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May 12, 1999

Honorable Gregory B. Hardcastle  
County of Tulare Assessor/Clerk/Recorder  
221 S. Mooney Boulevard  
County Civic Center Room 102E  
Visalia, California 93291- 4540

Attention: Ken Swearingen

Re: Property Acquired by a Health Care District Outside District Boundaries

Dear Mr. Swearingen:

This is in reply to your faxed letter of February 24, 1999 and our telephone discussions in which you requested a legal opinion concerning the taxability of property acquired by a health care district from a private hospital corporation. The property is located outside the boundaries of the health care district and at the time of purchase had been receiving the welfare exemption. As set forth below, it is our view that the property is not taxable and, therefore, the provisions of Section 11 of Article XIII of the California Constitution are inapplicable.

**Background**

The specific facts are that the Redacted Health Care District ("the district"), a local government entity based in the city of Redacted, purchased the lands, buildings and personalty owned by the Redacted Hospital Association ("the hospital"), a private, non-profit hospital corporation located entirely in the city of Redacted. All of the property is located outside the boundaries of the district, and at the time of purchase the property was receiving a welfare exemption. The hospital will be operated with district employees.

**Questions**

Based on these facts you ask the following questions:

1. Whether or not the realty/personalty acquired by the local government entity under these circumstances is subject to local assessment and taxation pursuant to Section 11 of Article XIII of the California Constitution?

### Analysis

Article XIII, Section 11, subdivision (a) provides in relevant part that "[l]ands owned by a local government that are outside its boundaries... are taxable if... (2) they are located outside Inyo or Mono County and were taxable when acquired by the local government. Improvements owned by a local government that are outside its boundaries are taxable if they were taxable when acquired or were constructed by the local government to replace improvements which were taxable when acquired." For purposes of this analysis, whether land and improvements owned by a local government located outside its boundaries are taxable to the local government thus depends upon the meaning of "taxable" within the context of Article XIII.

Article XIII, Section 1 generally provides that all property in the state is taxable "[u]nless otherwise provided by this Constitution or the laws of the United States." Thus, "taxable property" includes all property except property exempt or immune pursuant to the California Constitution or federal law. With respect to exceptions provided by the California Constitution, we interpret the section 1 provision to exclude property which is specifically exempted by a self-executing Constitutional provision, such as Article XIII, section 3, as well as property that the Legislature may exempt by statute pursuant to an authorizing Constitutional provision, such as Article XIII, section 4, subdivision (b). That subdivision authorized the Legislature to adopt Revenue and Taxation Code section 214 and following sections which comprise the welfare exemption provisions.

Since the subject real property and improvements had been receiving the welfare exemption, they were not "taxable when acquired" and section 11 is inapplicable. In our view, this interpretation is consistent with the purpose of section 11, that purpose being to prevent erosion of a county's property tax base and consequent loss of property tax revenues. *San Francisco v. San Mateo* (1941) 17 Cal.2d 814, 818.

As to the personal property, it is exempt from property tax under Article XII, Section 3, subdivision (b) of the Constitution as property owned by a local government and it is not subject to the subdivision (b) exception.

2. If so, whether or not the acquiring local government entity would be eligible for the welfare or other property tax exemption, or whether special legislation would be required to exempt the acquired land and improvements from local assessment and taxation?

Because, in our view, the subject real and personal property is not taxable, a response to this question is unnecessary. However, property owned by a local government entity, such as a hospital district or a health care district, is not eligible for the welfare exemption due to the specific ownership and operating requirements of section 214. Subdivision (a) of that section provides in part that, property is eligible for the welfare exemption only "if used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations or corporations organized and operated for religious, hospital, scientific, or charitable purposes". The exclusive list of qualifying owning and operating entities does not include a local government entity, such as a hospital district or health care district, and for that reason the property is ineligible.

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Additionally, based on the facts presented, we are unaware of an other provision of law by which the property would be exempt from property taxation. As you suggest, in the absence of any legal authority, legislation at least would be necessary to exempt land and improvements owned by a hospital district but taxable pursuant to Article XIII, Section 11. See, for example, Revenue and Taxation Code section 201.3, property of a nonprofit entity deemed to be part of the City of San Diego. More likely, a constitutional amendment would be necessary as Article XIII, Section 3, subdivision (b) and Article XIII, Section 11, subdivision (a) specifically provide for the assessment and taxation of such property.

The views expressed in this letter are only advisory in nature; they represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Very truly yours,

Louis Ambrose  
Tax Counsel

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cc: Mr. Richard C. Johnson (MIC: 63)  
Mr. David J. Gau (MIC: 64)  
Ms. Jennifer L. Willis (MIC: 70)