

# THE UTILITY ROLL OF STATE ASSESSED PROPERTY <sup>1</sup>

## Frequently Asked Questions and Discussions

### 1. What is the Utility Roll?

The utility roll is a property tax assessment roll for certain forms of property assessed by the California State Board of Equalization, not by local county Assessors. Under the California Constitution, the State Board of Equalization is responsible for assessing certain forms of real and personal property owned or used by public utilities. Article XIII, Section 19 of our Constitution states in part that:

*"The Board [of Equalization] shall annually assess (1) pipelines, flumes, canals, ditches, and aqueducts lying within 2 or more counties and (2) property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the state and companies transmitting or selling gas and electricity."*

*"The Board [of Equalization] may delegate to a local Assessor the duty to assess a property used but not owned by a state assessee on which the taxes are to be paid by a local assessee."*

As outlined above and in Revenue and Taxation Code, Section 721, the Board of Equalization's jurisdiction consists of two categories:

1. A property specific category where the business in which the owner is engaged is not a factor in the assessment. This category includes all those properties necessary for the functioning of an inter-county pipeline, flume, canal, ditch or aqueduct.

For assessees in this group, the Board's jurisdiction does not extend to personal property unless it is directly related to the proper mechanical functioning of the pipeline, flume, canal, ditch or aqueduct. Specifically where inter-county pipelines are concerned, the Board's jurisdiction does not include any land interests or delivery facilities.

2. A second category is business specific is related to the type of business in which the entity is engaged. It includes regulated railroads and telecommunication companies<sup>2</sup>, regulated companies engaged in the transmission or sale of natural gas (not an inter-county pipeline) or electricity, and properties owned by entities which operate private railroad cars within the state.

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<sup>1</sup> Some of this discussion was copied or paraphrased from the State Board of Equalization's *State Assessment Manual*, which is available at: [www.boe.ca.gov/proptaxes/pdf/StateAssessManual.pdf](http://www.boe.ca.gov/proptaxes/pdf/StateAssessManual.pdf)

<sup>2</sup>Telecommunication entities include telegraph, telephone, cellular telephone and two-way paging companies.

*The Board may at its discretion delegate assessment authority to a county Assessor for property that is used but not owned by this second category of assessee (and for which the taxes are paid by the local assessee).<sup>3</sup>*

Because of the nature of the business in which they engage, many state assessees enjoy the ownership or use of hundreds or even thousands of inter-related properties spread throughout California's fifty-eight counties. However there are some cases where only a handful of properties may be involved.

The State Board of Equalization's (SBE) Valuation Division is responsible for assessing such properties and for annually providing an assessment roll to each county. That assessment roll is often referred to as the **Utility Roll**.

**NOTE:** [The State Board of Equalization has published a manual that provides an overview of state assessed property. The \*State Assessment Manual\* and is available on-line.](#)

## **2. Where is the Utility Roll kept and where may it be Viewed?**

Sacramento County's "utility roll" is a roll separate from the local assessment roll, and contains the assessed value of all state-assessed properties. Assessor's parcel numbers on the utility roll all begin with the number "990," and as a result are often referred to as "900" or "990" series parcels.

The utility roll is compiled by the State Board of Equalization and then converted into 990 series parcels (and assessments) by the County Auditor's Office, which then transmits that information to the Tax Collector for billing and collection. **Sacramento County's utility roll does not exist in a hard-copy format and can only be viewed on-line in the County's Property Data Base (PDB), \*TAXP90 electronic file.**

While utility roll parcel information is available in the PDB, it can be accessed only if an exact parcel number or the precise name of the state assessee is known before-hand. The system will not accept other than an exact parcel number and there is no cross-reference by street address for 990 series parcels in the PDB.

The utility roll cannot be accessed on the Assessor's AIMS computer system because no 990 series parcel information resides in that database. However, ownership and mailing address information for property owned by state assessees can be accessed in AIMS by owner's name, **Assessor's** Parcel Number (not utility Parcel Number) or by street address, but assessed value information is not available there.

**IMPORTANT NOTE:** The utility roll is **not** prepared by, kept or maintained by the Assessor, and the Assessor has no control over its content or mailing addresses.

## **3. Where Can Someone Get Information About Utility Roll Assessments?**

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<sup>3</sup> When the Board delegates the assessment of state assessee used personal property to local assessment, the property is reported to the Board of Equalization's Valuation Division on SBE Form V-600B. After reviewing that form, the Valuations Division transmits the forms to the local assessor.

Anyone needing information about utility roll assessments should first contact the State Board of Equalization's Valuations Division. That agency values all state-assessed property and is responsible for all utility roll assessments.

If an owner wants information about a utility roll assessment, they should be directed to contact SBE's Valuations Division directly. The Valuations Division's phone number in Sacramento is (916) 322-2323. Their Fax number is (916) 323-8765.

The Valuations Division's mailing address is: **SBE Valuations Division, PO Box 942879, Sacramento CA 94279-0061**. Their office is located at 450 N Street, Sacramento, CA 95814; however, visits there are by appointment only. Security at that location is strict and access is difficult without an appointment.

If there are questions about the County's allocation of the state's utility roll values among the county's 990 series parcels, they should be directed to the Sacramento County Auditor's Office at (916) 874-7431. Person's contacting the Auditor should keep in mind that the County Auditor has no control over the value of utility roll property and is only responsible for its proper allocation to the 990 series parcels.

Valuation problems can only be addressed by the Board of Equalization.

#### **4. Utility Roll Mailing Address Change Requests**

All requests for address changes should be in writing and made to, or forwarded to **SBE Valuations Division, PO Box 942879, Sacramento CA 94279-0061**

#### **5. State Board of Equalization Parcel Numbers:**

At the outset, it is important to understand that there is almost never any correlation between state board parcel numbers and utility roll parcel numbers; they are two different animals and their differences are discussed in the following sections. On the other hand there is in Sacramento County at least, a close correlation between SBE parcel numbers and Assessors' parcel numbers.

The Board of Equalization assigns its own special parcel number to every individual parcel of land owned or used by a state Assessee. That SBE parcel number is different and apart from an Assessor's parcel number. It is also different and apart from the utility roll parcel number. As a rule, there are normally many, many more SBE parcels assigned to a given assessee than there are utility roll parcel numbers assigned to them.

- For any given state assessee, their unitary assessment includes the value of all unitary SBE parcels in a county lumped together as one utility roll parcel. As discussed above, some unitary parcels may represent hundreds, if not thousands, of parcels in a given county.
- For any given state assessee, their non-unitary assessments include the value of all non-unitary SBE parcels residing in the same tax rate area lumped together as one Non-Unitary assessment. As a general rule, a utility roll non-unitary parcel may represent only a few (or as little as one) SBE parcel.

## 6. What Do SBE Parcels Look Like And What Do They Mean?

The Board of Equalization sends land identification maps ("Board maps") to local assessors when there is a change in assessment jurisdiction. The maps describe the property involved with respect to officially established survey lines, corners, or other reference points shown on maps of record. The Board's parcel numbers ("SBE parcel numbers") are quite different from the local assessors' parcel numbers ("APNs"), and derive from a completely distinct mapping system.

County Assessors note SBE parcel numbers on their maps.

Each parcel of land owned or used by a state assessee is assigned a unique parcel number, and each parcel number has four groups of characters—for example, **SBE 2014-34-23-1A**. Each of the four character groups has built-in characteristics that provide important information to us:

**2014** The first four-digit field is a unique number assigned to each state assessee (in this case US Sprint).

**34** The second two-digit field is the unique county code for each county. In this case, county 34 is Sacramento County

**23-1A** The last two groupings of number and letters represent the precise parcel as it appears in the state board's own files and maps.

Apart from being annotated on the corresponding Assessor's parcels on Assessor's map books, the Assessor's Mapping Division also keeps a set of the State Board's own parcel maps on file for reference. Access to the Board's maps is available upon request at the Assessor's Customer Service counter.

