STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
PROPERTY TAXES DEPARTMENT
450 N STREET, MIC: 63, SACRAMENTO, CALIFORNIA
(PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0063)
TELEPHONE (916) 445-1516
FAX (916) 323-8765

JOHAN KLEHS
First District, Hayward

DEAN F. ANDAL
Second District, Stockton

CLAUDE PARRISH
Third District, Torrance

JOHN CHIANG
Fourth District, Los Angeles

KATHLEEN CONNELL
Controller, Sacramento

E. L. SORENSEN, JR.
Executive Director

June 3, 1999

No. 99/33

TO COUNTY ASSESSORS AND INTERESTED PARTIES:

REVISION OF PROPERTY TAX RULE 10

We advised interested parties on February 25, 1999 that Board staff would undertake a revision of Property Tax Rule 10, Trade Level for Tangible Personal Property. At that time we also provided interested parties with staff's proposed revisions to the rule and requested suggestions and comments regarding this draft. Enclosed is a matrix summarizing the suggestions and comments received by staff. The position of Board staff regarding each proposed change is also noted.

We have scheduled an interested parties meeting at 9:00 a.m. on June 22, 1999, at the Board's headquarters in Sacramento, 450 N Street, Room 122, to discuss the issues and the specific suggestions listed in the enclosed matrix. However, the discussion of Rule 10 will occur following a discussion on revisions to Rule 133, Business Inventory Exemption.

If you have any questions regarding the revision of this rule, the enclosed matrix, or the interested parties meeting, please contact Gordon Ferguson at (916) 322-3815 or Ladeena Ford at (916) 324-5839.

Sincerely,

/s/ Richard C. Johnson
Richard C. Johnson
Deputy Director
Property Taxes Department

RCJ:md/lf
Enclosures

PROPERTY TAX RULE 10
PROPOSED CHANGES TO STAFF FEBRUARY 16, 1999 VERSION (Attachment A "Clean Version")
(Page and Line numbers refer to Attachment A, mailed February 16, 1999)

No.	Page No.	Line No.	Source	Proposed Amendment	SBE Staff Position
1.			CAA	The CAA recommends that a definition be provided in the rule for what is meant by a "trade discount." Definitions could be developed by reference to accounting texts such as Meigs and Johnson.	Disagree. We believe there is not a need in this rule for a more specific definition than is generally presented in accounting texts.
2.	1	5	Cal-Tax	Insert: "Chapter 1150, Statutes of 1979"	Disagree. Business inventory is the subject of a different rule. This topic is adequately covered in rule 133, and sections 129 and 219.
3.	1	6	Cal-Tax	"Sections 110, 219, 401, Revenue and Taxation Code."	Disagree. See staff position for item 2.
4.	1	7	Cal-Tax	Insert: "Property Tax Rules 4, 6, 8, 133, 204"	Disagree. Rules interpret statutes and typically are not referenced in other rules.
5.	1	11	Cal-Tax	"…at which the property other than business inventories (see Property Tax Rule 133), is situated and to …"	Disagree. See staff position for item 2. This rule is intended to interpret valuation statutes not exemption statutes.
6.	1	15-16	CAA	"Trade level ~~recognition~~ adjustments shall ~~also~~ be ~~given to~~ considered when assessing fixtures that are assessed similar to personal property.'	Agree, but with staff's proposed modified wording. "Trade level ~~recognition~~ adjustments shall also be ~~given to~~ considered when appraising personal property affixed to real property. ~~fixtures assessed similar to personal property~~.'.
7.	1	15-16	Cal-Tax	"~~Trade level recognition shall also be given to fixtures assessed similar to personal property~~."	Disagree. See staff position in item 6.
8.	1	16	Cal-Tax	Add: "Business inventories become assessable when the property is placed-in-service for its intended use and/or title is transferred to the ultimate user (the consumer)."	Disagree. See staff position in item 2.
9.	1	18-20	Cal-Tax	"…tangible personal property ~~held by a consumer at a given trade level shall be valued at the amount of cash or its equivalent for which the property would transfer~~	Disagree. The rule is trying to define fair market value when applied to different trade levels; therefore, there is no need to redefine the general

