



**WHITE PAPER
PROPERTY TAX EXEMPTION FOR
MUTUAL WATER COMPANY REAL PROPERTY ASSETS**

**BY: JIM CIAMPA
LAGERLOF, SENECA, GOSNEY & KRUSE LLP
FOR CALMUTUALS**

There seems to be confusion in California about the property taxation of mutual water companies on their real property assets, including, but not limited to, parcels owned in fee title, water rights and water system infrastructure. This has led to situations where the assessors in some counties are levying property taxes on mutual water companies, while other assessors are not levying such property taxes. In addition, some mutual water companies in some counties have received significant refunds of monies paid for property taxes in prior years. This “White Paper” is intended to make mutual water companies aware of this issue and provide them with possible guidance on how to take advantage of the State Board of Equalization’s existing interpretation on this issue in their counties.

Mutual water companies are not-for-profit corporations that provide water service to their shareholders at cost (see Corporations Code § 14300 and Public Utilities Code § 2705). Typically, a mutual water company’s shares are appurtenant to real property owned by shareholders. This means that the shareholders cannot separate their shares from their underlying real property.

Based on the appurtenant nature of mutual water company shares, the State Board of Equalization (BOE) has rendered the following: “In such cases, the value of the [mutual] water company is . . . reflected in the value of the land that it serves and to which the shares attach. This is based on the premise that purchasers [of the land] take into account the value of the share in the mutual water company when buying property, and pay more for land than they would pay if the water was not available. As a result, in these situations, [the Assessor] must recognize that the value of the mutual water company is included in the value of the land that it serves . . . **If this fact is not recognized, and the water system is appraised separately while appraising the land at the value indicated by sales, a duplicate assessment may result.**” (California State Board of Equalization, Assessors’ Handbook Section 542, “Assessment of Water Companies and Water Rights,” p. 18-19, emphasis added).

(Continued on next page)

Based on that foregoing BOE guidance, a mutual water company should not be required to pay property taxes for any of its real property being used in connection with water service provided to shareholders whose shares are appurtenant to their respective lands. The reason for this, as explained above, is that those property taxes have already been paid by the shareholders; that is, the corresponding property valuations have already occurred against the shareholders' underlying land. The same is true for any water rights, real property improvements, water distribution systems, and any other personal property owned by the mutual water company, as long as that property is an integral part of how water service is provided to shareholders.

Two steps must be taken to secure property tax rebates and exemptions from future property taxes:

1. County tax assessors must review and "agree" with the BOE opinion.
2. Once a county tax assessor agrees with the BOE opinion, mutual water companies must file a claim for a refund of prior years' taxes.

To make a claim to have a company's property tax assessments reduced and to seek a refund of prior years' taxes that have been paid (usually going back three years), the following information should be submitted to a company's county assessor:

- Articles of Incorporation and any amendments;
- Bylaws and any amendments;
- Any deeds to real property owned by the mutual water company;
- Any other evidence of ownership of other real property assets (including a property tax bill);
- Any evidence of ownership of water rights, including any State Water Resources Control Board orders or related documents, judgment excerpts, and possibly Watermaster Report excerpts.

Mutual water companies interested in this topic may contact the California Association of Mutual Water Companies at 714 446-8403 to find out the status of their county tax assessors in issuing property tax refunds.