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March 26, 2003

Assistant Assessor
County of Tuolumne
Administration Center
2 South Green St.
Sonora, CA 95370

Re: Applicability of Low Value Exemption to Mining Claims -- Section 155.20

Dear Mr. _____ :

This is a response to your letter of August 29, 2002 to Assistant Chief Counsel Kristine Cazadd in which you asked us to consider whether a group of fifteen unpatented mining claims may be treated as one appraisal unit, but enrolled in three accounts on the Unsecured Roll, thus achieving combined assessed values in each account in excess of the \$2,000 threshold specified in the Tuolumne County low value resolution authorized by Revenue and Taxation Code section 155.20¹. We apologize for the delay in responding to your inquiry. For the reasons set forth below, the combination of mining claims located on fifteen multi-acre parcels into an "appraisal unit," along with two fee interests on the Secured Roll, appears to be appropriate. Therefore, the County's low value resolution does not apply because the appraisal unit which includes the fifteen unpatented mining claims collectively valued at \$15,000, exceeds the \$2,000 threshold. Furthermore, the segregation of the group of such claims, classified as possessory interests, into three accounts on the Unsecured Roll "for administrative purposes" has no bearing on either determination of the appraisal unit or application of the low value resolution.

The facts are that, in October 2001, a taxpayer purchased together in one transaction 25 acres of patented mining claims and 15 unpatented mining claims totaling approximately 232 acres. The properties are all contiguous and all 232 acres had previously been transferred together to the seller. As a result of the October 2001 transfer, the assessor allocated \$15,000 of the purchase price to the fifteen unpatented claims and the remainder was allocated to the two patented parcels. The patented mining claims are enrolled on the Secured Roll as two separate parcels and the unpatented claims are enrolled as possessory interests on the Unsecured Roll in three separate accounts "for administrative purposes." One of the three accounts consists of three placer mining claims and is assessed at \$3,000, a second account consisting of five quartz mining claims is assessed at \$5,000, and a third account consisting of seven quartz mining claims is assessed at \$7,000. Other mining properties in the county comprised of multiple claims are also appraised as single units.

¹ All statutory references are to the Revenue and Taxation Code unless otherwise indicated.

On March 23, 1993, the Tuolumne County Board of Supervisors adopted, pursuant to section 155.20, a resolution authorizing, in relevant part, the county assessor to “exempt any and all property with a full value of \$2,000 or less from the unsecured roll....”,

The taxpayer believes that if the value of each of the unpatented claims is \$1,000, then all fifteen should be exempt pursuant to the terms of the county’s resolution. On the other hand, the assessor contends that the “property” referred to in the resolution means “appraisal unit” and the relevant appraisal unit here is the combination of all fifteen unpatented mining claims on the Unsecured Roll and the two patented parcels on the Secured Roll. You have asked for our opinion based on the facts and arguments described hereinabove.

Law and Analysis

The term “property” in the County resolution should not be construed as synonymous with the term “appraisal unit.” As discussed below, “property” in a low value resolution means “class” of property. Within the class of property (e.g. possessory interests, land, mining claims, etc), all appraisal units should be treated uniformly. [section 155.20, subdivision (b)(2).]

An “appraisal unit” is the unit that persons in the marketplace commonly buy and sell as a unit or that is normally valued separately [section 51, subdivision (d)]. Property Tax Rule 469, subsection (c)(6) further defines “appraisal unit” within the context of mining property as “a mineral property that persons in the marketplace commonly buy and sell as a unit or that is normally valued separately....”. An appraisal unit may consist of multiple-parcels and various types of property interests, including mining claims. Assessors’ Handbook 502, *Advanced Appraisal*, notes that several factors should be considered when determining whether multiple parcels are to be valued as one appraisal unit. These factors include: 1) the functional and economic integration of the parcels; 2) the attainment of highest and best use when the parcels are analyzed as a single unit; 3) contiguity; 4) common ownership; and 5) current or prior combined sales of the parcels. [AH 502 at page 2]

The assessor has some discretion in deciding what constitutes an appraisal unit based upon application of these and other factors. A mining claim is a parcel of land for which a claimant has asserted a right of possession and a right to develop and extract a discovered, valuable mineral deposit. [Public law 84-167; *Cranes Gulch Min. Co. v. Scherrer* (1901) 134 Cal. 350)]. An unpatented mining claim is a claim of up to 20 acres acquired from the United States government and that property interest is maintained by annually meeting certain improvement and filing requirements in order to retain the individual claim. Failure to meet the annual requirements results in reversion of the unpatented claim to the U.S. government. [30 U.S.C. §35; 43 C.F.R. 3842 et seq.]

