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(916) 323-7714

June 13, 1984

Patricia A. Bluett
Yuba County Assessor
Courthouse
215 5th Street
Marysville, CA 95901

Attention: Joe Lantsberger, C.A.A.
Auditor Appraiser III

Assessment of Rodeo Animals

Dear Mr. Lantsberger:

In your letter of December 15, 1983, you request our opinion on the extent or percentage of assessability of a variety of animals used in the performance of rodeos. The enclosed flyer indicates that the Flying U Rodeo performs throughout the entire year on a weekly basis in most counties of this state as well as in all of our adjoining states. In this regard, you ask what percent of the animals has tax situs in Yuba County?

Initially, I should point out that the "average rodeo herd", as adjusted for periodic turnover, is subject to assessment. As of each lien date, these animals are not held for lease or sale and are therefore not subject to the inventory exemption. Upon removal from the herd, it appears that they may be held for sale and hence, exempt on those lien dates.

Based on the schedule indicated on the flyer, i.e., the number of locations and the minimal time spent on each, along with your conclusion that Marysville is the "home base" of the Flying U, it is my opinion that the entire rodeo herd is subject to assessment by Yuba County. This view is based on the holding of the California Court of Appeals in Ica Capades, Inc. v. County of Los Angeles, 56 Cal. App. 3d 745 (1976), a copy of which is enclosed for your convenience.

You will note on page 752 of that decision at the boldface (2), "the state of domicile retains jurisdiction to tax tangible personal property which has not acquired an actual situs elsewhere." This is the basic rule of tax situs and it is always applicable unless superseded by a specific exception. In your case, Yuba County would be the domicile or "home base".

On page 753, at boldface (7), "where personal property is moved from the domicile of its owner to another location with the intent that it remain there for a short period and then be moved elsewhere or returned to the place of the owner's domicile, the owner's domicile and not the place where the property is temporarily situated is its tax situs." This rule covers the exception for movable property that spends considerable time away from the "home base" but does not spend enough time at any of the other locations to establish a tax situs at those places. Following boldface (11) on page 754, the court concludes that the schedule of the Ice Capades shows and that of a circus, described in another case, is too transitory and not sufficient for tax situs. In my view, the rodeo schedule is virtually identical to both of these.

On page 755 in the paragraph beginning with boldface (15), the court points out a very important element in the application of the situs rules and that is that the burden of proof would be on the Flying U to establish that the herd had tax situs at another location, i.e., in-state county or adjoining state. I would recommend that you accept nothing less than a tax bill and a cancelled check as meeting this burden of proof.

Finally, note on page 756 in the middle of the second paragraph, the county in which the tax situs is located has power to impose an unapportioned property tax although the property may be temporarily absent. This conclusion of the court coincides with the last paragraph of Property Tax Rule 205(a), and both should provide ample authority for you to make the assessment.

Very truly yours,

James M. Williams
Tax Counsel

JMW:fr

cc: Mr. Gordon P. Adelman
Mr. Robert H. Gustafson
Mr. Verne Walton