Additionally:

First Group: Assessee are numerically grouped by industry as follows:

Industry	SBE Number
Gas, Electric, Water and Gas Transmission	100 — 199
Local Exchange Telephone Companies	200 — 399
Pipeline Companies	400 — 499
Railcar Maintenance Facilities	500 — 699
Railroad Companies	800 — 899
Long Distance Telephone Companies	2000 — 2499
Wireless Telephone Companies	2500 — 2599
Radio Common Carrier Companies	3000 — 3999
Long Distance Telephone Companies	7500 — 7999
Wireless Telephone Companies	D001 — D999
Long Distance Telephone Companies	P001 — P999

**NOTE:** A listing of state assessee is published every year by the Board of Equalization as a numbered "Letter To Assessor" (LTA).

Second Group: A unique code for each county. In the example, "34" represents Sacramento County. County numbers are as follows:

County Number / County Name

- |                 |                     |                   |
|-----------------|---------------------|-------------------|
| 1. Alameda      | 21. Marin           | 41. San Mateo     |
| 2. Alpine       | 22. Mariposa        | 42. Santa Barbara |
| 3. Amador       | 23. Mendocino       | 43. Santa Clara   |
| 4. Butte        | 24. Merced          | 44. Santa Cruz    |
| 5. Calaveras    | 25. Modoc           | 45. Shasta        |
| 6. Colusa       | 26. Mono            | 46. Sierra        |
| 7. Contra Costa | 27. Monterey        | 47. Siskiyou      |
| 8. Del Norte    | 28. Napa            | 48. Solano        |
| 9. El Dorado    | 29. Nevada          | 49. Sonoma        |
| 10. Fresno      | 30. Orange          | 50. Stanislaus    |
| 11. Glenn       | 31. Placer          | 51. Sutter        |
| 12. Humboldt    | 32. Plumas          | 52. Tehama        |
| 13. Imperial    | 33. Riverside       | 53. Trinity       |
| 14. Inyo        | 34. Sacramento      | 54. Tulare        |
| 15. Kern        | 35. San Benito      | 55. Tuolumne      |
| 16. Kings       | 36. San Bernardino  | 56. Ventura       |
| 17. Lake        | 37. San Diego       | 57. Yolo          |
| 18. Lassen      | 38. San Francisco   | 58. Yuba          |
| 19. Los Angeles | 39. San Joaquin     |                   |
| 20. Madera      | 40. San Luis Obispo |                   |

Third Grouping: These identify the map and its position in a series. This group consists of from 1 to 3 characters. In the example, "16" indicates that the map is the 16th in a series of maps for that county. Each map change from the original map filed is noted by an alphabetical suffix, "A", "B", "C", etc. In the example, "16A" indicates that this map is a supplementary map that has been filed. With each map revision the specific parcels will be renumbered starting from 1.

Fourth Grouping: These identify a specific parcel. This group consists of from 1 to 3 characters. A change to a specific parcel is noted by an alphabetical suffix. In the example, "1A" indicates that it has been revised once. State-assessed property that transfers from one state assessee to another does not receive a new SBE parcel number. Instead, SBE parcel numbers are listed following the new owner's company number. For example, the state assessee number for Union Pacific Railroad Company that is "843". If the example property were acquired by Union Pacific Railroad Company, the property would simply be listed under 843, and the new SBE parcel number would be 843-872-27-16D-1A.

## **7. Variations of SBE Parcel Notation on Assessors' Maps:**

- Though SBE parcel numbers usually share the same boundaries as an Assessor's parcel, in many cases they do not. In those situations where an SBE parcel includes two or more Assessor's parcels, the same SBE number will be written on all of the Assessor's parcels involved and will be followed or preceded by the word "Portion" or its abbreviation as "Por".
- In some cases, an Assessor's parcel may include two or more SBE parcel numbers and, in that case, all the SBE parcel numbers will be written in a column or be otherwise identified on the Assessor's parcel map.

- SBE parcels representing mineral right interests appear on Sacramento County maps followed or preceded by the notation "M/R".

### **8. How Can an SBE Parcel Number be Identified on an Assessors' Map?**

Unfortunately, although there is a close correlation between SBE parcels and Assessor's parcels, and although SBE parcel numbers are noted on our maps, it can be very difficult to locate the corresponding Assessors' parcel unless one knows the street address of the property or knows its actual physical location and can pinpoint its corresponding parcel by scanning the appropriate Assessor's map book.

Apart from that, there is currently no reliable electronic or hard-copy file that cross references these two forms of parcel numbers (a problem we hope to remedy).

### **9. What Do Utility Roll Parcels Look Like And What Do They Mean?**

As was indicated earlier, in Sacramento County our Utility Roll parcels begin with the number "9." In fact, they all begin with the number "990" in the first 3 digit field of our 14 digit parcel numbering system.

Utility roll APNs incorporate important features of both the SBE parcel number and the Tax Rate Area being applied to that particular parcel.

### **10. Non-Unitary Parcel Numbers – What do They Tell Us?**

A typical example of a **non-unitary** Parcel might be: **990-2014-000-3005**

When broken into its components the numbers translate to:

- 990** The same for all Utility Roll parcels.
- 2014** The same unique number assigned to each state assessee as found in their SBE parcel numbers.
- 000-3005** Last two groupings of seven digits are the TRA affecting that parcel. The first three digits in this case are all zeros because the TRA is City of Sacramento's TRA 03-005. When the TRA code exceeds four digits, such as TRA 54-031, the number pushes to the left and into the three digit's field and in this case would be: 990-2014-005-**4031**

### **11. Unitary Parcel Numbers – What do they Tell Us?**

A typical example of a **Unitary Parcel** might be **990-2014-000-0002**:

In Sacramento County the special **unitary Tax Rate Area code** is always "00-002" and therefore **unitary** utility roll parcels end with six zeros followed by the number "2" in the last two groupings of the parcel number.

When broken into its components the numbers translate to:

- 990** The same for all Utility Roll parcels.

**2014**            The same company number as the SBE parcel number.  
**000-0002**        The special Utility TRA that is the same for all unitary properties

## **12. Can Utility Roll Parcel Numbers Be Found On Assessors' Maps?**

No. There are no Assessor's maps which identify utility roll parcels directly (except in the very rare circumstance where a state assessee owns or uses only one Assessor's parcel in a county. In that instance only, the APN and SBE PN and the utility roll PN would all identify the same site).

## **13. Can Utility Roll Assessments be appealed?**

Because the utility roll is produced by the State of California's Board of Equalization, the Assessor cannot directly provide relief or review of any of utility roll assessments. Instead, if a state assessee wishes to appeal an assessment, the appeal must be made directly to the State Board of Equalization and cannot be filed with a county's Assessment Appeals Board.

For information about the Board of Equalization's appeal process, contact SBE's **Valuations Division** directly. Their Sacramento phone number is (916) 322-2323 and Fax is (916) 323-8765.

County Assessors play no part in the making of, nor may they contest any SBE assessment of state-assessed property.

## **14. Utility Roll Mailing Address Change Requests**

All requests for address changes should be in writing and made to, or forwarded to, SBE Valuations Division, PO Box 942879, Sacramento CA 94279-0061

## **15. How are State-Assessed Properties Discovered?**

Companies designated as state assessees are required to file an annual report with the State Board of Equalization that lists all their real estate holdings as well as any acquisitions, leases or divestments of real estate in the previous year.

To assist in determining the assessment jurisdiction for newly constructed improvements, assessors also send copies of all building permits relating to construction by state assessees to the Valuation Division of the Board. If the Valuation Division's staff determines that the newly constructed improvements are not subject to state assessment, the assessor is then notified to locally assess the property.