In the matter under review, the facts are that the combination of parcels, both patented and unpatented claims, have been transferred twice as one unit. By itself, this is a strong indication that the combination of parcels is the unit most likely to be bought and sold in the marketplace. In addition, the parcels are all contiguous and under common ownership. Taken together, these three factors are very persuasive in finding that the assessor could reasonably conclude that the parcels constitute an appraisal unit.

No information was submitted to us about whether the parcels are functionally or economically integrated or whether their combination would best facilitate the highest and best use of the properties. Assuming that the assessor reasonably considered these factors when reaching his conclusion to group the parcels as one appraisal unit, the designation of the entire 232 acres as one appraisal unit seems appropriate. If so, then the appraisal unit exceeds the threshold of \$2,000 contained in the county's low value resolution.

The purpose of section 155.20 has always been to eliminate the administrative costs to assessors and tax collectors where the total taxes, assessments and subventions on a class of property would be less than the cost of collecting them. Section 7 of Article XIII of the California Constitution, adopted by the voters in 1974, permits the Legislature to authorize county boards of supervisors to exempt real property "having a value so low that, if not exempt, the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them." In 1975, the Legislature added section 155.20 to implement this constitutional provision and required any low-value exemption adopted by a county to apply uniformly for different classes of property. In 1980, the Legislature expanded the exemption to include personal property.

Section 155.20 now provides that subject to certain limitations, a county board of supervisors:

- "(a)...may exempt from property tax all real property with a base year value ... and personal property with a full value so low that, if not exempt, the total taxes, special assessments, and applicable subventions on the property would amount to less than the cost of assessing and collecting them....
- (b) ... (2)....The board of supervisors shall establish the exemption level uniformly for different classes of property.

Because the purpose of section 155.20 is to reduce administrative costs of assessment, the term "classes" applies only in the context of the assessment roll function. Thus, any of the statutory classes of property, whether enrolled on the secured or unsecured rolls, may be selected by a board of supervisors for exemption including land, mining or mineral rights, and possessory interests.

The Tuolumne County Resolution broadly authorizes the assessor to exempt "any and all property" with a full value of \$2,000 or less. The property interests involved in this inquiry involve the statutory classes of property "mining and mining claims" and "possessory interests." An unpatented mining claim creates a taxable possessory interest, while patented mining claims constitute fee ownership interests. [Annotated Letter No. 590.0018, December 13, 1989, attached]. The assessor must treat all appraisal units within each class of property uniformly. If the value of any appraisal unit comprised of a designated class or classes of property is so low that, if not exempt, the amount collected is less than the cost of assessment, then the appraisal unit should be exempted pursuant to the terms of the adopted resolution. Assuming the assessor applies the low value resolution uniformly to all appraisal units comprised of the exempt classes of property, then these mining claims which comprise one appraisal unit would be exempt under the low value resolution.

March 26, 2003

Therefore, we conclude, based on the facts presented, that the assessor made a reasonable determination by not exempting the unpatented and patented mining claims which constitute an appraisal unit with a value in excess of \$2,000 on both the secured roll and unsecured roll.

You may be interested to know that a bill has been introduced in the Legislature, AB 357 (Maze) which would increase the limit for the exemption relating to certain possessory interests in Fairgrounds, convention facilities and cultural facilities from \$50,000 to \$100,000. Although limited at this point to those types of possessory interests, you may wish to follow the bill's progress to see if it is amended in the future to raise the threshold for other types of possessory interests.

The views expressed in this letter are only advisory in nature; they represent the analysis of the legal staff of the Board of Equalization based on present law and the facts set forth herein, and are not binding on any person or public entity.

Sincerely,

/s/ Melanie M. Darling

Melanie M. Darling
Senior Tax Counsel

Attachments [Annotated No. 590.0018, C 12/1389]

MMD:eb

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cc: Mr. David Gau, MIC: 63
Mr. Dean Kinnee, MIC:64
Ms. Jennifer Willis, MIC:70
Ms. Kristine Cazadd