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Assessing High Tech Equipment ... and the Software Inside?

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Legal Frame Work

- **California Constitution Art. XIII, Sec. 2**

The Legislature may provide for property taxation of all forms of **tangible personal property**, shares of capital stock, evidences of indebtedness, and any legal or equitable interest therein not exempt under any other provision of this article. (Subst. sim to Art. XIII, sec. 14 as amend. 1933).

- ***Roehm v. County of Orange (1948) 32 Cal.2d 280.***

- Non-enumerated Intangibles *excluded*.
- But can be reflected in the value of taxable property



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Legal Framework

- R&T Code Sec. 995 / 995.2 – computers shall be valued for property tax purposes "as if there were no computer program on such media *except basic operational programs.*" ... *fundamental and necessary* to the functioning of the computer.
- Property Tax Rule 152(f). Taxpayer carries the burden of proof to show existence and value of excluded intangibles.



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Legal Framework

- ***Hahn v. Los Angeles (1999) 73 Cal.App.4th 985***
 - *Unbundled “basic operational programs” excluded.*
- ***Cardinal Health v. County of Orange (2008) 167 Cal. App. 4th 219 –***
 - *Bundled/embedded application software excluded.*
- ***Elk Hills Power v. St. Board of Equalization (2013) 57 Cal.4th 593***
 - *Intangibles that can be identified and valued must be excluded from assessment*

Responses

- **AB 832 (Ammiano)**
 - TP carries burden of proof by clear and convincing evidence
- **Seeking Uniform Tables for Assessment**
 - Valuation Data not held by TP.
 - Reliability of Data.
- **Letter to Assessors 2014/018, *Evaluating Embedded Software Studies for State-Assessed Property*, was released.**