



STATE BOARD OF EQUALIZATION
 PROPERTY AND SPECIAL TAXES DEPARTMENT
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October 21, 2013

TO INTERESTED PARTIES:

PROPERTY TAX RULE 474, *PETROLEUM REFINING PROPERTIES* –
 DATA FOR ECONOMIC IMPACT STATEMENT

At its September 10, 2013 hearing, the State Board of Equalization (Board) authorized staff to repeal Property Tax Rule¹ 474, *Petroleum Refining Properties*, and initiate the rulemaking process to re-adopt Rule 474.² These actions were in response to the August 5, 2013 California Supreme Court decision in *Western States Petroleum Association v. Board of Equalization*³ (*WSPA*). In that case, the Supreme Court held that Rule 474 is substantively valid but procedurally defective, and, therefore, invalid under the Administrative Procedure Act (APA).

Specifically, the Supreme Court affirmed the Court of Appeal judgment invalidating Rule 474 on procedural grounds finding that the Board failed to provide an adequate assessment of the Rule's economic impact during the rulemaking process as required by the APA, holding that, "the Board did not substantially comply with the APA in its initial determination that Rule 474 would not have a significant adverse economic impact on businesses."⁴

In order to satisfy the requirements of the APA, as well as the Supreme Court's requirement that the Board make "a reasoned estimate of all cost impacts of the rule on affected parties," county assessors and other interested parties are requested to submit data for review in the Board staff's analysis of the economic impact of Rule 474 to ensure that staff's review is as comprehensive as possible. Examples of data we are seeking include:

- Information regarding the current market value of land, improvements, and fixtures of petroleum refining properties;
- The current base year value of land, improvements, and fixtures of petroleum refining properties; and
- Depreciation information for fixtures on petroleum refining property.

¹ All references to Rules are to Property Tax Rules from Title 18 of the California Code of Regulations.

² The Board adopted Rule 474 on September 27, 2006, to provide that, consistent with California Constitution article XIII, section 1, article XIII A (which contains Proposition 13 as amended by Proposition 8), Revenue and Taxation Code section 51, and Rules 461 and 324, refinery property consisting of land, improvements and fixtures is rebuttably presumed to be a single appraisal unit in determining Proposition 8 declines in value below the Proposition 13 adjusted base year value for property tax valuation purposes.

³ (2013) 57 Cal.4th 401 (*WSPA*).

⁴ *WSPA*, *supra*, 57 Cal.4th at p. 431.

After data has been received, staff will analyze the economic impact of Rule 474 in accordance with the APA and *WSPA*, and interested parties will have an opportunity to comment on that analysis.

All data should be submitted by December 2, 2013 to Sherrie Kinkle at sherrie.kinkle@boe.ca.gov or at the above address. If you have questions regarding this project, you may contact Ms. Kinkle at 1-916-274-3363.

Sincerely,

/s/ Dean R. Kinnee

Dean R. Kinnee, Chief
County-Assessed Properties Division

DRK:sk