

**STATE BOARD OF EQUALIZATION**

LEGAL DIVISION (MIC:82)  
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Executive Director

February 8, 1994

ATTN:

RE: Assessment appeal of an appraisal unit

Dear

This letter will confirm our telephone response to your opinion request of November 10, 1993. In that situation you stated that you recently made an escape assessment on the possessory interest of a cable television company and they now contend that on appeal the fixed asset assessments are also subject to review by the board.

Apparently the company's contention is based on Revenue and Taxation Code, Section 469, which mandates the equalization of all property at a location in which an audit disclosed property subject to an escape assessment. Although you have not conducted an audit pursuant to this section, you concede that your activity in valuing the possessory interest could reasonably be construed by the taxpayer to be such an audit. You question whether the fixed assets should be subject to equalization?

As related by telephone, we are of the opinion that this situation is governed by Property Tax Rule 324, subsection (b), which in the second paragraph states:

When an application for review includes only a portion of an appraisal unit, whether real property, or both, the Board may nevertheless determine the taxable value of other portions that have undergone a change in ownership, new construction or a decrease in value. Additionally, the Board shall on its own motion or at the assessors' request, determine the market value of the entire appraisal

February 8, 1994

unit whenever that is necessary to the determination of the market value of any portion thereof.

Since you agree that the possessory interest and the fixed assets are part of the same appraisal unit, it would seem clear under the rule that it is properly within the purview of the Board to determine the taxable value of the entire appraisal unit or any and all of the components thereof. Application of this rule precludes the necessity of Board consideration of the factual question of whether or not a Section 469 audit has taken place.

Our intention is to provide timely, courteous and helpful responses to inquiries such as yours. Suggestions that help us to accomplish this goal are appreciated.

Very truly yours,

JMW:jd  
precednt/equalizn/93008.jmw

cc: