



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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No. 83/90

September 2, 1983

TO COUNTY ASSESSORS, COUNTY COUNSELS,
ASSESSMENT APPEALS BOARDS, AND
OTHER INTERESTED PARTIES:

PROPERTY TAXES RULE 122.5, FIXTURES

On July 26, 1983, the State Board of Equalization conducted a public hearing to consider Property Taxes Rule 122.5, Fixtures, and took the rule under submission. The Board subsequently adopted the rule on August 17.

This rule provides criteria for determining when an item of property should be classified as a fixture (real property) or as personal property.

The effective date of the rule will be 30 days after the rule is submitted to the Secretary of State. We anticipate that this will occur during late September, in which case the effective date will be the latter part of October. Although this rule is intended only to define or clarify existing statutory law, the rule is not enforceable as administrative law until the effective date.

Two copies of the rule are enclosed. One copy is in strikeout-underscore format to show the nonsubstantive revisions that were made to the draft we published May 31, 1983 (Assessors' Letter No. 83/64). The other copy is the rule as adopted (without strikeout-underscore). A varityped version will be available later.

Sincerely,

Verne Walton, Chief
Assessment Standards Division

VW:dw
Enclosures
AL-04B-0631A

RULE 122.5, FIXTURES

Reference: Sections 105 and 107, Revenue and Taxation Code

(a) DEFINITION.

(1) A fixture is an item of tangible 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.

(2) The manner of annexation, the adaptability of the item to the purpose for which the realty is used, and the intent with which the annexation is made are important elements in deciding whether an item has become a fixture or remains personal property. Proper classification, as a fixture or as personal property, results from a determination made by applying the criteria of this rule to the facts in each case.

(3) The phrase "annexed indefinitely" means the item is intended to remain annexed until worn out, until superseded by a more suitable replacement, or until the purpose to which the realty is devoted has been accomplished or materially altered.

(b) PHYSICAL ANNEXATION.

(1) Property is physically annexed if it is attached to, imbedded in, or permanently resting upon land or improvements in accordance with Section 660 of the Civil Code, or by other means that are normally used for permanent installation. If the property being classified cannot be removed without substantially damaging it or the real property with which it is being used, it is to be considered physically annexed. If the property can be removed without material damage but is actually attached, it is to be

classified as a fixture unless there is an intent, as manifested by outward appearance or historic usage, that the item is to be moved and used at other locations.

(2) ~~Force-of-gravity, size, or both may constitute physical annexation providing the weight or size is such~~ Property may be considered physically annexed if the weight, the size, or both are such that relocation or removal of the property would be so difficult that the item appears to be intended to remain in place indefinitely.

(3) Property shall not be considered physically annexed to realty solely because of attachment to the realty by "quick disconnect" attachments, such as simple wiring and conduit connections.

(c) CONSTRUCTIVE ANNEXATION.

(1) Property not physically annexed to realty (including fixtures) is constructively annexed if it is a necessary, integral, or working part of the realty. Factors to be considered in determining whether the property is a necessary, integral, or working part of the realty are whether the nonattached item is designed and/or committed for use with specific realty, and/or whether the realty can perform its desired function without the nonattached item.

(2) Property connected to the realty by quick disconnect conduits which contain power or electronic cable, or allow for heating, cooling, or ventilation service to the connected property is constructively annexed only if it satisfies one of the factors in paragraph (c)(1).

(d) INTENT.

(1) Intent is the primary test of classification. Intent is measured with--not separately from--the method of attachment or annexation. If the appearance of the item indicates that it is intended to remain annexed indefinitely, the item is a fixture for property tax purposes. Intent must be

inferred from what is reasonably manifested by outward appearance. An oral or written agreement between parties, such as a contract between lessor and lessee, is not binding for purposes of determining intent.

(2) The phrase "reasonably manifested by outward appearance" means more than simple visual appearance. A reasonable knowledge of the relationship of the item being classified to the realty with which it is being used is required to determine whether physical or constructive annexation has occurred.