Whenever the SBE discovers new property that has fallen under its jurisdiction, it creates its own maps and assigns SBE parcel numbers to the new property. The SBE then sends each affected Assessor a copy of the map and notice of the jurisdictional change. The Assessors' mapping divisions then initiate procedures that note the parcels on the Assessors' maps and prevent further assessment of the affected Assessors' parcels on the local roll.

When state assessee-owned property transfers to non state assessee, the same procedure is followed: the Board notifies each Assessor about SBE parcels that have been returned to

local jurisdiction. Assessors' mapping divisions respond by deleting SBE parcel numbers from the related Assessors' parcels and initiate the procedure that will reinstate those parcels on the local assessment roll.

On its face, this process is rather straight forward, but it has some quirks that can result in significant problems.

Inherent flaws in the assessee reporting and SBE notification process can sometimes result in delays of as much as two years before the Assessor is made aware of a jurisdictional change. As a result, it is not uncommon for such properties to be assessed to the wrong assessment rolls or to be double assessed.

For example, if a state assessee were to lease a property immediately after the deadline for filing its annual report with SBE, the Board will likely not realize the newly acquired property has fallen under its jurisdiction until the assessee files a subsequent report in the following year. Added to that initial time lag would be the time it then takes the Board to review the subsequent report, discover the addition, create new maps and appropriate parcel numbers and then notify the local Assessor of the addition.

In many cases, the Board does not discover the addition or deletion until after their utility roll has been delivered and in any case must first assign or delete an SBE parcel, draw or re-draw its maps and then issue notice to the Assessor.

Comparable delays can manifest themselves at the Assessor's end of things as well. The compounding effect of such multiple delays can result in the assessment of the same property on both the utility and local rolls simultaneously, or of the property escaping assessment altogether.

Needless to say, such problems often result in significant confusion and expensive roll correction procedures.

Adding, to further confusion is the fact that it is often very difficult for Assessors to identify state assessees as they occupy or leave locally assessed properties in the normal course of business. For one thing, the Board of Equalization listed some 686 different state assessees for the year 1997 alone. Tracking their comings and goings is beyond the capabilities of most Assessors.

As a result, unless the addition or deletion of a state assessee is first recognized by the Assessor, the Assessor must rely on the State Board to inform the Assessor of changes in the assessment jurisdiction. Where the change might involve easily recognizable assessees, such as AT&T or Union Pacific, the Assessor is often able to prevent improper assessments or escapes.

The current technological revolution involving cellular telephone companies, paging companies and other new forms of communication businesses creates additional difficulties in properly classifying property. New state Assessees can pop up overnight and in large numbers, making it very difficult for SBE and the Assessors to identify them all properly.

## **16. How Can The Assessed Value Attributed To A Particular SBE Parcel Be Determined?**

Although the assessed values enrolled on the county's utility roll (990 series parcels) are public information, the allocation of value to specific SBE parcels represented by those utility roll parcels is considered confidential information and is not available to the general public. SBE parcel value allocations are only available to the actual assessee or their agents. That distinction is based on a policy established by the Board of Equalization itself, and is not policy set by the assessors.

While the Board does provide the assessors with a printout of the allocations of value to each SBE parcel in a county, there is almost not a direct correlation between SBE parcel numbers and utility roll parcel numbers. As a result, it is often very difficult for an Assessor's staff to determine the allocation an assessee might be anxious to determine. In many cases, assessors are forced to refer the assessee to the Board's Valuation Division for access to such information.

That same situation presents particular difficulties when a parcel reverts from state assessment to local assessment and the Assessor must determine an appropriate base year value for the new locally assessed parcel under Prop 13. To properly do that, there are certain situations that require the Assessor to ascertain SBE's allocated values to a specific SBE parcel at different points in time.

In order to determine the particular value assigned to an SBE parcel by the Board's Valuations Division, one must refer to the annual (confidential) listing of values allocated to SBE parcels that is provided by the Board to each county. In Sacramento County, the Assessor's Customer Service Division keeps a copy at the front counter. It is only available to the Assessor's staff, and state assessees or their agents, but is not otherwise a public document.

If the listing is unavailable or the Assessor is unable to understand it (a common problem) the Assessor's staff should either contact SBE's Valuations Division directly themselves, or refer the assessee to that division. SBE's Valuations Division's phone number in Sacramento is (916) 322-2323. Their Fax number is (916) 323-8765.

## **17. What are Foreign Improvements on State-Assessed Property?**

Improvements owned by one party and located on land owned by another party are called "foreign improvements." For example, leasehold improvements owned by a lessee/tenant are a type of foreign improvement. Foreign improvements owned by a local assessee on state-assessed land are subject to local assessment if the improvements are not used by (i.e., leased by) the state assessee.

The county assessor should assess such improvements as he or she assesses other locally assessed property (as per Proposition 13). Such assessments normally appear on our unsecured roll as an ILL (Improvement on Leased Land).

In the case of foreign improvements owned by a state assessee on land owned by a local assessee, both the improvements and the land are state-assessed—the improvements because they are owned by the state assessee and the land because it is used by the state assessee.

When a state assessee leases property owned by a local assessee, and the taxes are paid by the local assessee, the Board may delegate its authority to assess the building or structure to the county assessor. As discussed above, however, the assessment of leasehold

improvements owned by a state assessee located in or on such a building or structure may not be delegated. Under article XIII, section 19, the Board retains its authority to assess leasehold improvements owned by a state assessee, and such improvements should not be assessed by the county assessor.

### **18. Are Exemptions Available for State-Assessed Property?**

Most or all state assessees are ineligible for charitable organization or institutional exemptions; however, lessors of state-assessed property sometimes are eligible. If a lessor occupying state-assessed property thinks it is eligible for an exemption of some sort, the property owner must file a "lessor's exemption claim form" with the local assessor where the property is located.

The Board of Equalization has no authority to grant the exemption; this power rests with county assessors. The assessor receiving an exemption claim involving state-assessed property should act on the claim in the same manner as a claim for locally assessed property. After the claim is processed, the assessor should forward a copy of the claim form with advice of the assessor's determination to the Board's Valuation Division.

## **ASSESSOR/STATE BOARD JURISDICTIONAL ISSUES/PROCEDURES**

### **19. Property Transactions & Jurisdictional Changes Involving State-Assessees**

Various types of property transactions involving state and local assessees may produce changes in assessment jurisdiction—that is, from state-assessed to locally assessed, or vice versa. This section discusses jurisdiction in light of several typical property transactions.

#### **20. General Concepts:**

Several general concepts relating to jurisdiction constitute the background for resolving jurisdictional issues in specific situations.

(1) The Board's assessment jurisdiction is prescribed in section 19 of article XIII of the California Constitution:

The Board shall annually assess (1) pipelines, flumes, canals, ditches, and aqueducts lying within 2 or more counties and (2) property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the State, and companies transmitting or selling gas or electricity.

Constitutional mandate thus establishes two jurisdictional criteria: (1) a criterion based on the type of property and (2) a criterion based on the type of company. The criterion based on type of property includes all property necessary for the operation of intercounty pipeline, flumes, canals, ditches and aqueducts. Excluded from property meeting this criterion, however, are interests in land, ancillary delivery facilities, and personal property not directly related to the proper mechanical functioning of a pipeline, flume, canal, ditch, or aqueduct?

The criteria based on type of company includes all property owned or used by regulated railway, telegraph or telephone companies; rail car companies and companies that sell or transmit gas or electricity.

All taxable property that is not subject to state assessment by the Board is subject to local assessment by county assessors.

- (2) Property subject to state assessment includes property that is *owned or used* by the state assessee. Thus, all property leased by a state assessee is subject to state assessment regardless of the lease term.
- (3) While there is no constitutional provision allowing the Board to delegate the assessment of property *owned* by a state assessee to local assessors, the Board may delegate the assessment of certain property *used* by state assessees. As stated in section 19 of article XIII:

"The Board may delegate to a local assessor the duty to assess a property *used but not owned* by a state assessee on which the taxes are to be paid by a local assessee."  
[Emphasis added.]

