



Memorandum

To: Mr. Ray Hirsig
Chief, Valuation Division - MIC:61

Date: October 31, 1996

From: Kristine Cazadd

K. Cazadd

Subject: Merger of Pacific Enterprises and Enova Corporation

Per your recent request, it appears that the merger of Pacific Enterprises and Enova Corporation resulting in the creation of a new parent company over both may be a change in control under Revenue and Taxation Code Section 64(c). However, since both corporations are public utilities and state assessed under Section 19, Art. XIII, the change in ownership provisions of Art. XIII A, (Proposition 13) are not applicable. The taxable value of the property of both corporations, as of the date of the merger, is determined by the State Board of Equalization without regard to Proposition 13 concepts. See also attached November 1, 1995 letter by Charles Knudsen to San Luis Obispo County Assessor on related issues.

KEC:ba

Att.

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STATE BOARD OF EQUALIZATION

ASSESSMENT STANDARDS DIVISION

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November 1, 1995

Honorable Dick Frank
San Luis Obispo County Assessor
County Government Center, Room 100
San Luis Obispo, CA 93408

Attention: Ms. Barbara Edginton
Supervising Property Transfer Technician

Dear Ms. Edginton:

This is in response to your letter of January 12, 1995, requesting our opinion regarding the proper assessment practices to follow for property that was once assessed by the Board but is now subject to local assessment. I apologize for the delay in responding; other matters requiring our attention have resulted in a backlog of correspondence.

In your letter you presented several scenarios and raised various questions after each scenario. After discussing your letter with both the Valuation Division and the Legal Division, here is our response to each question.

SCENARIO #1

A property is owned by Joe Smith, and it has been leased by the Southern California Gas Company for many years. The property is being assessed at \$270,000 by the State. In November 1992, Joe Smith sells the property to John Jones for \$340,000. The lease to the Southern California Gas Company expires in November 1993, and they vacate the property. The State removes the property from its roll for the 1994-95 year.

QUESTION A

Is it correct for our office to issue a supplemental assessment to John Jones for the November 1992 change in ownership after the base pointer value has been verified with the State? Or, would it be proper for our office to determine the base year value for tracking only, since the State is assessing the property, and the supplemental for the change in ownership is lost?

Answer: There can be no supplemental assessment due to the November 1992 change in ownership. Section 75.14 of the Revenue and Taxation Code (all statutory references are to the Revenue and Taxation Code unless otherwise indicated) reads, in pertinent part:

“A supplemental assessment pursuant to this chapter shall not be made for any property not subject to the assessment limitations of Article XIII A of the California Constitution.”

At the time of the November 1992 change in ownership, the property was assessed under Section 19 of Article XIII of the California Constitution (state assessment of public utilities). It was not subject to the assessment limitations of Article XIII A and thus not subject to supplemental assessments. A new base year value should be determined for the property as of the date of the change in ownership, and the lower of either the factored base year value or the March 1, 1994 current market value enrolled for the 1994-95 fiscal year.

QUESTION B

If our office determines that the base year value for the November 1992 change in ownership is \$340,000, and the State is only assessing the property at \$270,000, would it be proper to issue a bill to John Jones for the \$70,000 difference for the 1993-94 year?

Answer: No. Since the property is subject to assessment under Section 19 of Article XIII of the California Constitution, the value determined by the State Board of Equalization is the taxable value of the property for the 1993-94 year.

QUESTION C

When the property comes off of the “Utility Roll” and is returned to the local roll, is it correct for our office to enroll the base year value, plus indexing that our office determined for the November 1992 purchase, or should the State’s assessment value be enrolled as the base year value? Should a supplemental assessment be issued to John Jones for the \$70,000 difference effective on the date when the lease expired in November 1993?

Answer: Subdivision (a) of Section 722.5 reads:

“Real property assessed by the board pursuant to Section 19 of Article XIII of the California Constitution on January 1, which thereafter becomes subject to local assessment, shall not be assessed locally during the remainder of the local assessment year commencing within 60 days after January 1, **except as provided in Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1.** For the purposes of Section 75.11, real property which becomes subject to local assessment after January 1 and before the following March 1 shall be deemed to be subject to local assessment as of March 1.” (Emphasis added.)

