



STATE BOARD OF EQUALIZATION
PROPERTY TAX DEPARTMENT
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0064
1-916-274-3350 • FAX 1-916-285-0134
www.boe.ca.gov

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No. 2023/036

September 27, 2023

TO COUNTY ASSESSORS:

CLASSIFICATION OF WIRELESS COMMUNICATION TOWERS

In [Letter To Assessors \(LTA\) No. 2001/024, *Delegation of Assessment Jurisdiction of Wireless Communication Tower Sites*](#), the State Board of Equalization (BOE) notified Assessors of the BOE's decision to delegate assessment jurisdiction; provided background on the issue; provided information on coordination issues among state assesseses, County Assessors, and the BOE; and provided answers to common questions. Due to issues brought to our attention regarding the BOE's answer to Question 8 on page 7 of LTA No. 2001/024, this letter provides more concise information regarding the classification of wireless communication towers by providing an updated, more appropriate response to the question: Should wireless communication towers be classified as fixtures or structures for local assessment?

Additionally, during staff's research regarding classification of wireless communication towers, we discovered that further information regarding assessment responsibility in various circumstances was necessary. This LTA will provide that additional information to be used in conjunction with the delegation and jurisdiction information provided in LTA No. 2001/024.

This letter supersedes only the answer to Question 8 on page 7 of LTA No. 2001/024. All of the remaining information provided in LTA No. 2001/024 remains current and accurate.

Tower Classification

Revenue and Taxation Code [section 105\(a\)\(1\)](#) defines "improvements" as all buildings, structures, fixtures, and fences erected on or affixed to the land.

According to Assessors' Handbook Section 502 ([AH 502](#)), *Advanced Appraisal*, an improvement is classified as a "structure item" when its primary use or purpose is for housing or accommodation of personnel, personalty, or fixtures; or when the improvement has no direct application to the process or function of the trade, industry, or profession.

When a wireless communication tower is erected for the purposes of simply housing wireless communication antennas and related equipment, classification as a structure would be consistent with the direction given in AH 502 and Assessors' Handbook Section 581 ([AH 581](#)), *Equipment and Fixtures Index, Percent Good and Valuation Factors*. In both handbooks, "television and radio antenna towers" are listed as structure items.

Property Tax Rule¹ (Rule) [122.5\(a\)\(1\)](#), *Fixtures*, defines a fixture as "...an item of tangible personal property, the nature of which was originally personalty, but which is classified as realty for property tax purposes because it is physically or constructively annexed to realty with the intent that it remain annexed indefinitely." Rule 122.5(a)(2) provides three tests to determine what constitutes a fixture for property tax purposes. The three tests are:

- Physical Annexation (manner of annexation)
- Constructive Annexation (adaptability), and
- Intent

Additionally, [Rule 463\(c\)](#), *Newly Constructed Property*, provides that a fixture is "an improvement whose use or purpose directly applies to or augments the process or function of a trade, industry, or profession."

When a wireless communication tower is erected to ensure proper elevation to antennas receiving and transmitting radio frequencies to maximize the range of connection to mobile devices, classification as a fixture would be appropriate in accordance with the definition of a fixture provided by Rule 463(c), assuming the tower constitutes a fixture in accordance with Rule 122.5(a)(2).

In any case, an appraiser should base their classification determination on all relevant facts concerning that property, and dual-purpose improvements should be classified as to their primary purpose.

Assessment Responsibility

The first determination to be made by a County Assessor is whether the cell site, or any portion thereof, is state or locally assessed. Only those wireless cell sites that are *leased* by a state assessee and on which the property taxes are to be paid by a local assessee are to be assessed by the County Assessor. Antennas, cables, equipment sheds, power, and monitoring equipment that are owned by the wireless company remain state assessed.

Locally assessed leased sites include taxable possessory interests that are held by an aggregator and subleased by a state assessee.² Taxable possessory interests that are held by an aggregator can be delegated because the aggregator is a local assessee that can pay the property taxes. However, possessory interests held by a state assessee cannot be delegated because there is no local assessee that can pay the property taxes. Thus, possessory interests held by state assessees will continue to be assessed by the BOE.

The following table summarizes the discussion regarding assessment responsibility of wireless communication towers and the underlying land in various ownership scenarios.

¹ California Code of Regulations, Title 18, Division 1.

² An *aggregator* is a type of business entity that leases space on a cell tower to other communication companies. Many wireless communications providers have either sold their communications towers or assigned the leasing rights to a tower aggregator. Typically, an aggregator is responsible for just the tower and site maintenance.

| TOWER OWNER | ASSESSMENT JURISDICTION OF TOWER | LAND OWNER | ASSESSMENT JURISDICTION OF CELLULAR SITE LAND |
|----------------|----------------------------------|----------------|---|
| State Assessee | BOE | Government | BOE (PI) |
| State Assessee | BOE | Private | County Assessor |
| State Assessee | BOE | State Assessee | BOE |
| Government | Exempt | Government | BOE (PI) |
| Government | Exempt | Private | County Assessor |
| Aggregator | County Assessor | Private | County Assessor |
| Aggregator | County Assessor | State Assessee | BOE |
| Aggregator | County Assessor | Government | County Assessor (PI) |

Any property *owned* by a state assessee remains assessable by the BOE. The assessment duty for property that is owned by a state assessee cannot be delegated.³ Thus, property owned by a state assessee (such as antennas, radio equipment, and shelters) will continue to be assessed by the BOE even if they are attached to a delegated wireless communication tower.

To find out whether a particular company is state assessed, please check the *Listing of State Assesseees*, which is annually updated every July and posted on the BOE's website at www.boe.ca.gov/proptaxes/sappcont.htm. If the company is not on this list, please call the State-Assessed Properties Division at 1-916-274-3270 for further information.

If you have any questions regarding the classification and assessment responsibility of wireless communication towers and tower sites, please contact our County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David Yeung

David Yeung
Deputy Director
Property Tax Department

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³ [Article XIII, section 19, of the California Constitution.](#)