Thus, the Board may delegate the duty to assess property leased by a state assessee to the local assessor if a local assessee owns the property and the local assessee-owner pays the property taxes.

There is a qualification that involves leasehold improvements, however. When delegating assessment duty, the Board retains assessment jurisdiction over fixtures installed by the state assessee. The assessment of structural items is typically delegated to the local assessor together with the land and all other improvements.

- (4) Since locally assessed property generally is assessed under the provisions of article XIII A of the California Constitution while state-assessed property is not, when the assessment jurisdiction of a property changes, the method of assessment also changes. For example, if a state-assessed property becomes locally assessed, it should be assessed as all other locally assessed property, and vice versa.
- (5) Generally, property transactions between a state assessee and another state assessee or between a local assessee and another local assessee have no effect on assessment jurisdiction. For example, if one state assessee sells property to another state assessee, generally no assessment action is required by the local assessor.

## TYPICAL JURISDICTIONAL SITUATIONS

### **21. Sale or Lease of Property from Local Assessee to State Assessee:**

Property purchased or leased by a state assessee from a local assessee is subject to Board assessment jurisdiction as of the date of transfer. Although the Board may, in certain circumstances, delegate assessment jurisdiction of a leasehold improvement to the county assessor, the assessor should notify the Board of the transfer and remove the property from the local assessment roll on the following lien date. During the period the property remains on the local roll, it is assessed in accordance with article XIII A. If the property is inadvertently double assessed, taxes on all or any portion of an assessment of state-assessed property may be cancelled, pursuant to section 5011.

The Board will assess the property on the following lien date, in accordance with subdivision (b) of section 722.5:

“Real property that becomes subject to board assessment on or after January 1, and on or before the following January 1, shall not be state assessed until the assessment year commencing on the latter January 1.”

Even though the property will not be assessed by the Board until the following January 1, it comes under state jurisdiction on the date of the change in ownership. After the property becomes subject to state assessment, the county assessor has no authority to make any new assessment regarding the property. Thus neither the change in ownership itself nor any subsequent new construction (i.e., new construction that occurs between the date of transfer and the following lien date) is subject to supplemental assessment by the county assessor. Section 75.14 states in 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.” Since a new base year value under article XIII A is not established on property transferred to a state assessee, no supplemental assessment can occur.”

A question may also arise regarding assessment appeals jurisdiction. If an assessee files an appeal during the period after a locally assessed property becomes subject to state assessment but before the property is assessed on the Board roll, the issue on appeal would relate to the prior assessment. Since that assessment was made on the local roll at a time when the property was subject to local assessment, the local appeals board would have jurisdiction. Contrariwise, if the issue on appeal relates to an assessment made on the Board roll after the property became subject to state assessment, the Board of Equalization would have appeals jurisdiction.

## **22. Sale of Property from State Assessee to Local Assessee:**

Property purchased by a local assessee from a state assessee is subject to local assessment jurisdiction, and therefore subject to the provisions of article XIII A, as of the date of change in ownership. The property is subject to supplemental assessment by the county assessor. Subdivision (a) of section 722.5 contains specific reference to supplemental assessment provisions (sections 75 and following):

“Real property assessed by the Board ... which thereafter becomes subject to local assessment, shall not be assessed locally during the remainder of the assessment year, except as provided in Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1.”

The amount of the supplemental assessment is the difference between the property's new base year value as established by the county assessor and the taxable value on the current board roll. The taxable value on the current board roll is the portion of the state-assessed value allocable to the subject property. As stated in section 75.9:

In the case of real property which, prior to the date of the change in ownership or completion of new construction, was assessed by the board pursuant to section 19 of article XIII of the California Constitution, "taxable value" means that portion of the state-assessed value determined by the board to be properly allocable to the property which is subject to the supplemental assessment.

Contact between the county and the Board's Valuation Division is necessary to determine the allocated value.

**23. Sale and Leaseback by State Assessee:**

In a typical sale-leaseback transaction, the sale and leaseback are essentially simultaneous. In a sale-leaseback involving a state assessee, the state assessee owner-seller, immediately becomes the lessee. There is generally no change in assessment jurisdiction, since all property owned or *used* (i.e., leased) by a state assessee is subject to state assessment. The property remains state-assessed even though the state assessee is merely leasing it, unless the agreement specifies that not all of the property is leased to the state assessee, and the purchaser/lessor is to pay the property taxes. Article XIII section 19 states that "the Board may delegate to a local assessor the duty to assess a property used but not owned by a state assessee on which the taxes are to be paid by the local assessee."

**24. Property Owned by Local Assessee and Leased to State Assessee with Sale of Lessor's Interest:**

Generally, a change in ownership of the underlying fee interest (i.e., the lessor's interest) in a local assessee-owned but state-assessed property (i.e., the property is leased to a state assessee) does not change the assessment jurisdiction. Since the property remains leased to a state assessee it remains under Board jurisdiction.

No action should be taken by the county assessor. This is true even if the remaining term of the lease is less than 35 years; in which case, if the property were under local assessment jurisdiction, there would be a change in ownership. However, because the property remains under state assessment jurisdiction, it is not subject to the change in ownership provisions of article XIII A.

Since the Board may delegate to the assessor the duty to assess property that is "used" but not "owned" by a state assessee and on which the taxes are paid by the local assessee, such delegation generally occurs for buildings and leasehold improvements that are "partially" leased and/or occupied by state assessees. The Board may not however, delegate the assessment of any portion of a state assessee's improvements, including leasehold improvements, if they are "owned" by the state assessee.

**25. Property Owned by a Local Assessee and Leased to State Assessee with Lease Termination:**

In this scenario, assessment jurisdiction changes from state to local as of the date of lease termination because after that point in time a state assessee neither owns nor uses the property. As locally assessed, the property becomes subject to article XIII A.

If the lease was for an original term of 35 years or more, the termination of the lease is a change in ownership, and the county assessor should reassess the property and establish a new base year value. The assessor should also issue a supplemental assessment. Since the property is owned by a local assessee, the property was previously assessed on the local roll and hence a base year value for the property should exist. The base year value of the property should be revised, if necessary, to reflect any incremental base year value(s) resulting from new construction while the property was subject to state assessment. If the improvement was constructed and immediately occupied by the state assessee—for example, under a ground lease arrangement—a base year value for the improvement will

not exist. The assessor should determine what the base year value of the improvements would have been as of the date of their completion.

If the lease was for an original term of less than 35 years, then there is no change in ownership and hence no reassessment or supplemental assessment. For the lien date following lease termination, the assessor should enroll a taxable value consistent with the provisions of article XIII A. Normally, this would be the lesser of the property's factored base year value or current market value, as prescribed in subdivision (a) of section 51.

## **26. State-Assessed Parcels that Transfer Between State Assesseees:**

State-assessed property that transfers from one state assessee to another does not receive a new SBE parcel number. Instead, SBE parcel numbers are listed following the new owner's company number. For example, if state-assessed parcel with the SBE parcel number 872-27-16D-1A (owned by the Southern Pacific Railroad Company, #872) sold to the Union Pacific Railroad Company (Company number "843," then its new parcel number would be **843-872-27-16D-1A**

## **A GENERAL DISCUSSION OF STATE ASSESSMENT JURISDICTION**

### **27. Historical Background:**

Under California's first Constitution (1849), the property tax was the primary source of revenue for both state and local government. Local assessors were responsible for the assessment of all taxable property, and the state had no assessment responsibilities. To support its operations, however, the state levied a separate state tax on the locally generated assessment rolls.