When the property was vacated by the gas company and no longer used by a state assessee, it became subject to local assessment. Thus, for the ensuing lien date, you would enroll the lower of the factored base year value or the March 1, 1994, current market value of the vacated property. Assuming the lease by the gas company was for a term of less than 35 years including renewal options, the last reappraisable event was the transfer in November 1992. You should determine a base year value as of November 1992 and factor that to March 1, 1994 as the factored base year value. Then for the 1994-95 fiscal year, you should enroll the lower of this factored base year value or the March 1, 1994, current market value.

Section 75.10 states that commencing with the 1983-84 assessment year, whenever a change in ownership occurs, "the assessor shall appraise the property changing ownership . . . on the date the change in ownership occurred." Since this property has not undergone a change in ownership since it became subject to local assessment, it is not subject to supplemental assessment. A transfer from the state-assessed roll to the local roll is not a change in ownership.

However, if the lease expiration is a termination of a leasehold interest which had an original term of more than 35 years, then it has undergone a change in ownership pursuant to subdivision (c)(1) of Section 61. Since the property was vacated when the lease expired, it was subject to local assessment under Article XIII A. Thus, you should determine a base year value as of the date of the termination of the lease and process a supplemental assessment as of that date in addition to enrolling the assessment on the ensuing lien date.

SCENARIO #2

A property is owned by Jane Doe and has been leased by GTE Mobilnet for several years. The property is being assessed at \$200,000 by the State. In May 1994, Jane Doe sells the property to Mary Hart for \$300,000. The lease expires in July 1994, and GTE Mobilnet vacates the property. The State removes the property from its roll for the 1995-96 year.

QUESTION

Is it correct for our office to issue the "long" (1994-95) and "short" (1993-94) supplemental assessments to Mary Hart for the May 1994 change in ownership after the base pointer values have been verified with the State?

Answer: In this situation the property would not be subject to supplemental assessment pursuant to Section 75.14 since at the time of change in ownership in May the property was still used by GTE Mobilnet and thus assessed under Section 19 of Article XIII instead of Article XIII A. However, when the lease expired in July 1994, if this was a termination of a lease with an original term of 35 years or more, then it has undergone a change in ownership pursuant to subdivision (c)(1) of Section 61. Thus, you should determine a base year value as of the date of the termination of the lease and process a supplemental assessment as of that date.

SCENARIO #3

A property is owned by Jim Babb and has been leased by American Telephone and Telegraph (AT&T) for several years. The property is being assessed by the State. The lease expires in July

1993, and AT&T vacates the property. The State continues to assess the property for the 1994-95 roll (due to inaccurate reporting by AT&T).

QUESTION

Is it proper for our office to assess the property on the local roll for the 1994-95 year and advise the State to take it off of its roll? Do we leave it off of our roll until we are notified by the State that it is no longer assessing it, and advise the State that there may be a problem? What office and/or staff member is the proper party to advise? Or, is it better to advise the utility company there may be an error in its report to the State?

Answer: In this scenario, since the property is not assessable under Section 19 of Article XIII for the 1994-95 roll, it should be assessed on the local roll under Article XIII A. Pursuant to Section 722.5(a), you should enroll the assessment on the local roll for March 1, 1994. You should notify the assessee that they need to file a "Statement of Land Change" with the Board's Valuation Division indicating that the property is no longer being used by the utility company. In addition, you should also notify the Board's Valuation Division that the property is no longer used as utility property. After confirmation with the assessee, the Valuation Division will initiate proceedings to correct the 1994-95 state-assessed roll. When the correction is complete, the Board will notify the county auditor that the property was erroneously assessed and that it was an assessee error.

If the utility company has paid the erroneous tax bill, then the utility is due a refund (without interest). If you waited until you received notice from the Board that the state-assessed roll has been corrected before processing an assessment, you would have to make escape assessments for the 1994-95 local roll.

I hope this information is helpful to you. If you have any questions regarding the assessment of state assessees, please contact Norm Davis of the Valuation Division at (916) 324-0030. If you have any questions regarding local assessments, please contact our Real Property Technical Services Section at (916) 445-4982.

Sincerely,

Charles G. Knudsen
Principal Property Appraiser
Assessment Standards Division

CGK:rfS

cc: Mr. Norm Davis, Valuation Division