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No. 2002/045

July 29, 2002

TO COUNTY ASSESSORS,
COUNTY COUNSELS, AND
TO INTERESTED PARTIES:

CALIFORNIA CODE OF REGULATIONS
TITLE 18. PUBLIC REVENUES
PROPERTY TAX RULE 122.5, FIXTURES

Following a scheduled public hearing on October 24, 2001, the State Board of Equalization amended Property Tax Rule, 122.5, *Fixtures*. The amendment is effective February 6, 2002.

Enclosed for your information is a final printed copy of the rule.

If you have any questions regarding the content of this rule, please contact Mr. Louis Ambrose, (916) 445-5580. If you wish extra copies of this rule, please write to State Board of Equalization, Supply Publications, 3920 West Capitol Avenue, West Sacramento, CA 95691.

Sincerely,

Deborah Pellegrini, Chief
Board Proceedings Division

DP:dgo
Enclosure

State of California
BOARD OF EQUALIZATION

PROPERTY TAX RULES

Chapter 1. State Board of Equalization — Property Tax

Subchapter 2. Assessment

Article 2. Classification of Property

Rule 122.5. FIXTURES.

Authority Cited: Section 15606(c), Government Code; and Statutes of 1982, Chapter 1556, Section 5

Reference: Sections 105 and 107, Revenue and Taxation Code.

(a) DEFINITION.

(1) A fixture is an item of tangible property, the nature of which was originally personalty, but which is classified as realty for property tax purposes because it is physically or constructively annexed to realty with the intent that it remain annexed indefinitely.

(2) The manner of annexation, the adaptability of the item to the purpose for which the realty is used, and the intent with which the annexation is made are important elements in deciding whether an item has become a fixture or remains personal property. Proper classification, as a fixture or as personal property, results from a determination made by applying the criteria of this rule to the facts in each case.

(3) The phrase “annexed indefinitely” means the item is intended to remain annexed until worn out, until superseded by a more suitable replacement, or until the purpose to which the realty is devoted has been accomplished or materially altered.

(b) PHYSICAL ANNEXATION.

(1) Property is physically annexed if it is attached to, imbedded in, or permanently resting upon land or improvements in accordance with Section 660 of the Civil Code, or by other means that are normally used for permanent installation. If the property being classified cannot be removed without substantially damaging it or the real property with which it is being used, it is to be considered physically annexed. If the property can be removed without material damage but is actually attached, it is to be classified as a fixture unless there is an intent, as manifested by outward appearance or historic usage, that the item is to be moved and used at other locations.

(2) Property may be considered physically annexed if the weight, the size, or both are such that relocation or removal of the property would be so difficult that the item appears to be intended to remain in place indefinitely.

(3) Property shall not be considered physically annexed to realty solely because of attachment to the realty by “quick disconnect” attachments, such as simple wiring and conduit connections.

(c) CONSTRUCTIVE ANNEXATION.

(1) Property not physically annexed to realty (including fixtures) is constructively annexed if it is a necessary, integral, or working part of the realty. Factors to be considered in determining whether the property is a necessary, integral, or working part of the realty are whether the nonattached item is designed and/or committed for use with specific realty, and/or whether the realty can perform its desired function without the nonattached item.

(2) Property connected to the realty by quick disconnect conduits which contain power or electronic cable, or allow for heating, cooling, or ventilation service to the connected property is constructively annexed only if it satisfies one of the factors in paragraph (c) (1).

Rule 122.5. *(Continued)*

(d) INTENT.

(1) Intent is the primary test of classification. Intent is measured with — not separately from — the method of attachment or annexation. If the appearance of the item indicates that it is intended to remain annexed indefinitely, the item is a fixture for property tax purposes. Intent must be inferred from what is reasonably manifested by outward appearance. An oral or written agreement between parties, such as a contract between lessor and lessee, is not binding for purposes of determining intent.

(2) The phrase “reasonably manifested by outward appearance” means more than simple visual appearance. A reasonable knowledge of the relationship of the item being classified to the realty with which it is being used is required to determine whether physical or constructive annexation has occurred.

(3) Historic usage of a property may be considered in determining whether or not a property is intended to remain annexed indefinitely. “Historic usage” means the normal and continuing use of the property as an item that is annexed either indefinitely or only temporarily.

(e) EXAMPLES. The following examples are illustrative of the foregoing criteria. The classification in each example is based only on the limited description offered. Classification of an actual property must be based on all the relevant facts concerning that property.

(1) A stair and a walkway that are bolted to a large machine (the machine is a fixture) to facilitate operation and routine maintenance of the machine are fixtures because they are physically annexed by the bolts and they are necessary for the normal operation of the machine. A stair and a walkway that are bolted to a machine to facilitate a major overhaul of the machine and that will be removed and used elsewhere after the overhaul is completed are personal property because the physical attachments are clearly temporary.

