



**OFFICE OF THE ASSESSOR  
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**SHARON MOLLER**  
CHIEF DEPUTY ASSESSOR

February 13, 2014

Ms. Sherrie Kinkle  
State Board of Equalization  
450 N Street, MIC:72  
Sacramento, CA 94279-0064

Dear Ms. Kinkle:

**COMMENTS TO THE REVISED PROPOSED AMENDMENT OF PROPERTY TAX RULE 133**

This is to provide the comments of the Los Angeles County Office of the Assessor to the proposed amendment of Rule 133, and are made in advance of the Property Tax Committee meeting scheduled for February 25, 2014.

We continue to insist that the effort by the Board of Equalization (Board) to amend Rule 133 to exempt space flight property as non-assessable business inventory is inconsistent with Revenue and Taxation Code Section 129. (Please see our letter of January 27, 2014, comments of which have been reiterated herein.) The Board's rulemaking must be consistent with statute (Gov. Code § 11342.2).

The proposed rule purports to override, for purposes of the space launch industry, the statutory definition of business inventory as "property intended for sale or lease in the ordinary course of business." The Board, however, does not have legal authority to redefine categories of business property as exempt from assessment. The authority to exempt personal property from assessment resides in the legislature and the proposal should be redirected to that body.

California law requires regulations to be consistent with statute and with an agency's rulemaking authority. The proposed amendment apparently seeks to define the transfer of control of certain property to a Range Safety Officer as the functional equivalent of the sale or lease of property in the ordinary course of business. This is a non sequitur, and does not meet the "consistency" standard for rulemaking. (See Govt. Code 11349(d).) The operation of property subject to government regulation is entirely distinct from a transfer of property to a third party for their own beneficial use.

We further object to the proposed language of the rule amendment because it is unclear. What exactly is "space flight property"? Does this include ground-based flight controls? The

tax administrator should not be put in the position of having to guess what the proposed text means.

The general references to "federal law" in the proposed amendment are also vague. We respectfully request that the proposed amendment identify where in federal law the distinction is found between property that is and is not "reusable for space flight," a distinction that will be important in administering the proposed amended rule. The same observation holds true with regard to the "transfer of control to the Range Safety Officer. . . ." Where is this reference found in federal law? The Board's proposed amendment is apparently predicated upon the notion that a transfer of control of operations to a Range Safety Officer in a space launch is equivalent to the "sale or lease of property in the ordinary course of business." We respectfully request that the Board identify the federal law which serves as the basis for this proposed distinction.

One final point. We would advise the Board that we understand that with regard to spacecraft systems and related items the ITAR list is under review and, according to the trade press, the list is expected to be amended in spring or early summer with regard to this type of property.

We thank the Board and its Property Tax Committee for its consideration of these comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sharon Moller".

SHARON MOLLER

AR:AC