Under the Constitution of 1879, the **State Board of Equalization** (hereafter, the "Board") assumed responsibility for the centralized assessment of the roadway, roadbed, rails, rolling stock, and franchises of intercounty railroads, marking the beginning of state assessment in California. The Board's assessments were apportioned to the local assessment rolls; all other property remained subject to assessment by the local assessor in which the property was situated. There was no change in the way taxes were levied by the state and local jurisdictions—both continued to levy a tax on the local assessment rolls.<sup>4</sup>

Under a constitutional amendment of 1910, implemented through the Comprehensive Tax Act of 1911, the state (and hence the Board of Equalization), took a leave of absence from the assessment function for over twenty years.

The primary feature of the 1910 legislation was to separate the sources of state and local tax revenues. State government was supported by a new set of taxes levied exclusively for state purposes in lieu of property taxes. The in-lieu taxes reached a number of industries and were levied as follows:

1. On gross receipts from operations of railroad companies, gas and electric companies, telephone and telegraph companies, car companies and express companies, in lieu of all other taxes and licenses on the operating property of such companies.

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<sup>4</sup> Under the Constitution of 1879, only railroad property was subject to state assessment, and only enumerated types of railroad property.

2. On gross premiums of insurance companies in lieu of all other taxes and licenses, except local taxes on real property.
3. On capital stock of banks in lieu of all other taxes and licenses on such stock and on the banks except local taxes on real property.
4. On all franchises, general, corporate and special, except franchises held by public utilities, insurance companies, or banks otherwise taxed for state purposes.

While the Board was charged with assessing the foregoing companies for the in-lieu tax levies, all other property remained locally assessed and subject to ad valorem property taxation for the support of local government.

In 1933, a state fiscal crisis led to a constitutional amendment producing significant tax reform. The resulting Riley-Stewart Plan for tax relief, perhaps best known for introducing the sales and use tax to California, abandoned the in-lieu gross receipts tax and once again made the property of "public utilities" subject to ad valorem taxation.

The Riley-Stewart plan retained the feature of central assessment by the Board introduced in the Constitution of 1879, and extended the Board's assessment jurisdiction to a broader class of "public utilities" and to all of the taxable property of certain types of enterprises. As previously, state assessments were allocated to the local assessment rolls for the purpose of local property taxation, but now no state tax was levied on the local rolls.

The current jurisdiction of state assessment, described in greater detail below, essentially derives from the constitutional amendment of 1933, as does the state's present tax structure, in which non-property tax sources support state government (primarily the sales, use tax, and the income tax) and property taxes support local jurisdictions.

## **28. Constitutional Provisions:**

Section 19 of article XIII of the California Constitution requires the Board of Equalization to annually assess certain described types of property. The first paragraph of section 19 divides this property into two categories:

"The Board shall annually assess (1) pipelines, flumes, canals, ditches, and aqueducts lying within 2 or more counties and (2) property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the State, and companies transmitting or selling gas or electricity. This property shall be subject to taxation to the same extent and in the same manner as other property."

**Category 1:** The first category of property consists of specific types of improvements, that is, pipelines, flumes, canals, ditches, and aqueducts lying within two or more counties. The important qualification with regard to this category is that the properties are located "within two or more counties," without regard to the nature of the property owner. For example, if an oil company owns a pipeline lying within two or more counties, the Board is required to assess the pipeline but not other property owned by the oil company.

**Category 2:** The second category of property consists of all taxable property, excluding franchises, owned or used by regulated railway, telegraph, or telephone companies; car companies operating on railways in the state; and companies transmitting or selling gas or electricity. Rather than being based

on the type of property to be assessed, this category includes *all* of the property that is owned or used by specified types of companies. Under this category, all of the property owned or used by a specified company is subject to the Board's assessment. For example, Southern Pacific Railroad was at one time the largest private property owner in the state. For historical reasons, it owned large tracts of land in addition to the property owned or used for railroad purposes. Under section 19 the Board is required to assess all of its property, including the tracts of land not actually used for railroad purposes.

The provisions of the **Revenue and Taxation Code** implementing section 19 of article XIII are found in sections 721 and following.<sup>5</sup>

Section 721 states that the Board shall annually value and assess all of the taxable property within the state that is to be assessed by it pursuant to section 19 of the California Constitution and any legislative authorization thereunder. Section 721, however, does not provide any definition or detail regarding the type of property to be assessed beyond that listed in section 19 of article XIII.<sup>6</sup>

Several historical reasons led to central assessment by the Board, most of which derived from perceived problems associated with the assessment of railroad property during the 1870's, shortly after California's statehood. These issues mirrored those in several eastern and Midwestern states that arose slightly earlier.

First, early railroads were the first entities to operate across county, and often state, boundaries. The "continuous property" of railroads (e.g., roadway, roadbed, and rails) was assessed markedly differently among counties. This created a significant problem related to intercounty uniformity and equalization of assessment, a mandate of the state's first constitution. Centralized assessment was also considered the most efficient assessment solution for "migratory properties," such as private railroad cars, because of the difficulty of determining the location, or situs, of such properties on the lien date.

A second consideration involved doubts regarding the ability of local assessors to render equitable assessments given the political power of the early railroads. In this context, state assessment represented a countervailing power.

Finally, there was a concern that the "true value" of railroad property as part of an operating unit, or going concern, was not being reflected in the separate assessments of the local assessors.

## **29. Some State Jurisdictional Principles:**

Over the years, there have been numerous interpretations of the language in section 19 of article XIII, by the Board itself and others, relating to the Board's assessment jurisdiction.

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<sup>5</sup> All references to "section" refer to a section of the California Revenue and Taxation Code, unless otherwise designated. All references to "rule" refer to a rule in Title 18, California Code of Regulations, unless otherwise designated.

<sup>6</sup> Some assessment statistics put state assessment in perspective. For 1999-2000, the value of all property assessed in California—by the 58 county assessors and the Board—was about \$2,244 billion. The value of property assessed by the Board was about \$69 billion. Thus, state assessments constitute about 3 percent of all property assessments in the state. There are roughly 690 state assessees. State assessments, however, are highly concentrated. The 8 largest state assessees, for example, received property assessments of about \$57 billion, roughly 85% of the \$69 billion total of state assessments. (Board data.)

This section discusses some of the principles that have emerged and how they have been applied.

First, as a quasi-judicial, constitutional body, the Board has the right to determine its own jurisdiction in the first instance. In essence, this means that the Board has the right to pass on its own jurisdiction first, and that this determination will stand unless overruled by a higher legal authority. This power stems from other powers conferred on the Board in sections 11, 17, 18, and 19 of article XIII that are quasi-judicial in nature and on the Board's status as an agency of constitutional origin.

Second, the Board's assessment jurisdiction over property owned by various types of common carrier (i.e., transportation) and public utility companies extends both to those that are "regulated" and those that are "unregulated." For example, section 19 of article XIII grants the Board jurisdiction to assess "property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the State, and companies transmitting or selling gas or electricity." In this passage, the word "regulated" does not modify "car companies" or "companies transmitting gas or electricity." Thus, the Board's jurisdiction does not extend to unregulated railway, telegraph, or telephone companies, but may extend to car companies and companies transmitting or selling gas or electricity whether or not such companies are regulated.<sup>7</sup>

The majority of companies whose property the Board has historically assessed have been regulated in the sense that they hold certificates of public convenience and necessity (CPCN) from the California Public Utilities Commission (CPUC), or in the sense that many communications companies are regulated by the Common Carrier Bureau of the Federal Communications Commission (FCC).

Until recent years, many companies subject to state assessment were also rate-regulated, meaning that in exchange for certain monopoly rights over a designated franchise or service area, the companies were limited in the rates they could charge. Other companies were, and some still are, rate-base/rate-of-return regulated, meaning that the rates, or income, that regulators allow such companies to earn are designed to cover costs, including taxes and depreciation, and also provide a "fair" rate of return on investment, often as measured by a fair rate of return on rate base. Rate base, with some modifications, is essentially the book, or accounting, value of the company's assets used in providing service. With the deregulation of several industries in recent years, however, the majority of state assessees are no longer subject to rate regulation or rate-base/rate-of-return regulation.

