:

- Establish the current market value of each component by:
 - Determining the remaining capacity of the improvement to dispose of waste material; and
 - Ascertaining the replacement cost new (RCN) and reduce the value based on the remaining capacity.

It may be efficient to use a questionnaire in order to obtain information from the taxpayer that will assist in determining capacity and value. While conducting research on this topic, BOE staff became aware of good procedures adopted by one county to solicit assessment information for these properties. A sample questionnaire encompassing their questions is enclosed.

- Compare the adjusted base year value and the current market value. The lower of the two values is to be enrolled.

⁶ All statutory references are to the Revenue and Taxation Code unless otherwise designated.

