

M e m o r a n d u m

To : Mr. David Hendrick – MIC:62

Date: August 24, 1999

From : Daniel G. Nauman
Tax Counsel

Subject: Date of Value for Assessments on the Regular Assessment Roll

This is in response to your request for our legal opinion concerning the proper valuation date for assessments on the Section 601 assessment roll. The question arises from CPTD's sampling activities in County for the 1997-98 assessment year. Specifically, you address the following situation:

On January 2, 1997, many properties in County were damaged by a flood. The assessor used the January 2, flood-damaged values for the initial Section 601 roll for the 1997-98 assessment year. CPTD appraisal staff used January 1, 1997 (the lien date) as the proper valuation date. Consequently, for several samples, CPTD disagrees with the assessor's Section 601 roll values. You ask our opinion as to whether the proper date of value should be the lien date or an intervening event date between the lien date and July 1.¹

In our opinion, for the reasons set forth below, the proper date of value for properties on the annual Section 601 assessment roll is the lien date.

Section 601 of the Revenue and Taxation Code provides that the "assessor shall prepare an assessment roll, as directed by the board, in which shall be listed all property within the county which it is the assessor's duty to assess." Section 602 requires that this roll "shall show . . . [t]he assessed value of real estate[,] . . . of improvements on the real estate[,] . . . of possessory interests[,] . . . and of personal property, other than intangibles."

Revenue and Taxation Code 401, in turn, provides that "[e]very assessor shall assess all property subject to general property taxation at its full value."² Section 401.3 specifies that

The assessor shall assess all property subject to general
property taxation *on the lien date* as provided in Articles XIII and

¹ You emphasize that the net tax bills for the 1997-98 assessments, resulting from the process the assessor used for tax relief for disasters, are correct; the sole issue is what date of value CPTD should use for samples with this condition.

² Full value is defined at Section 110.5.

XIII A of the Constitution and any legislative authorization thereunder. (Emphasis added.)

Thus, it is clear that the assessed value to be contained on the annual Section 601 assessment roll is the value assessed pursuant to Section 401. Section 401.3 specifies that that value is the full value on the lien date.

It is true that the Legislature is authorized to provide for assessed value reductions in the case of property physically damaged or destroyed after the lien date. Section 15 of Article XIII of the California Constitution provides:

The Legislature may authorize local government to provide for the assessment or reassessment of taxable property physically damaged or destroyed after the lien date to which the assessment or reassessment relates.

The Legislature has exercised this authority in enacting Revenue and Taxation Code Section 170. That section provides generally for the reduction in assessed values for property damaged or destroyed without the owner's fault by a misfortune or calamity. Section 170, however, does not change the basic definition of the contents of the annual Section 601 assessment roll, as outlined above, nor does it authorize the assessor to skip the process of preparing an assessment roll showing full value on the lien date.

Subdivision (b) of Section 170, describing how the assessor processes an application for reassessment, does contain a sentence which commences: "The assessor shall reduce the values appearing on the assessment roll . . ." However, this sentence presupposes the prior existence of an assessment roll indicating full value on the lien date.

Subdivision (c) of the section proceeds to set forth the process for handling the application and any appeal, and concludes:

Those reassessed values resulting from reductions in full cash value of amounts, as determined above, shall be forwarded to the auditor by the assessor or the clerk of the local equalization board, as the case may be. The auditor shall enter the reassessed values on the roll. After being entered on the roll, those reassessed values shall not be subject to review, except by a court of competent jurisdiction.

Thus, Section 170 is fully consistent with the requirements that the annual Section 601 assessment roll be prepared utilizing lien date full value, and then the roll being subsequently amended to reflect a post-lien date value reduction occurring because of damage or destruction caused by a misfortune or calamity.

Moreover, subdivision (i) of Section 170 specifically provides that "The assessor may apply Chapter 3.5 (commencing with Section 75) of Part 0.5 in implementing this section, to the extent that chapter is consistent with this section." Chapter 3.5 (entitled "Change in

Ownership and New Construction After the Lien Date”) provides for supplemental assessments after a change in ownership or the completion of new construction. Section 75.11, subdivision (a) provides:

If the change in ownership occurs or the new construction is completed on or after January 1 but on or before May 31, then there shall be two supplemental assessments placed on the supplemental roll. The first supplemental assessment shall be the difference between the new base year value and the taxable value on the current roll. In the case of a change in ownership of the full interest in the real property, the second supplemental assessment shall be the difference between the new base year value and the taxable value to be enrolled on the roll being prepared. If the change in ownership is of only a partial interest in the real property, the second supplemental assessment shall be the difference between the sum of the new base year value of the portion transferred plus the taxable value on the roll being prepared of the remainder of the property and the taxable value on the roll being prepared of the whole property. For new construction, the second supplemental assessment shall be the value change due to the new construction.

Thus, the legislative framework to which the Legislature directs the assessors in implementing Section 170, specifically contemplates separation of the preparation of the annual Section 601 assessment roll from subsequent modifications of the roll, even for events occurring in January and about which the assessor knows well in advance of finalizing the roll. One reason for such a procedure in the context of Section 170 is that subdivision (h) of that section contemplates restoring the property’s original factored base year value, appropriately adjusted for inflation and any new construction over and above the property being repaired, when the property is fully repaired, restored, or reconstructed. The assessed value of the property as of the lien date immediately preceding the misfortune or calamity causing the damage or destruction is the most appropriate value at which to start the development of this factored base year value. Therefore, it is important that the annual Section 601 assessment roll be properly prepared, utilizing full value on the lien date, even where there is Section 170 damage or destruction shortly thereafter.

Each of the rationalizations advanced by the Assessor to attempt to support his process contrary to the above, set forth in your request, fail closer examination.

As demonstrated above, contrary to the Assessor’s reliance on Section 170 and his claim that his process complies with the code sections regulating supplemental assessments, his process does not comply with the supplemental roll process; it is directly at odds with the specific process set forth above for supplemental assessments following change in ownership or new construction completed after the lien date.

The Assessor’s second point, that subdivision (e) of Section 170 provides that “If the damage or destruction occurred after January 1 and before the beginning of the next fiscal year, the reassessment shall be utilized to determine the tax liability for the next fiscal year” is accurate, but not relevant to the issue. There is nothing in this sentence which authorizes

the assessor to skip the step of preparing the annual Section 601 assessment roll with assessments of property on the lien date, as is required by Section 401.3, discussed above.

Finally, the example in LTA 95/31, cited by the Assessor, is incomplete to the extent it does not state that the assessment roll being prepared for the upcoming 1995-96 fiscal year would need to be completed in accordance with Sections 601 and 401.3 discussed above, and then another negative supplemental assessment for that year enrolled showing the reduced assessment for that year by virtue of the damage. The intent behind the example was to demonstrate the partial fiscal year calculations, and not to authorize or demonstrate the circumvention of the assessment roll process described above.

For these reasons, it is our opinion that the proper valuation date for the annual Section 601 assessment roll is the lien date. Section 170, in our view, does not supersede the requirements of Sections 601 and 401.3, but is fully consistent with those requirements. The Legislative directive that the supplemental assessment procedures be utilized in implementing Section 170 further reinforces our view that the annual Section 601 assessment roll should reflect full value on the lien date, and post-lien date reductions should thereafter be entered as reassessed values on the roll.

If you have any questions, or if we may be of further assistance, please do not hesitate to contact me at 324-2655.

DGN:jd

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