No.	Page No.	Line No.	Source	Proposed Amendment	SBE Staff Position
				~~to a consumer of like property at the same trade level~~ used in a trade or business shall be valued at the amount of cash or its equivalent for which that property would bring if exposed for sale in the open market."	concept of fair market value.
10.	1	19	Staff	"..consumer at ~~a given~~ any trade level shall…"	To clarify that the term consumer does not refer to the consumer trade level.
11.	1	21	CAA	"This value shall be estimated in accordance with property tax rules ~~regulations~~ 4,6, and 8."	Disagree. Regulation is the proper way to cite rules according to the Office of Administrative Law.
12.	1	21	Cal-Tax	"This value shall be estimated in accordance with Property Tax Rules ~~regulations~~ 4, 6, and 8."	Disagree. Regulation is the proper way to cite rules according to the Office of Administrative Law.
13.	1	22-23	WPGA	"…the cost ~~(the replacement or reproduction cost new prior to allowance for depreciation)~~ shall …"	Agree, but with modified wording. If ~~the~~ a cost approach is employed, the cost ~~(the replacement or reproduction cost new prior to allowance for depreciation)~~ shall include the full economic cost of placing the property in service.
14.	1	24-26	Cal-Tax	"~~Full economic cost may include, but is not limited to, the typical retail selling price of the property, freight, sales or use tax, and installation, less typical trade, quantity, and/or cash discounts.~~" The full economic cost shall include the replacement or reproduction cost, freight, sales or use tax, installation and entrepreneurial profit, with appropriate allowances for trade, quantity, and cash discounts and warranties."	Agree, but with modified wording. Full economic cost ~~may~~ typically includes~~, but is not limited to, the typical retail selling price of the property~~ the replacement or reproduction cost, freight, sales or use tax, ~~and~~ installation and entrepreneurial profit, with appropriate allowances for ~~less~~ typical trade, quantity, and/or cash discounts.

PROPERTY TAX RULE 10
PROPOSED CHANGES TO STAFF FEBRUARY 16, 1999 VERSION (Attachment A "Clean Version")
(Page and Line numbers refer to Attachment A, mailed February 16, 1999)

No.	Page No.	Line No.	Source	Proposed Amendment	SBE Staff Position
					Inclusion of warranties as a trade level adjustment as proposed is inconsistent with AH 504. An adjustment in a trade level factor is not justified unless the warranty and/or service support is normally purchased separately from the equipment, as stated in Issue Paper 98-036. This position was supported by the Board when the wording of AH 504 was approved. Such specific information for purposes of identifying an appropriate warranty adjustment is not within the scope of this rule.
15.	1	23-24	WPGA	"…the property in service less depreciation."	Disagree. See staff's proposed modified wording for item 13. In addition, depreciation is not an element or an adjustment used to determine cost. Depreciation is applied to cost to determine value.
16.	1	24-25	WPGA	"…limited to, ~~the typical retail selling price of the property~~, freight, sales or use tax, and …"	Agree, but with staff's proposed wording for item 14.
17.	1	28-29	CAA	"…or loaned for a period of ~~less than~~ six months or less, …"	Agree. Consistent with Rule 204.
18.	1	28-29	WPGA	"…rented, or loaned ~~for a period of less than six months~~, having …"	Disagree. Inconsistent with Rule 204.
19.	1	30	CAA	"…provided in property tax rule ~~regulation~~ 204, …"	Disagree. See items 11 and 12.
20.	1	30	Cal-Tax	"…provided in Property Tax Rule ~~regulation~~ 204,"	Disagree. See items 11 and 12.
21.	1	31	Cal-Tax	"…of like property ~~at the same trade level~~ in the open market.	Disagree. See item 9.

