



Memorandum

To : Mr. Ramon Hirsig,

Date: October 23, 1997

From : Robert W. Lambert

Subject: ADRs - Zero or Low Value

This is in response to your memorandum dated June 3, 1997 regarding zero or low value ADRs. Our answers to your questions are set forth below:

Question No. 1: Must the Board for each lien date adopt a value for each company doing regulated utility business in California even if it has no taxable tangible property value (e.g. a zero value long distance reseller)? Many of these zero value companies do have California leasehold income, which is income greater than the payment for the use of facility based long distance carrier's equipment.

Section 19 of article XIII of the California Constitution provides that the Board "shall annually assess . . . (2) property, . . ., owned or used by regulated railway, telegraph, or telephone companies. . . . (Emphasis added.)" Thus, the Board's constitutional obligation is not to adopt a value for every "company doing regulated utility business in California. . . ." Instead, the Board's obligation is to assess "all property" owned or used by the specified regulated utilities in this state. Therefore, if a utility has no property in the state, then the Board need not adopt a zero value assessment -- regardless of whether or not it has California source income. Of course, if a utility is leasing property in the state, it is "using" property in-state within the meaning of section 19.

Question No. 2: Each year we have also prepared ADRs for companies which have very low value tangible property in California. The value of property this year was as low as \$300 (\$3 in tax). Is there any statutory authority which would allow me to establish a *de minimis* rule? For example, any state assessee with a California property value of \$10,000 or less does not require the Board to set a value.

There is no *de minimis* statute for state assessees which have low value tangible property in California. As a consequence, we must annually adopt a value for each state assessee which has property in the state. Perhaps you should consider recommending legislative relief in this area. We believe that we could base such legislation on the theory that it is in furtherance of the local low value statute, § 155.20.

Mr. Ramon Hirsig

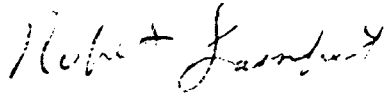
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October 23, 1997

Please call me if you have any further questions along these lines.

RWL:jd

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cc: Mr. Larry Augusta
Mr. Ken McManigal

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OCT 28 1997

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State Board of Equalization