Attached are our comments to the State Assessment Manual.

Could you please acknowledge your receipt of this submission?

Thank you for your attention to this matter.

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Page 78 – addition of description of *Cardinal Health*

Cardinal Health v. County of Orange (2008) 167 Cal.App.4th 219 The issue in this case was whether application software was not subject to property taxation if it came “bundled” or “embedded” with taxable computer hardware. The assessment appeals board and the trial court agreed with the assessor that because the application software was bundled or embedded with taxable computer hardware, the assessor could ignore the taxpayer’s evidence of the value of its nontaxable application software and assess the total amount charged for the software and hardware bundle. The Court of Appeal reversed the decision of the trial court, and held that the fact that the nontaxable application software was bundled or embedded with taxable computer hardware did not excuse the assessor from his duty to make an informed judgment as to the value of taxable and nontaxable components of the bundled software and hardware.

Page 78 – suggested revisions to *Elk Hills* discussion:

Elk Hills Power, LLC v. Board of Equalization (2013) 57 Cal.4th 593 The issue in this case was whether the Board properly excluded the value of nontaxable intangible~~considered applied~~ emission reduction credits (ERCs) in determining the unitary value of Elk Hills' state-assessed electric power plant for purposes of property taxation under both the replacement cost less depreciation approach (RCLD) and the income approach. The Supreme Court concluded that "the Board directly and improperly taxed the power company's ERCs when it added their replacement cost to the power plant's taxable value." The Supreme Court, however, clarified that "[w]here the taxpayer does not proffer evidence that the Board included the fair market value of an intangible right or asset in the unit whole, the Board would not have to make a deduction prior to assessment." ~~With respect to the income approach, the Court distinguished between cases involving intangibles that are necessary for the beneficial and productive use of tangible property such as ERCs, and business enterprise intangibles.~~ The Court concluded that "the Board was not required to deduct a value attributable to the ERCs under an income approach" because "[t]here was no credible showing that there is a separate stream of income related to enterprise activity." Accordingly, the Court determined that the Board correctly "estimated the amount of income the property is expected to yield over its life and determined the present value of that amount."