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Guest Commentary



Assessor Handbooks: What and Why?

After discovering that many of the State Board of Equalization's property tax assessment manuals were woefully out of date, the board set out to make them current. Led by Member Dean Andal, 1998 board chair, and with strong support from Controller Kathleen Connell, the board directed staff to work with taxpayers and assessors to rewrite the Assessor Handbooks.

A number of new books were produced, including the all-important basic appraisal manual (AH 501) and advanced appraisal manual (AH 502), as well as special books for the assessment of personal property and fixtures, oil properties, mineral property, agricultural property, and property exempt pursuant to the church or welfare exemption.

Taxpayers would be well-served to review these handbooks for guidance on a number of issues which previously lacked clarity. These handbooks are not laws or regulations. They are guidelines, intended to reflect current statutes and case law.

For example, AH 502 discusses the Capital Asset Pricing Model (CAPM) as a methodology for determining discount factors. "Metering in" of soft costs, such as design and engineering costs for construction in progress, is recognized as a valid assessment practice. AH 502 clarifies that the cost of off-site development mitigation is not assessable.

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Further, remodeling of an existing structure that constitutes replacement is not new construction. Fixtures should be treated as a separate appraisal unit when measuring declines in value.

Significant clarification in the AH 504 included recognition of market sampling as a valid method for determining values for business equipment and machinery, and identifying valid measures for arriving at trade level values (value of self-manufactured equipment used by the taxpayer).

In his preface to the revision of AH 502, a complete rewrite of the original manual written in 1988, Richard C. Johnson, chief of the BOE Property Taxes Department, wrote:

"The objective of this manual is to give property tax appraisers, and other interested parties, an understanding of the advanced issues concerning property assessment and property appraisal for tax purposes. If there is an inconsistency resulting from the absence of some technical data in this manual and more advanced information in another more specific manual, the more specific manual controls. In the interest of accuracy and thoroughness, appraisers and other interested parties are advised to consult with qualified experts and other authoritative sources regarding the technical aspects of valuing any complex property."

Mr. Johnson noted that meetings with industry representatives and assessors were held as part of the process of producing the manuals, with most conflicts identified and resolved. Those issues not resolved were voted on by members of the BOE, after hearing testimony from interested parties and board staff.

Following are commentaries written for *Cal-Tax Digest* by the president of the California Assessors Association and by a tax professional with a California company.

Assessors Protest BOE Handbook Revisions

By Bruce Dear

After a well-attended and somewhat tumultuous meeting of their "Property Tax Committee" on December 7, members of the State Board of Equalization adopted Assessor Handbooks 502 and 504 on December 10. Adoption of the handbooks marked completion of the fifth and sixth major handbook sections by the board in the two-year (1997-1998) time period.

Here is a reaction to the BOE handbook preparation process on behalf of the California Assessors Association (CAA). Let me touch briefly on the process used to write the recent handbooks, discuss usefulness of the completed handbook sections and then describe actions contemplated by the CAA.

Process

Has the assessor handbook series been in need of more than modest annual maintenance for quite some time? You bet! Assessors have long encouraged the board to devote more continuous resources to handbook writing. However, it is difficult to effectively make up for years of deferred maintenance in a short time period. We are disappointed with the compressed timeframe used to produce the recent handbooks. With most assessor resources dedicated to production of annual assessment rolls, it has been extremely difficult to allocate time necessary to do justice to multiple, concurrent handbook revisions. David Doerr (Cal-Tax chief tax consultant) accurately described the process in last month's *Cal-Tax Digest* as Dean Andal's crash program to rewrite the manuals. The need for assessor participation was made more important because the board would not accede to assessor requests that independent, professional appraisal organizations participate in the process.

Not only did the crash program prevent sufficient opportunity for review and input, but the handbook process lacks a final review by any outside party.

A vote of three politicians can now change any handbook, at any meeting, with little or no input from professional staff. In the opinion of the CAA, creating a handbook revision model that allows for a quick change based on politics and special interest pressure is not good public policy. It is no coincidence



Placer County Assessor Bruce Dear is president of the California Assessors Association. Membership in the CAA includes all 58 of California's locally elected county assessors. The CAA was organized in 1902 and incorporated in 1946. Primary purposes of the CAA are to promote cooperation of the assessing officers of California; promote improvement of assessment procedures for the public good, and promote improvement in the assessment laws of the State of California for the public good.

that the board room was well populated with special interest tax attorneys on the day that the most recent two handbooks were approved.

Results

How useful are the new handbooks as assessment guides for Assessor Department staff members? Let me cite assessor concerns with the three handbooks adopted in 1998.

AH 267 Welfare, Church & Religious Exemptions - Treatment of multi-specialty medical clinics, and treatment of church parsonages.

