

(916) 445-8900

October 13, 1978

Dear Mr.

Assessment of Rubber-Tired Equipment

Your letter of October 5, 1978, to Mr. Assistant Chief Counsel, requested our opinion as to whether certain rubber-tired construction equipment is subject to local ad valorem taxation. In response, we have concluded that it appears that the general class of equipment described would not be subject to assessment by the county; however, the specific models and mode of operation by the owner may have resulted in a valid assessment.

Revenue and Taxation Code, section 994(c), is controlling and provides in pertinent part:

...rubber-tired equipment that does not require a permit (V.C. 35780), which... are registered under the Vehicle Code and licensed under Part 5 (commencing with Section 10701) of Division 2 of this code, shall not be otherwise assessed for purposes of property taxation.

Our interpretation of this statute simply requires the finding of three elements to conclude that rubber-tired equipment is non-assessable. Initially, the equipment must not be over-sized/weight so as to come under the permit provisions of Vehicle Code, section 35780. Our check of the general characteristics of the Caterpillar Motor Patrols, models 12 E, F and G, and the John Deere 5010 Scraper, in conjunction with Caltrans, Permit Section, indicates that the V.C. 35780 permit is not normally required for these models. However, if the models in question

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are non-standard in size and weight or if the blades cannot be rotated parallel to the axis of the chasis, then a permit would be required and assessment for property taxes would be proper.

Secondly, the equipment must be registered by DMV under the Vehicle Code; and thirdly, it must be licensed by DMV under the Vehicle License Fee Law. Your letter indicates that the equipment has been so registered and licensed for the years in question.

To resolve the question we would recommend that your member furnish proof to the assessor that the equipment has never been operated pursuant to the V.C. 35780 permit; that it is the standard type not requiring the permit and that it was properly licensed and registered for the years in question.

Very truly yours,

James M. Williams  
Tax Counsel

JMW:fr

cc: Mr. Don J. Hutchinson  
Alameda County Assessor  
Attn: Mr. Stephen R. Sara