this year.

d. In December of 1985 the appeals board reduces the 1984 assessment and establishes a new base year value.

As a result thereof the taxpayer has requested a correction of the 1985 assessment pursuant to the terms of Revenue and Taxation Code Section 80(a)(4):

> Any reduction in assessment made as the result of an appeal under this section shall apply for the assessment year in which the appeal is taken and prospectively thereafter.

In your view this provision can not be literally applied if an intervening year is not appealed; we respectfully disagree.

You conclude that the legislative intent behind the term "prospectively thereafter" was only to establish a conclusive presumption in favor of taxpayers who appealed subsequent assessments that differed from the original finding of the board. You base this on your reading of section 80 as a whole. Here you note that the section is part of the "Assessment Appeals" chapter; part (a) is restricted to the current roll; all subsections deal with a conclusive

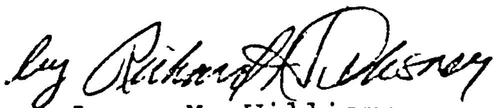
presumption and subsection (a)(3) is dependent upon an application being filed. Finally, you conclude that "prospectively thereafter" should not supplant the assessor's opinion of value in succeeding years because it "flys in the face of the notion that the Appeals Board jurisdiction extends only to the year of the enrollment appealed."

Initially we invite your attention to the fact that the section at issue is part of Divison 1, Part 0.5 of the code which is entitled Implementation of Article XIIIA of the California Constitution. In contrast the general considerations for assessment appeals are found in Part 3, Equalization, of the code. As such the specific purpose of section 80 is to direct the establishement of a base year value by way of an assessment appeal; it is therefore an exception to the annual jurisdiction of an appeals board. Rather than being a self-executing provision, it is a statute that implements the base year concept of the constitution. As you have noted subsection (a)(3) mandates a conclusive presumption of a base year determined pursuant to an application for reduction. Facts a., b., and d. as outlined in the first paragraph precisely fit the dictates of this subsection. The taxpayer had four years to contest the new base year established after the change in ownership. It was contested in the first available year. Nothing in the code requires continual appeals until the initial application is resolved.

The only unusual condition is your fact c. wherein the initial determination was not complete prior to transmittal of the roll for the succeeding year. Assume, however, that it was. What would the assessor enroll -- obviously it would be the factored base year value from the appeals board. Under your conclusion the assessment of the succeeding year becomes a function of the speed of the appeals board. This was not the legislative intent, it is not the plain language of subsections (3) and (4), and it clearly would not be fair and equal treatment for all taxpayers.

In our view the intervening assessment, 1985, should be cancelled as illegal. The 1984 appeal decision should be cited to the auditor as the new base year value. This, as factored, will subsequently continue pending those circumstances that call for either an economic adjustment or establishment of a new base year.

Very truly yours,



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cc A, G, W