Third, while the Board historically has assumed jurisdiction of all investor-owned "public utilities," some state assessees are not public utilities in the common meaning of that term. A definition of "public utilities" from section 3, article III, of the California Constitution provides, in part:

"Private corporations and persons that own, operate, control, or manage a line, plant, or system for ... the production, generation, transmission, or furnishing of heat, light, ... power, ... directly or indirectly to or for the public... are public utilities subject to control by the Legislature."

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<sup>7</sup> By interpretation, see Proposed Revision of California Constitution, article XIII, Appendix to Senate Daily Journal, May 14, 1974, p.27; by application, see rule 905 of Title 18 of the California Code of Regulations *Assessment of Electric Generation Facilities*.

Some of the types of state assessees enumerated in section 19 of article XIII are within the above definition of investor-owned public utilities and some are not. For example, many companies that own pipelines, canals, or aqueducts are not public utilities by this definition.

Consequently, the Board does not rely on a definition of "public utilities" as the touchstone of its jurisdiction. Rather, the Board has consistently assessed only those types of property and the property of those types of companies enumerated under section 19 of article XIII, whether or not the companies are "regulated" or meet the definition of a "public utility." The Board's determination of jurisdiction does not rest on the outward appearances of a property or company, but rather on whether the Board concludes that section 19 of article XIII provides the Board with jurisdiction to assess. A recent example of the Board determining both the extent and limits of its jurisdiction under section 19 of article XIII occurred as a result of the restructuring of the electric industry, which is discussed in further detail below under that specific area of the Board's jurisdiction.

## **SPECIFIC AREAS OF BOARD JURISDICTION**

### **30. Railroads and Private Railroad Cars:**

The property of "regulated railways" is specifically enumerated in section 19 of article XIII as subject to state assessment. All railways are regulated in that they are subject to safety and common carrier regulation by the United States Department of Transportation. The Board holds assessment jurisdiction over all railways, including so-called "shortline railroads"—those that own track and are located within only one county.<sup>8</sup>

The property of "car companies operating on railways in the State" is also specifically enumerated in section 19 of article XIII. The Private Railroad Car Tax, at sections 11201 and following, prescribes a specific method for the assessment of this type of property. As unambiguously defined in section 11203, a "private railroad car" includes any railroad rolling stock intended for the transportation of any persons, commodity, or material, operated on the railroads of this state, which car is owned by a person other than a railroad or the National Railroad Passenger Corporation.

In addition to assessing private railroad cars, the Board also levies and collects the corresponding tax, which is deposited in the state's General Fund.<sup>9</sup>

### **31. Intercounty Pipelines:**

As previously discussed, intercounty pipelines are subject to Board assessment because of the type of property they are and because they are located within two or more counties, not because of the nature of their ownership.

In *Southern Pacific Pipe Lines, Inc. v. State Board of Equalization* (1993), the court held that the Board could not assess three pipeline facilities because the facilities were not essential and necessary to the operation of intercounty pipelines.<sup>10</sup> The court held that the term "pipelines" in section 19 referred to the pipelines only, not to the underlying land or

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<sup>8</sup> In a transportation-industry context, a "common carrier" can be defined very generally as an entity engaged in transporting persons, goods, or messages for the public over a regular route, according to specified schedule, and for an approved charge or fee, all of which are usually subject to government regulation. Common carriers are deemed to be "affected with the public interest" and are regulated by the U.S. Department of Transportation.

<sup>9</sup> Appendix A describes the Private Railroad Car Tax in more detail.

<sup>10</sup> 14 Cal.App.4th 42.

rights-of-way or to adjacent lands and improvements. This holding was later codified in sections 401.10 and following. Each county assessor, therefore, has jurisdiction to locally assess *all lands and rights-of-way* in his or her county over or through which pipelines cross. The decision in *Southern Pacific Pipe Lines, Inc.*, however, did not address the other types of property enumerated in paragraph (1) of section 19 of article XIII—that is, flumes, canals, ditches and aqueducts lying within two or more counties—in this context.

### **32. Telephone Companies:**

Section 19 of article XIII mandates board assessment jurisdiction concerning "property, except franchises, owned or used by regulated ... telephone companies...." The term "regulated telephone company," however, is not defined by the California Constitution, statutory provisions, or the courts in the context of assessment jurisdiction.

As with other state assessees, the Board has interpreted section 19 of article XIII as requiring Board jurisdiction of only telephone companies regulated as public utilities by the California Public Utilities Commission (CPUC) or by a comparable federal commission or board—for example, the Common Carrier Bureau of the Federal Communications Commission (FCC). The Board has treated as "public utilities" telephone companies that have been granted a certificate of public convenience and necessity from the CPUC or that have been classified as communications common carriers by the Common Carrier Bureau under federal law.<sup>11</sup> The Board's practice has been to assess the property of only those telephone companies that are regulated public utilities under either state or federal law.

Long distance resellers and alternative operator services doing business in this state are generally regulated by the CPUC; if they own or lease property in California, the property is subject to Board assessment (e.g., some resellers have their own switching systems in California). If they do not own or lease facilities in California, however, they are not required to file a property statement and the Board has no assessment jurisdiction over them.<sup>12</sup>

Some telephone companies and resellers now use satellite transmission that replaces existing wire, fiber, and cellular systems. The FCC is the only regulatory agency that issues permits (i.e., licenses) for the operation of such companies; the CPUC has no regulatory authority. To the extent that the companies own property in California, they are under the Board's assessment jurisdiction, consistent with the Board's position that telephone companies are "regulated" if their permits or operating rights are prescribed by either state or federal law. Also, some companies formerly operated for other purposes may begin telephone service and thereby become subject to Board jurisdiction. For example, if a cable television company decides to offer telephone services, and obtains authorization under state or federal law for this purpose, all of the company's property then would be subject to the Board's assessment jurisdiction—the company would meet the definition of a "regulated" telephone company.<sup>13</sup>

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<sup>11</sup> See 29 Ops.Cal.Atty.Gen. 77; and 47 U.S.C.A. 201 and following.

<sup>12</sup> Long distance resellers and alternative operator companies obtain a CPCN to offer telecommunication services over the facilities of the local exchange carrier. The certificate grants resellers and alternative operator companies the right to do business with a local exchange carrier at a discounted rate, which frequently enables them to offer less expensive long-distance service. The CPUC grants certificates to such companies because the public interest is served by promoting effective competition among telecommunications service suppliers. Whether or not resellers actually lease or purchase the use of a switch or any of the facilities of the local exchange carrier is a matter of agreement between the companies involved in each case.

<sup>13</sup> An emerging issue in this regard is the regulatory classification of high speed Internet access services. In a Notice of Inquiry involving cable modem service, the FCC noted, "Service providers are deploying a variety of networks that rely on different network architectures and transmission paths, including copper wire, cable,

Occasionally, in such a scenario, the telephone and the cable television operations might be conducted by separate corporations or other legal entities. When companies subject to the Board's assessment jurisdiction form new subsidiary or affiliate companies, wholly owned either directly or indirectly by the parent company, the "separate legal entity" concept controls whether the Board's assessment jurisdiction extends to the newly created entity.

For example, if the newly created entity is the subsidiary of a telephone company, but never obtains either a certificate of public convenience and necessity from the CPUC, or becomes subject to regulation by the FCC as a communications common carrier, then it will not come under the Board's assessment jurisdiction. However, if it operates under the parent company's certificate or common carrier status (or if it acquires either one on its own), it is considered a "regulated" telephone company and will become subject to the Board's jurisdiction.

