



Contra Costa County

To: Board of Supervisors
From: David Twa, County Administrator
Date: February 26, 2019

Subject: Deny claim filed by Hanson Marin Operations for refund of property taxes

RECOMMENDATION(S):

DENY the claim filed by Hanson Marine Operations for a refund of property taxes paid for 2013 through 2016.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

By a letter dated March 6, 2018, Hanson Marine Operations ("Claimant") sent the Assessor's Office claims for refund of tax years 2013 through 2016 related to the assessment of two tug boats, Account No. 712095-0016 (the "Vessels"). The basis of the claim is that the Vessels should have been exempted from property taxes for those years because Article XIII, Section 3, Subdivision (I) of the California Constitution provides that vessels of more than 50-tons net burden and engaged in the transportation of freight or passengers are exempt from property taxation.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **02/26/2019** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I
Supervisor
Candace Andersen, District II
Supervisor
Karen Mitchoff, District IV
Supervisor
Federal D. Glover, District V
Supervisor

ABSENT: Diane Burgis, District III
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 26, 2019

David Twa, County Administrator and Clerk of the Board of Supervisors

By: Stacey M. Boyd, Deputy

Contact: Peter Yu, (925)
313-7622

BACKGROUND: (CONT'D)

The letter attaches various documents including a claim for refund forms for 2013/14, 2014/15, 2015/16 and 2016/17, summary of amounts paid, evidence of payment, a photo of the Vessels, diagram of the Vessels' use, property tax bills, Claimant's business property tax statements, bills of sale for the Vessels, Coast Guard vessel documentation, Certificates of Documentation from the US Department of Homeland Security; and invoices to the lessor of the Vessel for its use. For the years at issue, Claimant seeks a refund of \$351,203.04 based on its payment of ad valorem taxes and various assessments levied on the Vessel.

ANALYSIS

Claimant seeks a refund of property taxes for two tug boats, which it claims qualify for a property tax exemption as marine vessels of more than 50-tons net burden and engaged in the transportation of freight or passengers (the "Vessel Use Exemption"). (Cal. Const., art. XIII, § 3, subd. (I)). Only those vessels that are used over 50% of the time for the transportation of freight or passengers qualify for the exemption.

To seek the Vessel Use Exemption, a taxpayer must file appropriate paperwork with the Assessor's Office that shows that its vessel qualified for the exemption in the tax year at issue. Claimant has failed to seek the Vessel Use Exemption from the Assessor's Office for any of the years at issue and, for this reason, it has failed to meet the prerequisite to claim the exemption for its Vessels.

Claimant also failed to supply sufficient evidence with its claim for refund that the Vessels were used over 50% of the time for the transportation of freight or passengers. Claimant's attorney submitted an unverified letter stating that the Vessels were used 100% for the transportation of sand and there are references in the invoices to a "sand merchant." This is insufficient to establish the Vessels' primary uses were the transportation of freight. An unverified letter does not provide reliable evidence of the Vessels' use. Furthermore, the transportation of sand is not inherently the transportation of freight. To determine whether the transportation of sand was freight the purpose of the transportation must be established, including its origin and destination. The evidence submitted also does not indicate how the Vessels were used for over 50% of the time. Finally, the Assessor's Office independently obtained information that the vessels were often used for dredging operations, rather than the transportation of freight or passengers.

In addition to issues concerning Claimant's right to the Vessel Use Exemption, the claim improperly seeks a refund of all taxes and assessments paid. When applicable, the Vessel Use Exemption only exempts payment of property taxes on the 1% ad valorem property tax.

CONSEQUENCE OF NEGATIVE ACTION:

Failure to take the recommended action would result in the refund of property taxes and assessments in the approximate amount of \$351,203.04.

ATTACHMENTS

Hanson Marine Claim

Exhibit A

Exhibit B

Exhibit C

Exhibit D

Exhibit E

Exhibit F

Exhibit G