PROPERTY TAX RULE 10
PROPOSED CHANGES TO STAFF FEBRUARY 16, 1999 VERSION (Attachment A "Clean Version")
(Page and Line numbers refer to Attachment A, mailed February 16, 1999)

No.	Page No.	Line No.	Source	Proposed Amendment	SBE Staff Position
22.	1	32	Cal-Tax	"~~The value shall~~ If this selling price is not known, the value can be estimated by reference to…"	Agree, but with staff's proposed modified wording. The value may be estimated by reference to the price at which the lessor could be expected to sell the property to other lessors or retailers of like property at the same trade level. If that price is unknown, or if under the circumstances it is not indicative of fair market value, then the value may be estimated by reference to one or more of the following indicators of value: (1) the lessor's full economic cost of the property ~~to replace the property including freight, trade, quantity, and cash discounts, and~~ with a reasonable allowance for depreciation; or (2) the cost indicated in subdivision (e) if the lessor is also the manufacturer.~~; or (3) the price at which the lessor could be expected to sell the property.~~ Comments: Selling price may or may not represent the market value of the property.
23.	1	32	WPGA	"…(1) the lessor's cost ~~to replace~~ of the property…"	Agree, but with staff's proposed modified wording for item 22.
24.	1	33	CAA	"…including freight, sales or use tax, and installation, less typical trade, quantity, and cash discounts…"	Agree, but with staff's proposed modified wording for item 22.
25.	1	34	Cal-Tax	"…depreciation and warranties; or (2) the cost indicated…"	Disagree. See item 14.

PROPERTY TAX RULE 10
PROPOSED CHANGES TO STAFF FEBRUARY 16, 1999 VERSION (Attachment A "Clean Version")
(Page and Line numbers refer to Attachment A, mailed February 16, 1999)

No.	Page No.	Line No.	Source	Proposed Amendment	SBE Staff Position
26.	1	35	CAA	"…to sell the property at the retail level less their experienced gross profit; and/or (4) in accordance with subdivision (b)."	Agree, but with staff's proposed modified wording for item 22.
27.	1	35	Cal-Tax WPGA	"…~~or (3) the price at which the lessor could be expected to sell the property~~."	Agree, but with staff's proposed modified wording for item 22.
28.	1	37-41	WPGA	Delete subdivision (d).	Disagree. Guidance on trade level adjustment for long-term leases is needed in the rule.
29.	1	39-41	CAA	"…provided in property tax rule ~~regulation~~ 204, shall be valued at the lessee's trade level in accordance with subdivision (b). ~~by estimating the lessee's cost to replace the property including sales tax, freight, installation charges, less trade, quantity, and cash discounts and a reasonable allowance for depreciation.~~	Agree, but with staff's proposed modified wording. "…provided in regulation 204, shall be valued by estimating the cash price or its equivalent for which the property could be sold in an arm's-length transaction to an outside customer operating at the same level of trade as the lessee. If that price is unknown, or if under the circumstances it is not indicative of fair market value, then the value may be estimated by reference to one or more of the following indicators of value: (1) the lessee's full economic cost of the property ~~to replace the property including sales tax, installation charges, less trade, quantity, and cash discounts, and~~with a reasonable allowance for depreciation, ~~and/~~or (2) in accordance with subdivision (b).
30.	1	39-41	Cal-Tax	"…provided in ~~regulation~~ Property Tax Rule 204, shall be valued ~~by estimating the lessee's cost to replace the property including sales tax, freight, installation charges, less trade, quantity, and cash discounts and a~~	Disagree. See items 11 and 12.

