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December 15, 2014

Chairman Jerome Horton
Fourth District
State Board of Equalization
450 N Street, MIC:72
Sacramento, CA 95814

Re: Support for Adoption Property Tax Rule 474

Dear Chairman Horton:

Contra Costa County respectfully requests that the Board of Equalization readopt Property Tax Rule 474, relating to the assessment of petroleum refineries. Four refineries are located in Contra Costa County. The County is charged with the valuation and taxation of the refineries, as well as the apportionment of the resulting property tax revenues to the County's public agencies. Rule 474 follows core principles of real property taxation in California and provides a necessary foundation for the proper taxation of refineries.

Rule 474 rebuttably presumes that a refinery constitutes a single appraisal unit based on evidence provided to the SBE that refineries are sold as a single unit in the marketplace. However, a refinery's fixtures may be valued separately if evidence is presented that (1) the fixtures "do not typically transfer in the marketplace" with the remainder of a refinery, or (2) that the fixtures are not functionally and physically integrated with the remainder of a refinery.

As the California Supreme Court recently confirmed, Rule 474 is in accord with constitutional and statutory authority. (*Western States Petroleum Association v. State Board of Equalization* (2013) 57 Cal. 4th 401, 423 ["*Rule 474* is consistent with th[e] principle" that "appraisal of real property in the declining value context [should] reflect its 'full cash value' – that is, the value 'property would bring if exposed for sale in the

open market.'"]). For valuation purposes, the proper appraisal unit is the collection of assets that persons in the marketplace normally buy and sell as a single unit. Revenue and Taxation Code section 51, which defines a taxable unit of real property, follows this tenet:

> For purposes of this section, ***"real property" means that appraisal unit that persons in the marketplace commonly buy and sell as a unit***, or that is normally valued separately.

Rule 474 is consistent with property tax valuation principles set in the California Constitution, which require such valuations to be made on a fair market value basis. (Cal. Const., art. XIII, § 1 & art. XIII A, § 2; see also Rev. & Tax. Code, § 110 (a) ["'full cash value' or 'fair market value' means the amount of cash or its equivalent that property would bring if exposed for sale in the open market . . . ."]).

If Rule 474 is not adopted, it might be claimed that land and improvements should be artificially separated in performing a refinery decline-in-value analysis under Rule 461(e). Such an approach would potentially result in a "tax windfall" for refinery owners because "account[ing] for fixture depreciation separately when land and fixtures are actually bought and sold as a single unit would allow the owner to claim a reduction in real property value that is economically fictitious." *Western States Petroleum Association v. State Board of Equalization* (2013) 57 Cal. 4th 401, 423.

Rule 474 is also necessary to permit local assessors to carry out their duties without the risk of litigation or potential liability for taxpayer's attorney's fees under Revenue & Taxation Code section 538. Rule 461(e) provides for the separate assessment of fixtures from land and improvements for decline-in-value appraisals. As explained above, interpreting Rule 461(e) to require fixtures to be a separate appraisal unit in every instance fails to conform to the constitutional and statutory requirement that an appraiser value a property as it would be valued by buyers and sellers in the marketplace. Yet, without Rule 474 in place, it might be claimed that assessors err in separately valuing fixtures from land and improvements. Rule 474 resolves any such confusion by clarifying that petroleum refineries should be valued first and foremost in accordance with the constitutional principle of full market value.

For these reasons, we respectfully request that the Board reenact Rule 474.

Thank you for your consideration of this request.

Respectfully submitted,

David Twa
County Administrator
County of Contra Costa