



**STATE BOARD OF EQUALIZATION**

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May 22, 1987

Dear I

This is in response to your letter of April 20, 1987, requesting advice regarding the application of Revenue and Taxation Code section 4831.

Your problem involves a parcel of rural land which has been owned continuously since 1975. Prior to June 30, 1980, in accordance with section 110.1(c), the assessor revised the 1975 base-year value. You state that the appraisal contained a "clerical error" which resulted in the property being over-valued. As a result, the 1975 base-year value was set too high. Although the taxpayer filed assessment appeals for 1984/85 and 1985/86, the error was not discovered until this year. The Assessment Appeals Board sustained the assessor's values, which are now recognized to be too high.

Your office now proposes to make assessment roll changes pursuant to section 4831 to reduce the values on the 1983/84 1984/85, 1985/86 and 1986/87 assessment rolls. Your question is whether section 4831 authorizes corrections of up to four prior roll years, no matter when discovered, or whether the error must be discovered within four years of the date of the entry of the original erroneous assessment on the roll?

Section 4831, in part, authorizes the correction of "any error resulting in incorrect entries on the roll," if the correction is made "within four years after the making of the assessment which is being corrected." These provisions are not applicable, however, to errors involving the exercise of value judgment.

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The leading case interpreting section 4831 is United States Borax & Chemical Corp. v. Mitchell (1980) 27 Cal.3d 84. Interpreting a former version of section 4831, the court in the Borax case states that the section provides the assessor with a simple and efficient mechanism for correcting clerical defects or errors that were discovered after the assessment roll had been completed and delivered to the auditor. Unlike the escape assessment procedure embodied in Revenue and Taxation Code section 531 et seq., through which an increase in an improperly low assessment can be secured whether the assessment was due to a clerical error, an error in judgment, or otherwise, the correction procedure of section 4831 was reserved for errors of a clerical nature which did not involve the assessor's "judgment as to value." The court also recognizes that section 4831 was amended in 1979 to delete certain evidentiary limitations. Nevertheless, the decision suggests that the essential nature of the section remains unchanged. That is, it is a simple vehicle for the correction of clerical-type errors which result in the entry on the roll of assessed values other than those intended by the assessor. Simple examples would be where two numbers are transposed or a decimal point is inadvertently misplaced.

Although it can't be said with absolute certainty that the current provisions of section 4831 are limited solely to clerical errors, since there have been no cases interpreting the current language, we are of the opinion that that is the correct interpretation. In our view, section 4831 still serves the same purpose described in the Borax case. Thus, when there is an error in the amount placed on the assessment roll and the amount shown does not reflect the value intended by the assessor at the time that the entry was made, section 4831 permits a correction of that error within four years after the date the assessment was made.

Based upon your description in this case, however, it appears that there were no roll errors. That is, the amounts shown on the assessment rolls for the years in question reflected the values intended by the assessor at the time the entries were made. If this conclusion is correct, then we question whether your proposed assessment roll changes are authorized by section 4831.

In this case, the error occurred in the computation of the 1975 base-year value. Even if we assume that that error was clerical in nature and did not involve judgment as to value, roll corrections pursuant to section 4831 are not justified if the assessment roll values correctly reflected the 1975 base-year value as revised in 1980.

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The facts of this case seem to parallel those in the Dreyer's Grand Ice Cream v. Alameda County case, wherein the assessor attempted to correct the base-year value of a cold storage warehouse when an audit revealed that about 1\$ million in cooling equipment had been omitted from the base-year value. As you know, the court concluded, in effect, that the assessor could not correct the base-year value more than four years after the date for which the base-year value was established (March 1, 1976). The big difference, of course, is that the property you are describing was overassessed rather than under assessed. The Dreyer's decision only discusses the problem in the context of the escape assessments which were imposed and the proper interpretation of section 532. It is possible that the court might have adopted a different theory in the case of an overassessment.

In addition to the Dreyer's decision, there is to be another potential obstacle to correction of the base-year value at this late date. You state that this base-year value has been reviewed in two assessment appeal's hearings. Section 80 of the Revenue and Taxation Code provides that a base-year value determined pursuant to an assessment appeal is conclusive and presumed to be the base-year value for the assessment appealed. Thus, it appears that the erroneous base-year value has been frozen by the assessment appeal determinations and cannot now be corrected without express statutory authority.

As a result of the decision in the Dreyer's case, the Board has sponsored legislation, SB 587 (Ellis), which provides general authority to the assessor to correct any error or omission in the determination of a base-year value determined pursuant to paragraph (2) of subdivision (a) of section 110.1 of the Revenue and Taxation Code (post-1975 lien date base-year values). If the error or omission did not involve an exercise of the assessor's judgment as to value, the correction may be made in any assessment year in which it is discovered. If the error involves value judgment, it may be corrected only if placed on the roll within four years after July 1 of the assessment year for which the base-year value was established. This provision is limited to post-1975 lien date base-year values because of existing law which requires that 1975 lien date base-year values be corrected by July 1, 1980. This legislation will not be helpful for the property you described since it has a 1975 lien date base-year value. If enacted, however, it will help situations that occur after that date.

May 22, 1987

I trust this information will be useful. Please call me if you have any questions.

Very truly yours,

*Richard H. Ochsner*  
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