



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
(PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0082)
TELEPHONE (916) 327-2455
FAX (916) 323-3387

JOHAN KLEHS
First District, Hayward

DEAN F. ANDAL
Second District, Stockton

CLAUDE PARRISH
Third District, Torrance

JOHN CHIANG
Fourth District, Los Angeles

KATHLEEN CONNELL
Controller, Sacramento

E. L. SORENSEN, JR.
Executive Director

October 28, 1999

Honorable
County Assessor

Re: Correction of Base Year Value for 1979

Dear Mr. :

This is in reply to your letter of September 14, 1999, addressed to Lawrence Augusta. You are seeking advice on how Property Tax Rule 460 pertains to a case in which your office erroneously assessed a swimming pool to a property owner in 1979.

Rule 460 does not pertain to this situation. Rule 460(b)(2)(B)¹ was adopted three weeks after the passage of Proposition 13 to address the establishing of initial Proposition 13 base year values for all real property which had previously been subject to cyclical appraisals under section 405.6. It does not apply to property which has had an erroneous base year value established under Proposition 13. This situation is governed by Revenue and Taxation Code section 51.5, and there are no Property Tax Rules interpreting or implementing that section.

Section 51.5, subdivision (a), provides that errors and omissions in the determination of base year values that do not involve the exercise of an assessor's judgment as to value, shall be corrected "in any assessment year in which the error or omission is discovered." This would be the subdivision applicable to a non-existent swimming pool whose "value" was mistakenly added to the property owner's 1979 property assessment, so there is no impediment to making the correction for that year. Subdivision (b), which limits corrections to the four years after July 1 of the assessment year for which the base year value was first established, applies only to errors or omissions involving the exercise of an assessor's judgment as to value, and, in Board staff's opinion, mistakenly adding a value for a nonexistent swimming pool would not constitute making a judgment as to value.

Therefore, as you proposed, the base year value of the property should be corrected under section 51.5, subsection (a). For 1979, the base year value for the pool should be deleted, and for 1980 and thereafter, the factored base year value of the pool should be deleted. Alternatively, if 1979 is the base year for the real property, the 1979 base year value could be recalculated, sans pool, and factored forward. In either event, the revised base year value for the real property and revised factored base year values should be the same.

¹ Your letter mistakenly references Rule 460(2)(b), which does not exist. I assume you meant to cite to Rule 460(b)(2)(B).

October 28, 1999

If the taxes were paid on the erroneous swimming pool assessment, the property owner can file claims for refund for up to four years of overpayments, pursuant to section 5097. (See attached LTA No. 91/53.)

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.

Feel free to call me at 916 327-2455 if you have any further questions about this issue.

Sincerely,

/s/ Susan Scott

Susan Scott
Tax Counsel

SAS:jd

<h:/property/precednt/bayrcors/1999/06sas>

Enclosure

cc: Mr. Richard Johnson – MIC:63
Mr. David Gau – MIC:64
Mr. Charles Knudsen – MIC:64
Ms. Jennifer Willis – MIC:70
Mr. Lawrence A. Augusta

ANNOTATION

285.0000 CORRECTIONS

285.00XX Base Year Values. Revenue and Taxation Code section 51.5(a) is applicable in the case of a non-existent swimming pool whose "value" was mistakenly added to the property owner's 1979 property assessment. Refunds are available to the extent permitted by Revenue and Taxation Code Section 5097. **C 10/28/99.**