No.	Page No.	Line No.	Source	Proposed Amendment	SBE Staff Position
				~~reasonable allowance for depreciation~~ in accordance with subdivision (b)."	
31.	2	4	CAA	"…(including labor, materials, overhead, profit, interest…"	Agree, but with staff's proposed modified wording for item 34.
32.	2	4-5	Cal-Tax	"…supplier ~~(including labor, materials, overhead, interest on borrowed or owner supplied funds, and other costs incurred in bringing the property to a finished state), and/~~or …"	Disagree. Deleting examples of appropriate costs from rule does not mean that they would not be considered. Retaining such costs in the rule makes the rule more informative.
33.	2	5	CAA	"…property to a finished state, plus sales or use tax, and installation),"	Agree, but with staff's proposed modified wording for item 34.
34.	2	6	Cal-Tax	"…cash price or its equivalent, including appropriate allowances for trade, quantity, and cash discounts and warranties, for which the property could be sold…"	Agree, but with staff's proposed modified wording. "…Tangible personal property acquired from internal sources or related entities, for self consumption or use, shall be valued by estimating the cash price or its equivalent for which the property could be sold in an arm's-length transaction to an outside customer using the property at the same trade level. If that price is unknown, or if under the circumstances it is not indicative of fair market value, then the value may be estimated by reference to one or more of the following indicators of value: (1) the cost of the property, in its condition and location on the lien date, had it been acquired in an arm's-length transaction from an outside supplier (including

No.	Page No.	Line No.	Source	Proposed Amendment	SBE Staff Position
					labor, materials, overhead, interdivisional profits, interest on borrowed or owner supplied funds, sales or use tax, installation and other costs incurred in bringing the property to a finished state, with appropriate allowances for typical trade, quantity, cash discounts, and depreciation), ~~and/~~or (2) ~~by reference to the cash price or its equivalent for which the property could be sold in an arm's-length transaction to an outside customer, and~~ in accordance with subdivision (b).
35.	2	7	CAA	"…to an outside customer, and/or (3) in accordance with subdivision (b)."	Agree, but with staff's proposed modified wording for item 34.
36.	2	7	Cal-Tax	"…arm's-length transaction to ~~an outside~~ an external wholesale or retail customer, and in accordance with subdivision (b)."	Agree, but with staff's proposed modified wording for item 34. Comments: Subdivision (b) discusses appropriate trade level principles that includes valuation of property at the consumer level. As such, proposed changes limiting the arm's-length transaction to *an external wholesale or retail* customer is in conflict with subdivision (b).
37.	2	9-16	Cal-Tax	Delete subsection (f).	Disagree. Guidance is needed in the rule for trade level adjustments when a company is operating at two or more trade levels.
38.	2	10	CAA	"…(i.e., that of a manufacturer, wholesaler, retailer,	Agree. Inclusion of lessor is not necessary, but

No.	Page No.	Line No.	Source	Proposed Amendment	SBE Staff Position
				~~lessor,~~ or consumer)…"	should be in the rule for purposes of informing the public, specifically in the factual situation wherein a company may be involved in two levels of trade as a manufacturer and lessor.
39.	2	13-14	CAA	"…(including labor, materials, overhead, profit, interest on borrowed or owner supplied funds, and other costs incurred in bringing the property to a finished state, plus sales or use tax, and installation)…"	Agree. Consistent with page 1, line 25. See staff's proposed modified wording for item 40.
40.	2	14-16	WPGA	"…bringing the property to a finished state), ~~and/or (2) the cash price or its equivalent for which the property could be sold in an arm's-length transaction to an outside customer and in accordance with subdivision (b)~~.	Agree, but with staff's proposed modified wording: "…shall be valued by estimating the cash price or its equivalent for which the property could be sold in an arm's-length transaction to an outside customer using the property at the same trade level. The property shall be valued based on how it is situated or used on the lien date pursuant to subdivisions (b), (c), (d), and (e). ~~(1) the cost of the property, in its condition and location on the lien date, had it been acquired in an arm-length transaction from an outside supplier (including labor, materials, overhead, interest on borrowed or owner supplied funds, and other costs incurred in bringing the property to a finished state, and/or (2) the cash price or its equivalent for which the property could be sold in an arm's-length transaction to an outside customer and in~~

No.	Page No.	Line No.	Source	Proposed Amendment	SBE Staff Position
					~~accordance with subdivision (b)."~~
41.	2	16	CAA	"…outside customer and/or (3) in accordance with subdivision (b)."	See staff's proposed modified wording for item 40.
42.	2	18	WPGA	Add: "(g) Tangible personal property used as a means of storage, delivery, or transfer of fuel products, whether leased, rented, or loaned, regardless of situs, shall be valued at owners full economic cost less a reasonable allowance for depreciation. Full economic cost may include cost of the property, freight, sales or use tax, and installation, less typical trade, quantity, and/or cash discounts."	Disagree. Propane tanks are like leased property and should be valued in accordance with staff's proposed rule 10 subdivision (d). A specific example is not necessary.

