



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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March 5, 1999

E. L. SORENSEN, JR.
Executive Director

Honorable Joseph F. Pitta
Monterey County Assessor
P. O. Box 570, Courthouse
Salinas, California 93902

Attention:

***Re: Appeal of Escape Assessment of Land
Structures, Personal Property, and Fixtures***

Dear Mr. Pitta:

This is in reply to your letter of January 20, 1999 addressed to Lloyd Allred of the Policy, Planning and Standards Division. For the reasons set forth below, it is our view that where the assessor makes an escape assessment of land, an assessee who appeals that escape assessment may not also appeal the value of the structures, personal property and fixtures within the same appraisal unit if those properties were not included in the escape assessment. With one limited exception not applicable under these facts, if an appraisal unit includes various properties but only one of the properties is subject to escape assessment, only the escape assessment on that property may be appealed.

Law and Analysis

In general, an annual property tax assessment becomes final upon enrollment if an application for assessment reduction is not timely filed or unless the property is the subject of a subsequent escape assessment. Pursuant to section 1603, if an application is not filed within the statutory time limitations period, an appeals board has no jurisdiction to reduce an assessed value as requested by the application. In an appraisal unit comprised of multiple properties, an escape assessment of one or more of those properties does not result in an escape assessment of all properties in the unit. That is, the escape assessment does not affect the assessed values of the properties in the unit not subject to escape assessment. Thus, the assessments of those properties not subject to escape assessment may not be appealed because there has been no increase from the assessed values previously enrolled on the regular roll which has become final.

In this case, the assessor's office made an escape assessment pursuant to section 531.2 of only the value of land and mineral rights, but the assessee believes that he has the right to appeal the values of all property in the appraisal unit. Section 531 and following sections generally require that an assessor assess on discovery any property on the local roll which the assessor determines has escaped assessment, and section 533 further requires that escape assessments be enrolled in accordance with specific procedures. If the assessor has not made a determination that a particular property has escaped assessment and, therefore, has not enrolled an escape assessment then, assuming that the regular assessment appeal period has expired, an assessee may not appeal the assessed value of that property even though other property in the same appraisal unit is subject to escape assessment. As stated above, the escape assessment of one property has no effect on the assessed value of another property in the same appraisal unit.

The only exception to the foregoing requirement that an assessee may appeal only enrolled escape assessments is set forth in section 469 which provides for the mandatory audit of the personal property of a profession, trade, or business with a value of \$300,000 or more. If the audit results disclose personal property subject to an escape assessment, then the original assessment of all property of the assessee at the location of the profession, trade or business for that year shall be subject to review, equalization and adjustment by the appeals board unless the property had previously been equalized for the year in question. Under the facts presented, these provisions are not applicable; only the land and mineral rights, and not the personal property, was subject to escape assessment and, therefore, only the land and mineral rights values may be appealed. Moreover, by enacting section 469 the Legislature authorized an assessee to appeal the value of the entire appraisal unit in certain circumstances. By limiting the appeal rights to those limited circumstances it is clear the authorization does not extend to other circumstances. *See Mutual Life Ins. Co. v. City of Los Angeles* (1990) 50 Cal.3d 402, 410 ("Under the familiar rule of construction, *expressio unius est exclusio alterius*, where exceptions to a general rule are specified by statute, other exceptions are not to be implied or presumed.")

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

Very truly yours,

/s/ Louis Ambrose

Louis Ambrose
Tax Counsel

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cc: Mr. Richard C. Johnson (MIC:63)
Mr. David J. Gau (MIC:64)
Ms. Jennifer L. Willis (MIC:70)