

# Office of the Assessor

County of Santa Clara

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Lawrence E. Stone, Assessor

April 9, 2014

Hon. Jerome Horton  
Chair, State Board of Equalization  
450 N Street, MIC 72  
Sacramento, CA 95814

Re: Property Tax Rule 133

Dear Jerome,

I write to reinforce my formal comments at the Board meeting on February 25 in Culver City, when I expressed my strong disappointment with the Board's decision to fast-track a rule making process when clearly there were insufficient facts to support the proposed change to Rule 133 and there was no crisis demanding the unusually aggressive schedule.

The crux of the dispute, which has been appealed in just one jurisdiction and does not yet even have a hearing date, concerns a contention by the space transport industry that a special exemption is needed because they are forced to "relinquish ultimate control at launch under federal law, to a Range Safety Officer." The conclusion, upon which your legal counsel rests his opinion and reiterated in the April 4 Notice of Proposed Regulatory Action, states "contracts are drafted, as required by federal law, such that a company cedes ultimate control of the equipment at launch to a federal Range Safety Officer." This is simply not true. Consequently, the basic premise of Counsel's opinion, the basis for the rule, is factually invalid.

Before proceeding, I would urge your staff to do what I have done, meet with representatives from NASA and contact a Range Safety Officer. Our research indicates that companies like SpaceX no more turn over control of their vehicles to a Range Safety Officer, than United Airlines turns over control of its aircraft to the FAA. The job of Range Safety Officers—and it is their only job—is safety. Just as the FAA has the authority to ground any and all aircraft, as it did on "9-11", so too does the Range Safety Officer have the authority to destroy SpaceX cargo vehicles based only on safety considerations.

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We came to this conclusion by examining the 2013 “Range Safety Manual for Goddard Space Flight Center (WFF).” This 66-page document states the RSO is an authority only for “range safety policy, processes, and requirements.” The RSO has no more control than an air traffic control officer.

In addition, we reviewed the 2011 NASA and Federal Aviation Administration Joint Program Management Plan (PMP) published by NASA’s International Space Station Program. That 50-page document explicitly details the partnership between NASA, SpaceX and the FAA. The Management Plan states: “The contractor or licensee (SpaceX) is responsible for its launch and vehicle operation throughout the mission.” Appendix C of the document states: “SpaceX or Orbital Sciences Corporation (OSC) always has prime responsibility.” The third piece of evidence we received came directly from the Associate Center Director at the Kennedy Space Center in Florida, who stated through his spokesperson, “The RSO only has possession of a space craft purely for safety reasons.”

Thankfully, Board Member Yee did recognize these contradictions and requested, as part of initiating the rule making process, the following:

1. More information must be obtained regarding the factual control of the equipment before, during, and after a launch.
2. More information must be obtained regarding the legal control of the equipment, with emphasis and discussion about the federal statutes and authorities involved in a launch.

Despite issuing the Notice of Proposed Regulatory Action, the hearing scheduled for May 22-23 does not contain any response to Member Yee’s requests.

SpaceX claims that the vehicles it launches into space cannot be reused for space exploration, yet in a segment on “60 Minutes” on Sunday, March 30, SpaceX made clear, through a mock demonstration, that it plans for their rockets to return to earth with a soft landing that would not damage the rocket. This Rule would likely preclude assessing this property.

The California Assessors’ Association is adamantly opposed to proposed Rule 133 for the reasons stated above. I am confident that if the rule is adopted, the CAA will file legal action against the BOE, something that the CAA rarely considers. County counsels from several major counties, including Los Angeles, are equally confident that, because the action of the BOE would be so devoid of facts, the CAA would prevail in such litigations. In the interim, you will have wasted substantial resources of both the BOE and the CAA and possibly even unfairly tainted the pending assessment appeal.

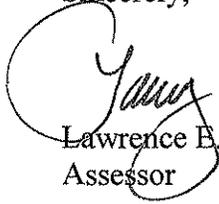
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It is disturbing that in the last 12 months the Board has taken the unprecedented action of requesting its Board Counsel opine on issues confronting assessors, bypassing their normal process of receiving input from BOE property tax experts and the California Assessors' Association. Further, on three separate issues (PILOTS, PTR 133, and Possessory Interests) the Board has sought to contradict its own prior direction.

I am hopeful that this significant erosion of our historic collaborative relationship is temporary and that, going forward, Board members will once again work with assessors—the administrators of the local property tax system—in a more collaborative manner to identify policies that benefit all taxpayers.

As always, I would be happy to discuss the content of this letter with you or any other member of your staff.

Sincerely,



Lawrence B. Stone  
Assessor

Cc: Cynthia Bridges, Executive Director, State Board of Equalization  
Larry Ward, President, California Assessors' Association  
Chuck Leonhardt, Chair, California Assessors' Association Standards Committee  
Sharon Moller, Los Angeles County Assessor  
Brian Donnelly, Los Angeles County Assessor's Office  
Dean Kinnee, Property Tax Division, Board of Equalization  
David Gau, Deputy Director, Board of Equalization

LES:dhl