



STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0082
TELEPHONE (916) 445-5580
FAX (916) 323-3387
www.boe.ca.gov

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January 18, 2002

Honorable George J. Misner
Kings County Assessor's Office
1400 West Lacey Blvd.
Hanford, CA 93230

RE: *Request for Opinion –Supplemental Assessment of Section 11 Properties*

Dear Mr. Misner,

This is in reply to your recent telephone inquiry to Assistant Chief Counsel Larry Augusta regarding the legal basis for the Board's position that taxable government-owned property ("Section 11 property") is not subject to supplemental assessment, as stated in Letter to Assessors ("LTA") No. 2000/037, Guidelines for the Assessment of Taxable Government-Owned Property. As explained below, the Board's position is based upon its interpretation, as expressed in that LTA, that the base year value for section 11 properties is established at the lower of the Phillips Factor value or fair market value as of the date of change in ownership or completion of new construction.

In the process of developing the guidelines for assessment of taxable local government-owned properties, the Board directed Board staff to prepare a draft and to meet with interested parties to discuss issues of interpretation of section 11. In the draft guidelines, staff took the position that, consistent with the holding in *City and County of San Francisco v. County of San Mateo et al.* (1995) 10 Cal.4th 554, base year values of section 11 properties are established in the same manner as privately-owned real properties. In *City and County of San Francisco v. County of San Mateo et al.*, the California Supreme Court held that Article XIII A which was added to the California Constitution in 1978 did not repeal Article XIII, section 11 and that both apply to taxable local government owned land in all counties other than Inyo and Mono. Accordingly, the court concluded that assessors are required to establish base year values for section 11 properties and to assess those properties at the lowest of (1) the current fair market value, (2) the factored base year value or (3) the Phillips factor value. Article XIII A and Revenue and Taxation Code section 51 provide that the assessor shall establish the base year value of real property by determining its current fair market value upon a change in ownership or completion of new construction.

Staff's draft also concluded that, consistent with the plain language of section 75.14 of the Revenue and Taxation Code, section 11 properties are subject to supplemental assessment. Section 75.14 provides that all property subject to the assessment limitations of Article XIII A of the California Constitution are subject to supplemental assessment.

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One of the interested parties, Principal Appraiser Dale Edginton of the Los Angeles County Assessor's office, disagreed with both of these positions. For the determination of base year values for section 11 properties, Mr. Edginton read *City and County of San Francisco v. County of San Mateo* to require that all section 11 property, regardless of the date acquired, be assessed at the lower of the Phillips factor value or the fair market value upon reappraisal on the date of the change in ownership or completion of new construction. In his view, a new base year value is established at the lower of the two values and, thus, the base year value for a particular property may be the Phillips factor value on the valuation date.

In connection with his interpretation regarding the establishment of base year values for section 11 properties, Mr. Edginton took the position that section 11 is not subject to supplemental assessment. In Mr. Edginton's view, supplemental assessments are applicable only to properties for which the base year value is established at current fair market value as of the date of change in ownership or completion of new construction. Because in his view a different value standard is used to determine base year values for section 11 properties, he concludes supplemental assessments are not applicable to those properties.

Both of these issues were briefed in an issue paper (copy enclosed) and presented for decision at the meeting of the Board's Property Tax Committee on May 3, 2000. At that meeting the Property Tax Committee adopted the positions presented by Mr. Edginton and directed the staff to revise the guidelines accordingly.

Very truly yours,

/s/ Lou Ambrose

Lou Ambrose
Senior Tax Counsel

LA:tr

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Attachments

cc:

Mr. David Gau, MIC:63

Chief - PPSD, MIC:64

Ms. Jennifer Willis, MIC:70