Based on the CAA interpretation of statutes and court cases, it is our opinion that the handbook gives inaccurate guidance in the suggested exemption of multi-specialty medical clinics and church parsonages.

AH 502 Advanced Appraisal - Language related to the assessment of "intangible property."

Creation of this brand new handbook was fast-paced and intense. There appeared to be reasonable give and take with the perception that compromise language had been forged that was acceptable to everyone as all parties focused on incorporating changes into the board staff version of the handbook draft. When board members elected to reject the compromise version of the chapter on intangibles at the 11th hour and replace that chapter with the Cal-Tax language, assessors were stunned. With only insignificant language changes, the Cal-Tax "intangible" language is incorporated in the final version of the handbook.

Are Assessors disappointed? To the extreme, but we must admire the brilliant politics! The board now has an advanced appraisal handbook that incorporates key appraisal language that was not prepared, accepted or subjected to a final review by any recognized appraisal group.

AH 504 Assessment of Personal Property and Fixtures - Assessment treatment of validation costs, and language related to discussion of property sampling.

This appears to be the most successful collaborative effort with constructive suggestions incorporated from all parties. We will

be reviewing the magnitude of CAA concerns related to the two areas identified above.

Follow Up

The CAA dilemma is what to do with a handbook when some of the book gives good appraisal or assessment direction, yet other parts contain statutorily incorrect advice or suggest unacceptable appraisal practices. To resolve that dilemma, here are some alternatives that we will pursue:

- Attempt to reopen the handbook process whenever there is a constructive opportunity.
- Publish position papers to clearly document functionality of AH's 267, 502 & 504 in the opinion of the CAA.
- Pursue a legal review of AH 267 by the State Office of Administrative Law.
- Budget more local resources for increased assessment appeal and extended litigation costs based on increased uncertainty and confusion created by language incorporated in new handbooks.
- Work with any group to promote more efficient, cost-effective and predictable property assessment practices.

Thank you for the opportunity to share some thoughts on behalf of the California Assessors Association.

Assessor Handbooks: Fair Ground Rules

By William Harris

In a victory for clarity and certainty, the State Board of Equalization last December 10 unanimously approved new and revised guidelines for county assessors and taxpayers. The board adopted new Assessors Handbook 502 and revised Assessors Handbook 504 (formerly 571) that had gone decades without updates to reflect changes in law and rulings.

William Harris is manager of property, sales and special taxes for VLSI Technology, Inc., in San Jose.

As a result of the work by the board, its staff, assessors and taxpayers, California now has better guidelines for the appraisal and assessment of property.

Creating these two documents at the same time was a long and arduous process. The taxpayers' side of the process had a group working on the initial draft of AH 502, the Advanced Appraisal Handbook, while another group worked on the intangibles chapter of AH 502, and a third group worked on the initial revision of AH 504, the Assessment of Personal Property and Fixtures.

Board staff published initial drafts of AH 502 and AH 504, and each group embarked on word-by-word reviews. The groups submitted proposed revisions to Carol Evans at Cal-Tax who then forwarded them to the board staff. The staff put all of the revisions from Cal-Tax and the assessors into a matrix along with their comments as to whether the staff agreed or disagreed with the suggested revisions.

"Interested party" meetings were held by the board staff in Sacramento and all parties discussed the suggested revisions, trying to reach consensus on as many issues as possible. A measure of the success of this process is that there were only four or five issues in each handbook that had to go to the board's Property Tax Committee for a final decision. While this process sounds easy and short, it consumed over a year with many meetings and discussions to arrive at our suggested revisions.

At the end of this process, we now believe property taxation in California is more understandable and can be fairly administered, if the assessors choose to follow the guidelines.

These handbooks are important for many reasons, but mainly because:

- Handbooks set fair ground rules for both taxpayers and assessors.
- It is vitally important that California cultivate a reputation as a state where property taxes are applied fairly and uniformly.
- Using correct, fair, and uniform assessment practices will bring more fairness to the largest tax that businesses in California pay each year.

These handbooks will also help both counties and taxpayers avoid costly litigation and expensive refunds as a result of illegally collected taxes caused by overvalued property. A

factor in stabilizing revenue for local government is avoiding refunds to taxpayers due to over-assessed property. Local governments face difficulty when disputed taxes are spent, only to learn years later from a court ruling that refunds must be made.

Primary purposes of these handbooks are to increase the uniformity of property taxes across the State of California and to help the assessors and taxpayers arrive at fair market value. Fewer appeals will be filed and fewer appeal hearings needed when assessed values are closer to fair market value. This will result in a more cost-effective property tax system and a more dependable, stable local government revenue stream.

Finally, neither assessors nor taxpayers are entirely satisfied with these handbooks, which means that we probably have a fair product that both sides can use.