(2) A printing press that weighs several tons, is held in place by gravity, and which because of its size cannot be removed from the building without substantial damage to the building is regarded as physically annexed and is a fixture. A free-standing safe, although of considerable weight, is personal property if it is movable without damage to itself or to the real property wherein it is located and the real property was not designed or constructed specifically to accommodate the safe.

(3) Headsets and special stools designed to be used with a telephone switchboard (the switchboard is a fixture) are not physically annexed, but they are constructively annexed because they are designed specifically for use with the switchboard, the switchboard cannot be used properly without them, and they are not usable or only marginally usable independently of the switchboard. Ordinary office chairs used with a switchboard remain personal property because their design makes them fully usable for other purposes.

(4) A special tool, die, mold, or test device is constructively annexed to a fixture if it is specifically designed for and is in use or has been used on or in conjunction with the particular fixture and the intended use of the fixture would be impaired without the item. A common hand tool or general-purpose test device is personal property even if in practice the item is used only on the fixture.

(5) A crane that operates on rails but is too large or too heavy for ordinary railroad tracks or cannot be operated off the property because the rails are not connected to railroad tracks is constructively annexed to the rails.

(6) A floating dry dock that is designed for use with adjacent shore facilities at a single location is a fixture even though the dry dock is occasionally moved to facilitate dredging under the dry dock. A floating dry dock that is used at several locations is personal property even though it is used primarily at one location in conjunction with special shore facilities.

(7) Computer hardware components are fixtures if extensive improvements, such as a building (or portion of a building), air conditioning, emergency power supply, and a fire suppression system are constructed specifically to accommodate the components, and the improvements are not useful or are only marginally useful other than as housing and support of the components. A computer is personal property if it can be moved without material damage or expense and it is not essential to the intended use of the real estate. A computer is constructively annexed to a fixture if it is dedicated to controlling or monitoring the fixture and is otherwise necessary for the intended use of the fixture.

(8) Machines that are not physically annexed to the realty and that do not operate interdependently with the realty are personal property even though special flooring, conduits, and/or overhead racks are installed to accommodate wiring from a power source to the machines, because special accommodations for wiring are normal features of an industrial building and the building is fully usable for its intended purpose (as an industrial building) without the particular machines.

Rule 122.5. (Continued)

(9) An automated teller machine (ATM) typically consists of a safe, monitor, keypad, central processing unit, magnetic card reader, cash dispenser, printer/transaction record dispenser and deposit receptor. An ATM installed as a free-standing or counter-top unit within a building, such as a bank, supermarket or other retail establishment, is personal property. However, an ATM installed in a structure that was built primarily for the purpose of housing the ATM is a fixture because the realty cannot perform its desired function without the ATM. An ATM installed in the wall of a building is a fixture because the portion of the realty containing the ATM was designed or extensively modified for the specific purpose of housing the ATM and cannot perform its desired function without the ATM.

(10) A wind machine consists of a large fan mounted on a tower, a motor to drive the fan, a fuel tank or electrical hookup and related equipment necessary for its operation. Wind machines are used for agricultural purposes in the protection of crops from adverse weather conditions. When a wind machine is physically annexed to the realty with the intent that it be annexed indefinitely as provided in this rule, it is properly classified as real property and assessed as a fixture. A wind machine which is a fixture is an improvement to realty as defined in Revenue and Taxation Code section 105 and Rule 122, but it is not a building, a structure or a fence. In a typical application, a wind machine is physically annexed to the realty because it is attached to, imbedded in or permanently resting upon land or improvements as provided in subsection (b)(1) of this rule with the intent that it remain "annexed indefinitely" as that phrase is defined in subsection (a)(3) of this rule. A wind machine that is attached to or resting on a truck bed or other movable equipment is personal property and not a fixture because it is not intended to remain annexed indefinitely to realty.

For property tax assessment purposes, wind machines that are defined as fixtures shall be appraised in accordance with subsection (e) of Rule 461, which subsection provides that, for purposes of decline in value determinations, fixtures and other machinery and equipment classified as improvements constitute a separate appraisal unit.

History: Adopted August 18, 1983, effective November 17, 1983.

Amended February 4, 1997, effective June 7, 1997.

Amended October 28, 1997, effective December 31, 1997. Subdivision (9) deleted and replaced by new subdivision (9).

Amended October 24, 2001, effective February 6, 2002. Added Example 10 to subsection (e) to specify that permanently affixed wind machines used for agricultural frost protection are properly classified as fixtures for property tax assessment purposes and shall be appraised in accordance with subsection (e) of Rule 461, which provides that, for purposes of decline in value determinations, fixtures and other machinery and equipment classified as improvements constitute a separate appraisal unit.