### **33. Inter-Exchange and Commercial Mobile Radio Service:**

Similarly interexchange and commercial mobile radio service companies are subject to the Board's assessment jurisdiction only if they can be classified as "regulated telephone companies" pursuant to section 19 of article XIII.<sup>14</sup>

The FCC allocates radio frequencies, or channels, to both public and private radio carriers. Prior to 1995 legislation and the FCC's resulting deregulation in 1996, the CPUC classified all public radio carriers (i.e., those authorized to provide service to the general public) as regulated radio telephone utilities, and required a CPCN for their operations. In 1995, subdivision (b)(2) of section 234 of the Public Utilities Code was amended to exclude "any one-way paging service facilities that are licensed by the Federal Communications Commission" from CPUC regulation.<sup>15</sup>

Two-way paging companies were specifically excluded from the amending legislation and the amended statute. Based on this change in state law, the Board determined that for the 1996 lien date and thereafter, one-way paging companies and narrow-band personal communications services that are not otherwise subject to Board jurisdiction will be assessed by county assessors because, statutorily, these companies are not "telephone companies."

Similarly, the Board has concluded that property used in the satellite transmission of voice communications should be excluded from its assessment jurisdiction when the system is used for television broadcast or other one-way transmission. In the Board's view, such systems do not meet the constitutional definition of a regulated telephone company.

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terrestrial wireless radio spectrum, satellite radio spectrum, or a combination of these and other media, to provide high-speed services."

(Gen Docket No. 00-185, "*Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities*," par. 7). As regulatory issues concerning these services are resolved by the FCC, there may be jurisdictional concerns for the Board to consider, to the extent that the FCC or the CPUC regulate Internet access services as telephone services. For continuing developments on this subject, see [www.fcc.gov](http://www.fcc.gov).

<sup>14</sup> A "commercial mobile service" is "any mobile service ... that is provided for profit and makes interconnected communication service available (a) to the public or (a) to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission." A "private mobile service" is "any mobile service that is the functional equivalent of a commercial mobile service, as specified by regulation by the Commission." An "interconnected service" is a "service that is interconnected with the public switched network (as such terms are defined by regulation by the Commission) or service for which a request for interconnection is pending." (47 U.S.C.A. §332, subdivision (d).)

<sup>15</sup> Chapter 357, Statutes of 1995 (AB 202)

### **34. Gas and Electric Companies:**

Until recently, property owned by all gas and electric companies was subject to Board assessment. The only significant exception was electric co-generation plants, which had historically been locally assessed. In 1996, however, legislation restructured the electric industry in California, excluding many companies that were and/or would be generating and selling electricity from rate regulation by the CPUC.<sup>16</sup>

One of the main objectives of restructuring, or "deregulation," was to achieve a more competitive market for electric power by allowing new market entrants to purchase or build electric generation plants and sell electricity to the public. This was accomplished, in part, by requiring existing regulated companies with power generation and distribution facilities to sell power to a Power Exchange, an entity that acts as a market facilitator for the purchase and sale of electric power and that was created by the legislation.

To address the jurisdictional implications of electric industry restructuring, the Board adopted rule 905. Rule 905 limits the Board's assessment jurisdiction in regard to electric generation facilities. It states:

"An electric generation facility shall be state-assessed property for purposes of article XIII, section 19 of the California Constitution if: (1) the facility was constructed pursuant to a certificate of public convenience and necessity issued by the California Public Utilities Commission to the company that presently owns the facility; or (2) the company owning the facility is a state assessee for reasons other than its ownership of the generation facility or its ownership of pipelines, flumes, canals, or ditches, or aqueducts lying within two or more counties."

Therefore, there has been a shift from state to local assessment of some electric generation facilities. These facilities were assessed by the Board in 1998 but were subsequently sold to independent power companies that do not come under Board assessment jurisdiction under the provisions of rule 905. About seven investor-owned public utilities (with both power generation and distribution facilities) remain subject to rate-regulation and are still considered "public utilities" by the CPUC. Under rule 905, the property of these companies continues to be assessed by the Board.

Some companies engaged in the transmission of gas are not regulated by the CPUC because they are interstate natural gas pipeline companies that sell and deliver natural gas in interstate commerce. These companies are, nevertheless, considered public utilities in that they deliver their product to various locations in California under the exclusive authority and rate regulation of the Federal Energy Regulatory Commission. The Board's assessment jurisdiction also extends to this category of Gas Company.

### **35. Board Jurisdiction Includes Unitary and Nonunitary Property:**

An important statutory distinction made in regard to property types assessed by the Board is that found in sections 723 and 723.1, the distinction between unitary and nonunitary property.

- **Unitary Property** is property used in the primary function of an assessee.

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<sup>16</sup> Chapter 854, Statutes of 1996 (AB 1890)

- **Nonunitary Property** is property owned by the assessee but not used in the assessee's primary function.<sup>17</sup>

For the purpose here, suffice it to say that section 19 of article XIII requires the Board to assess property that is "owned or used" by a state assessee. This means that both the unitary and nonunitary property of a state assessee is subject to Board assessment. For example, a campground owned by a gas company, even though it is not used in the company's utility operations, would still be assessed by the Board as the assessee's nonunitary property.

## STATE ASSESSMENT PROCESS

**NOTE:** [The State Board of Equalization has published a manual that provides an overview of state assessed property. The \*State Assessment Manual\* and is available on-line.](#)

To provide an overview of the general process of state assessment, several major steps in the process are described in roughly chronological order below.

1. The assessee files a property statement as required by section 826. Property statements must be filed no later than March 1 of each year; but the Board *may* grant limited extensions for specified parts of the property statement under section 830.1.

The Board prescribes several variations of the property statement, depending on the type of property reported or the industry of the assessee. In general, however, the variations share the following common elements: (1) a declaration of costs and other related property information; (2) a tangible property list; (3) summary control accounts; (4) a statement of land changes and land identification maps; (5) schedules of leased equipment; and (6) other requested information.

2. The Valuation Division, a unit of the Board's Property Taxes Department, develops unitary valuation indicators and makes recommendations to the Board regarding the value of the assessee's unitary property. State assessees are afforded an opportunity to discuss the value of their unitary property at a public board meeting held in May.
3. The Board determines the value of the assessee's unitary and nonunitary property. Unitary value determinations are made and publicly announced no later than May 31. Nonunitary value determinations are made and announced no later than the last day of June.
4. If a state assessee operates in more than one state, a portion of the value of the assessee's unitary property is allocated by the Board to California (interstate allocation). The portion of the value of the assessee's unitary property allocated to California—or, the total value of the assessee's unitary property if the assessee's operations are only in California—is allocated by the Board among the counties in which the property is located (intrastate allocation).

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<sup>17</sup> The distinction between unitary and nonunitary is discussed in more detail in the Board's State Assessment Manual on line at [www.boe.ca.gov/proptaxes/pdf/StateAssessManual.pdf](http://www.boe.ca.gov/proptaxes/pdf/StateAssessManual.pdf)

5. For unitary and nonunitary values determined by the Board, the state assessee may file a petition for reassessment.

## **STATE-ASSESSED PROPERTY AND PROPOSITION 13 (Article XIII-A, California Constitution) <sup>18</sup>**

In June 1978 California voters passed an initiative constitutional amendment that significantly restructured California's property tax system. Proposition 13, which added article XIII A to the California Constitution, contained four primary elements:

1. A limit on the ad valorem property tax rate to 1 percent of the assessed value (except in the case of pre-existing bonded indebtedness or subsequent bonded indebtedness approved by a two-thirds vote);
2. A rollback of assessed values to their 1975-76 levels;
3. A limit on the annual growth in assessed value to a maximum of 2 percent per year, in the absence of a change in ownership or new construction; and
4. Reassessment at current market value only upon a change in ownership or new construction.