(3) Historic usage of a property may be considered in determining whether or not a property is intended to remain annexed indefinitely. "Historic usage" means the normal and continuing use of the property as an item that is annexed either indefinitely or only temporarily.

(e) EXAMPLES. The following examples are illustrative of the foregoing criteria. The classification in each example is based only on the limited description offered. Classification of an actual property must be based on all the relevant facts concerning that property.

(1) A stair and a walkway that are bolted to a large machine (the machine is a fixture) to facilitate operation and routine maintenance of the machine are fixtures because they are physically annexed by the bolts and they are necessary for the normal operation of the machine. A stair and a walkway that are bolted to a machine to facilitate a major overhaul of the machine and that will be removed and used elsewhere after the overhaul is completed are personal property because the physical attachments are clearly temporary.

(2) A printing press that weighs several tons, is held in place by gravity, and which because of its size cannot be removed from the building without substantial damage to the building is regarded as physically annexed and is a fixture. A free-standing safe, although of considerable weight, is

personal property if it is movable without damage to itself or to the real property wherein it is located and the real property was not designed or constructed specifically to accommodate the safe.

(3) Headsets and special stools designed to be used with a telephone switchboard (the switchboard is a fixture) are not physically annexed, but they are constructively annexed because they are designed specifically for use with the switchboard, the switchboard cannot be used properly without them, and they are not usable or only marginally usable independently of the switchboard. Ordinary office chairs used with a switchboard remain personal property because their design makes them fully usable for other purposes.

(4) A special tool, die, mold, or test device is constructively annexed to a fixture if it is specifically designed for use and is in use or has been used on or in conjunction with the particular fixture and the intended use of the fixture would be impaired without the item. A common hand tool or general-purpose test device is personal property even if in practice the item is used only on the fixture.

(5) A crane that operates on rails but is too large or too heavy for ordinary railroad tracks or cannot be operated off the property because the rails are not connected to railroad tracks is constructively annexed to the rails.

(6) A floating dry dock that is designed for use with adjacent shore facilities at a single location is a fixture even though the dry dock is occasionally moved to facilitate dredging under the dry dock. A floating dry dock that is used at several locations is personal property even though it is used primarily at one location in conjunction with special shore facilities.

(7) ~~A computer system is a fixture where~~ Computer hardware components are fixtures if extensive improvements, such as a building (or portion of a building), air conditioning, emergency power supply, and ~~a an-elaborate~~ fire suppression system are constructed specifically to accommodate the ~~computer system~~ components, and the improvements are not useful or are only marginally useful other than as housing and support of the ~~computer system~~ components. A ~~small, general-purpose~~ computer (~~or computer system~~) is personal property if it can be moved without material damage or expense and it is not essential to the intended use of the real estate. ~~An equally small~~ A computer (~~or computer system~~) is constructively annexed to a fixture if it is dedicated to controlling or monitoring the fixture and is otherwise necessary for the intended use of the fixture.*

(8) Machines that are not physically annexed to the realty and that do not operate interdependently with the realty are personal property even though special flooring, conduits, and/or overhead racks are installed to accommodate wiring from a power source to the machines, because special accommodations for wiring are normal features of an industrial building and the building is fully usable for its intended purpose (as an industrial building) without the particular machines.

* The Board is aware there is litigation pending concerning the classification of computer components as realty or personalty. The Board will amend the rule as is appropriate when this litigation is finalized.

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08-19-83

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(7) Computer hardware components are fixtures if extensive improvements, such as a building (or portion of a building), air conditioning, emergency power supply, and a fire suppression system are constructed specifically to accommodate the components, and the improvements are not useful or are only marginally useful other than as housing and support of the components. A computer is personal property if it can be moved without material damage or expense and it is not essential to the intended use of the real estate. A computer is constructively annexed to a fixture if it is dedicated to controlling or monitoring the fixture and is otherwise necessary for the intended use of the fixture.*

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