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March 8, 1994

Re: Application of Property Tax Rule 309(c)

Dear Mr. :

In your FAX of March 1, 1994 to the Honorable Matthew K. Fong, Member Fourth District, you requested our opinion regarding the implementation of California Revenue and Taxation Code, Section 1604(c) by means of the referenced rule. Specifically, you asked:

> Is the "full and complete information" mentioned in 1604(c) only limited to the three categories of information listed as Rule 309(c)(1),(2) and (3) of Title 18 of the California Code of Regulations?

Nominally, our answer is in the affirmative. The rule was enacted to explicate and implement the statute. Our records indicate that the three subsections of the rule delineate the only three situations that were contemplated by the Legislature at the time the statute was enacted. In addition our research has not uncovered any judicial decision that has dealt with newly discovered situations. This does not mean however, that this exclusivity is cast in stone. Future litigation may expand the situations in ways not presently contemplated.

In the next to last paragraph of your FAX you take the position "that a subsequent audit of the tax return does not affect the status of the tax return as being full and complete when filed". That is not a correct proposition of law in regard to the filing of property tax statements in this state. Enclosed is a copy of page 1 of SBE-ASD AH 571 instructions for completion of the property statement. You will note that the first part of the boxed notices on the upper portion of the page clearly warns the taxpayer that the statement is accepted subject to audit.

The timing of workload and manpower limitations of the assessor's office prevent all but a perfunctory check of the statement upon receipt. In our view the statement is full and complete only when it has been verified in detail by the assessor pursuant to any number of statutory means that are available to him. At the very minimum his mandatory audit requirements and the statute of limitations for escape assessments would set appropriate time limitations.

The views expressed in this letter are, of course, only advisory in nature. They are not binding upon the assessor of any county. You may wish to consult the appropriate assessor in order to confirm that the described property will be assessed in a manner consistent with the conclusions stated above.

Our intention is to provide timely, courteous and helpful responses to inquiries such as yours. Suggestions that help us to accomplish this goal are appreciated.

Very truly yours,

James M. Williams

James M. Williams
Staff Counsel III

JMW:jd
precednt/atandiv/94004.jmw

Enclosure

cc: Ms. Jennifer Willis, MIC:70
Mr. John Hagerty, MIC:62
Mr. Verne Walton, MIC:64
Mr. Mark Buckley, MIC:64