In *ITT World Communications, Inc. v. City and County of San Francisco*, the California Supreme Court ruled that article XIII A's assessment rollback, its 2 percent limit on annual assessment growth, and its limit on current market value assessment only upon a change in ownership or new construction did not apply to state-assessed property, only to locally assessed property.<sup>19</sup> As a result, taxable property in California is now generally split into two major categories: locally assessed property subject to the assessment limitations of article XIII A and state-assessed property not subject to the assessment limitations of article XIII A.

In reaching its decision, the court presented the following major arguments.

First, it held that article XIII A, by its own terms, was limited to real property taxation, but that the "unit taxation" of STATE-ASSESSED property was not real property assessment in substance or form.

Second, it held that because article XIII A used the phrase "county assessor's valuation," again, by its own terms, the article applied only to locally assessed property.

Third, and finally, the court held that the phrase "subject to taxation to the same extent and in the same manner as other property" from section 1 of article XIII of the California Constitution did not impose a requirement of valuation on the same basis between public utility and other property, but simply specified that state and local assessments must be levied at the same tax rate.

### **36. Appraisal Unit and The Principle of Unit Valuation:**

A major conceptual problem that must be resolved in any appraisal is a determination of the unit of property to be valued—that is, the property for which a market value estimate is sought. This problem is not limited to the central assessment of public utility property; it appears in every appraisal as the familiar question of the proper appraisal unit. When an

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<sup>18</sup> Although not strictly about the "market value standard," this section relating to state-assessed property and article XIII A and the next section relating to the Railroad Revitalization and Regulatory Reform Act are included here because both relate to the method of assessment for state-assessed property.

<sup>19</sup> *ITT World Communications, Inc. v. City and County of San Francisco* (1985) 37 Cal.3d 859.

appraiser decides on the proper unit of property to be valued, he or she has determined to not add up the values of any smaller units to arrive at the value of the unit.

In the context of the central assessment of public utility property, the problem of appraisal unit has been analyzed using a concept called the "principle of unit valuation." Other terms used synonymously include "unit valuation," "unit method," "unit concept," or "unit approach."

The principle of unit valuation holds, in essence, that a collection of tangible assets functioning as an operating unit should be valued as a whole, without reference to the separate values of the assets constituting the operating unit. A unit valuation is contrasted with a "summation valuation," in which the component parts of an operating unit are valued separately and summed to estimate the value of the whole. Under the principle of unit valuation, the Board may recognize the entire operating unit as the proper appraisal unit for certain property, thus recognizing the high degree of functional and economic integration of such property.

Unit valuation has also been described as follows:

"As its starting premise, the [unitary valuation] concept assumes that it is meaningless to consider the value of a mile of track, a substation, or a reel of cable standing apart from the entire operating system. The unit value of the enterprise may be either more or less than the total value of the individual assets making up the whole. Presumably, if each asset were sold separately, the total price received would be substantially less than the value of the enterprise as a going concern. This becomes more apparent when it is considered that ten miles of underground cable has a questionable worth, other than a minimal scrap value, if there is no generating plant at one end to provide electricity and no source at the other end to receive electrical energy. Similarly, fifty miles of railroad track, standing alone, are of questionable utility without the rest of the system."<sup>20</sup>

## CLASSIFICATION OF STATE-ASSESSED PROPERTY

In California, state-assessed property is classified into one of four categories: (1) unitary property, (2) nonunitary property, (3) operating nonunitary property, and (4) nonunitary rail transportation property. Stated slightly differently, unitary property and three types of nonunitary property constitute the classifications. Classification affects the way property is valued and the way property value is allocated.<sup>21</sup>

### **37. Unitary Property:**

The general definition of unitary property is property owned or leased by the state assessee and used in its primary operations as part of the state-assessee's integrated system.

More specifically, within the general definition the following types of property are classified as unitary:

- (1) special-purpose or industry-specific property that is leased by the state assessee
- (2) property leased by a state assessee, used in the assessee's primary operations, and assessed to the assessee (including taxable possessory interests);
- (3) property owned

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<sup>20</sup> Louis G. Bertane, *The Assessments of Public Utility Property in California*, 20 UCLA L. Rev. 419.

<sup>21</sup> Appendix C contains tables showing the Board's classification codes for various types of property.

and held for future use in the primary operations of the assessee if there is a documented plan for the property's future use and the property is carried in a future use operating account; and (4) property that is owned and used to protect and support other unitary property—due to locational or physical characteristics or other factors. Under the principle of unit valuation, unitary property is valued as a single unit.

**38. Examples of Unitary Property:**

- (1) Land, improvements, and personal property owned or leased by a state assessee and used in its primary operation of transportation of freight by rail; gas or fluids by pipeline, canal or ditch; generation, transmission or distribution of electricity; or transmission of information by cellular, paging, or telephone
- (2) Vacant land that is considered necessary to protect areas utilized in the primary operations of the assessee (e.g., buffer areas required for nuclear power plants or gas storage reservoirs, slide areas near railroad tracks, drainage ditches, etc.)
- (3) Vacant land that is located in landlocked areas totally surrounded by sets of railroad tracks or areas adjacent to rights-of-way that are too narrow to be developed to another use
- (4) Property that the state assessee had acquired for use in its primary operations but now has a secondary use (e.g., areas beneath tower lines which are farmed, used for parking or storage; areas above gas storage reservoirs which are farmed)
- (5) Railroad rights-of-way acquired by congressional grant or franchised by a governmental agency
- (6) Utility and railroad easements for rights-of-way
- (7) Railroad property that is leased to agents of the railroad, who manage the property in a rail transportation use (e.g., intermodal container yards)

**39. Non-unitary Property:**

Nonunitary property is property that is owned by a state assessee but not used in the assessee's primary operations. Nonunitary property is valued separately and apart from unitary property (i.e., not valued as part of the unit).

**40. Examples of nonunitary property:**

- (1) Property owned by and assessed to a state assessee, but leased to others
- (2) Property owned by a state assessee and not used in its primary operations
- (3) A railroad right-of-way that has had the track removed or has been abandoned (includes the land under the track that has been severed from the operating portion)
- (4) Property used by others without a formal lease (e.g., encroached upon and used for storage, parking, or growing of trees, vines, or crops)

**41. Operating Non-Unitary Property:**

Operating nonunitary property is specifically defined in section 723.1:

“Operating nonunitary properties are those that the assessee and its regulatory agency consider to be operating as a unit, but the board considers not part of the unit in the primary function of the assessee. This section does not apply to state-assessed property of regulated railway companies.”

Section 723.1 essentially provides discretion to the Board. The Board may classify property as operating nonunitary that others classify as unitary. Operating nonunitary property is valued separately and apart from unitary property (i.e., not valued as part of the unit).

**42. Example of operating nonunitary property:**

(1) State assessee-owned property that is included in its rate base but is classified as nonunitary (e.g., land on which a substation has been removed but it still is carried in the rate base) [But excludes railroad property.]

**43. Nonunitary Rail Transportation Property:**

Nonunitary rail transportation property is property owned by a railroad company that is used in rail transportation operations, but is nonetheless valued separately and apart from unitary property (i.e., not valued as part of the unit).

Examples of nonunitary rail transportation property:

- (1) Railroad property leased to Amtrak, Caltrans, or transit districts
- (2) Railroad property leased to others, whose primary use of the property involves the receipt and/or shipping of products or raw material by rail (e.g., lumber yards, liquid tank car receivers, intermodal container yards, automobile loading-unloading facilities, etc.)
- (3) Railroad property owned by and assessed to a state assessee, but leased to others whose primary operation is that of freight transportation (However, state assessee-owned property leased to others but not used for freight transportation is classified as nonunitary.)
- (4) Railroad land leased at a rent substantially below market (e.g., an accommodation lease), where freight or products are received or shipped frequently
- (5) Station grounds used for passenger parking (e.g., Amtrak, Caltrans, Transit districts, etc.)

END

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