

**STATE BOARD OF EQUALIZATION**

ASSESSMENT STANDARDS DIVISION
450 N Street, MIC: 64, Sacramento, California
(P. O. Box 942879, Sacramento, CA 94279-0064)

Telephone: (916) 445-4982
FAX: (916) 323-8765

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December 15, 1995

Dear Mr.

This is in response to your letter of March 15, 1995 to Mr. Dick Johnson, Chief of Assessment Standards Division, regarding the application of Section 74 of the Revenue and Taxation Code (all statutory references are to the Revenue and Taxation code unless otherwise indicated) to your situation. I apologize for the delay in responding; due to other matters requiring our attention, an unfortunate delay in correspondence was created.

You are auditing a taxpayer who purchased a fire detection company about four years ago. Along with the purchase of the client base and business property, the taxpayer also acquired all the fire detection equipment located at the various client business locations.

The taxpayer admits ownership of the leased fire detection equipment but is contending that the equipment is not assessable under Section 74. It is your contention that the exclusion provided in Section 74 applies only to the new construction of fire detection equipment and not to the change of ownership of such equipment.

From your letter, I am not clear as to the classification of the property in question. If the property is personal property, then the provisions of Section 74 are not applicable. Section 74 provides an exclusion from new construction which is applicable to real property only.

In relationship to real property, Article XIII A of the California Constitution (Proposition 13) provides that generally, real property shall have a base year value based on the market value as of March 1, 1975 unless the property undergoes a change in ownership or new construction. In the case of a change in ownership or new construction after the 1975 lien date, the base year value is based on the market value as of the date of the change in ownership or completion of new construction.

Section 74(a) reads:

“For purposes of subdivision (a) of Section 2 of Article XIII A of the Constitution, ‘newly constructed’ does not include the construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire related egress improvement which is constructed or installed on or after November 7, 1984.”

Section 74(c)(3) defines a fire detection system as “any system or appliance intended to detect combustion, or the products thereof, and to activate an alarm or signal, whether audio, visual, or other.” In addition, Section 74(f) provides that the provisions of Section 74 are applicable only to those qualifying fire detection systems constructed or installed in an existing building. Thus, Section 74 provides that any real property fire detection system installed in an existing building is not considered new construction for property tax purposes, but there is no exclusion for fire detection systems installed as part of a newly-constructed building.

If the fire detection equipment is, in fact, real property, e.g., fixtures, then the provisions of Section 74 are applicable. However, in your situation, the fire detection equipment was acquired by the taxpayer in 1991 in a change-in-ownership and was not new construction. Therefore, there is no exclusion from assessment of the fire detection equipment.

I hope that this information is helpful. If you have additional questions, please contact our Business Property Technical Services Section at (916) 445-4982.

Sincerely,



Charles G. Knudsen
Principal Property Appraiser
Assessment Standards Division

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