



(916) 445-3237

June 9, 1983

Mr. Donald L. Kroger  
Alameda County Assessor  
1221 Oak Street  
Oakland, CA 94612

Glass Containers Corporation

Dear Mr. Kroger:

This is in reply to your request for reconsideration of an earlier opinion given to Mr. Charles R. Ajalat, attorney for the above corporation.

The prior opinion was based, in part, upon statements in a series of Assessors' Letters prepared by the Assessment Standards Division which contained guidance along the following theme:

"As a 'rule of thumb' we suggest that work done on an improvement (presupposing no change in use) would not be considered new construction if it could reasonably be assumed that such work would be done periodically during the life of the improvement." Assessors' Letter 78/188.

However, your point is well taken regarding what new construction is, as opposed to what it is not. Revenue and Taxation Code Section 70 (b) states:

"Any rehabilitation, renovation, or modernization which converts an improvement or fixture to the substantial equivalent of a new improvement or fixture is a major rehabilitation of such improvement or fixture."

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This is in addition to the definition of "new construction" contained in Section 70 (a) (2):

"Any alteration of land or any improvement (including fixtures) since the last lien date which constitutes a major rehabilitation thereof or which converts the property to a different use."

The operative words in the above sections deal with 'rehabilitation', defined in Webster's Third New International Dictionary as "the restoration of something damaged or deteriorated to a prior good condition"; "renovation", the Webster's definition being "to restore to a former state (as of freshness, soundness, purity, or newness of appearance (make over: renew (a house >.)": "maintain", Webster's definition being "to keep in a state of repair, efficiency, or validity: preserve from failure or decline".

By keeping the above definitions in mind when examining the examples listed in the Assessors' Letters, one can infer that the Assessment Standards Division, in preparing their lists, had a longer period of time in mind than the six to eight years herein, in excluding such matters as the replacement of drywall, water pipes, rotted window joints, roofing, and wall sidings.

Based upon the foregoing, it appears that the rebricking of the throat area of the furnace every three or four years would properly be considered to be a routine maintenance function, both because of the frequency and the relatively short shut-down period of time. However, the shut-down for a month and the replacement of 50 percent to 90 percent of the furnace bricks of the inner furnace every eight years must be considered a "major rehabilitation" of that portion of the furnace, thereby properly becoming subject to reappraisal as "new construction" as defined by Revenue and Taxation code Section 70.

To the degree that this opinion is inconsistent with that of February 16, 1983, the latter is superseded.

Very truly yours,

Gilbert T. Gembacz  
Tax Counsel

GTG:fr

cc: Mr. Charles R. Ajalat  
Mr. Verne Walton

bc: Mr. Gordon P. Adelman  
Mr. Robert H. Gustafson  
Legal Section