Rule 10 TRADE LEVEL FOR TANGIBLE PERSONAL PROPERTY

References: Chapter 147, Statutes of 1966, First Extraordinary Session.

Sections 110, 401, Revenue and Taxation Code.

(a) In appraising tangible personal property, the assessor shall give recognition to the trade level at which the property is situated and to the principle that property normally increases in value as it progresses through production and distribution channels. Such property normally attains its maximum value as it reaches the consumer level. Accordingly, tangible personal property shall be valued by procedures that are consistent with the general policies set forth herein. Trade level adjustments shall also be considered when appraising personal property affixed to real property.

(b) Except as provided by the following subdivisions, tangible personal property held by a consumer at any trade level shall be valued at the amount of cash or its equivalent for which the property would transfer to a consumer of like property at the same trade level. This value shall be estimated in accordance with regulations 4, 6, and 8. If a cost approach is employed, the cost shall include the full economic cost of placing the property in service. Full economic cost typically includes the replacement or reproduction cost, freight, sales or use tax, installation, and entrepreneurial profit, with appropriate allowances for typical trade, quantity, and/or cash discounts.

(c) Tangible personal property leased, rented, or loaned for a period of six months or less, having a tax situs at the place where the lessor normally keeps the property as provided in regulation 204, shall be valued at the amount of cash or its equivalent for which it would transfer to other lessors or retailers of like property at the same trade level. The value may be estimated by reference to the price at which the lessor could be expected to sell the property to other lessors or retailers of like property at the same trade level. If that price is unknown, or if under the circumstances it is not indicative of fair market value, then the value may be estimated by reference to one or more of the following indicators of value: (1) the lessor's full economic cost of the property with a reasonable allowance for depreciation; or (2) the cost indicated in subdivision (e) if the lessor is also the manufacturer.

(d) Tangible personal property leased, rented, or loaned for an extended but unspecified period or leased for a term of more than six months, having tax situs at the lessee's situs as provided in regulation 204, shall be valued by estimating the cash price or its equivalent for which the property could be sold in an arm's-length transaction to an outside customer operating at the same level of trade as the lessee. If that price is unknown, or under the circumstances it is not indicative of fair market value, then the value may be estimated by reference to one or more of the following indicators of value:

(1) the lessee's full economic cost of the property with a reasonable allowance for depreciation, or (2) in accordance with subdivision (b).

(e) Tangible personal property acquired from internal sources or related entities, for self consumption or use, shall be valued by estimating the cash price or its equivalent for which the property could be sold in an arm's-length transaction to an outside customer using the property at the same trade level. If that price is unknown, or if under the circumstances it is not indicative of fair market value, then the value may be estimated by reference to one or more of the following indicators of value: (1) the cost of the property in its condition and location on the lien date, had it been acquired in an arm's-length transaction from an outside supplier (including labor, materials, overhead, interdivisional profits, interest on borrowed or owner supplied funds, sales or use tax, installation and other costs incurred in bringing the property to a finished state, with appropriate allowances for typical trade, quantity, cash discounts, and depreciation), or (2) in accordance with subdivision (b).

(f) Tangible personal property in the hands of a person engaged in two or more trade level functions (i.e., that of a manufacturer, wholesaler, retailer, or consumer) shall be valued by estimating the cash price or its equivalent for which the property could be sold in an arm's-length transaction to an outside customer operating at the same level of trade. The property shall be valued based on how it is situated or used on the lien date pursuant to subdivisions (b), (c), (d), and (e).

History: Adopted June 21, 1967, effective July 23, 1967.
Amended February 18, 1970, effective March 26, 1970.
Amended January 6, 1971, effective February 18, 1971.
Amended April 19, 1971, effective May 22, 1971.