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April 17, 2014

Hon. Jerome Horton, Chair
Board of Equalization
Sacramento, CA 95814

Re: Letter to Assessors “Guidance Regarding Taxable Possessory Interests Property Tax Rule 21(d), *Term of Possession for Valuation Purposes*”
(April 22-23, 2014 Meeting)

Dear Chairman Horton:

On behalf of the California Association of Port Authorities (CAPA), I write today in support of the proposed LTA “Guidance Regarding Taxable Possessory Interests Property Tax Rule 21(d), *Term of Possession for Valuation Purposes*.” CAPA is comprised of the state’s eleven commercial, publicly-owned ports and is dedicated to maintaining the state’s leading role in the maritime industry, and leading the way in innovative and cutting edge environmentally-friendly port operations.

Specifically with respect to this LTA, CAPA represents all of public ports as landlords, who in turn create possessory interests through leasing activities to private companies.

Rule 21, and its proper limitations on what real estate interests can and cannot be taxed, are important to landlord ports for multiple reasons:

- As demonstrated by the holding in *California State Teachers’ Retirement System v. County of Los Angeles* (2013) 216 Cal.App.4th 41, the public’s interests in real property must never be subject to taxation. Many CAPA members are trustees of state tidelands, and in that capacity have a duty to protect state trust lands from and to grow revenues. Imposition of taxes over and above an agreed-upon term of possession will impair the value of the public’s reversionary interest in trust lands.

- The protection of a public entity's tax-exempt status is not the only way that Rule 21 is important to our seaports' bottom line, since a properly limited Possessory Interest taxation scheme enhances the value of our property to tenants, which in turn allows Ports and tenants to sign longer and larger leases with lower costs. This enhances value in our seaports and maximizes revenues from tenants.

California's ports are currently fighting for market share in the incredibly competitive North American marketplace for discretionary cargoes. We find that while our ports offer many strategic advantages, we also often have higher costs. To the extent that this LTA will limit unnecessary or unjustified assessments it will also reduce California-only costs – and that will enhance our long-term competitiveness.

Finally, CAPA's members have numerous types of leases with tenants of all kinds, which reflects the fact that the state has a strong diversity of ports and harbors – large and small. Some of these ports compete directly with one another, while others occupy unique commercial, navigational, recreational and environmental niches. In order to respect the various roles played by these ports and their tenants, and to preserve a level playing field within our membership, it is important to treat everyone fairly and consistently across the state. In that regard, we appreciate the proactive steps taken by the Board to address any inconsistencies with respect to the administration of Rule 21.

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Schott", with a long horizontal flourish extending to the right.

Tim Schott
Executive Secretary