STATE OF CALIFORNIA

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VALUATION DIVISION
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Executive Director

August 30, 1996

RE: SBE No. 6111 (PRRC).

Dear Mr. Wood:

This letter is in response to your recent telephone inquiry regarding the 1996 Private Railroad Car Tax assessment for :. (RLS). You inquired as to the possibility of reducing the assessment relating to the "Covered Hopper" and "Tank" classes of railcars. The basis of your inquiry was that certain of these types of cars owned by RLS that accrued a California presence during calendar year 1995 were sold to another person prior to January 1, 1996. RLS retained a total of ten covered hopper cars and fifteen tank cars on January 1, 1996. Your requested tax reduction is approximately $584.

The Division does not believe that your request for a reduction in the assessment has merit. Revenue & Taxation (R&T) Code Sections 11206 and 11292 require the assessment to be based on the Association of American Railroad's car class code; covered hoppers and tanks are two individual classes. R&T Code Section 11293 requires the California presence to be based on the aggregate of the California days for each class code; there is no provision in the statute for adjusting California presence for cars not owned on the lien date. It is our belief that the statutes do not provide for an assessment of individual cars but instead require an assessment of a class of car. If RLS had not owned any cars of these classes on lien date there would have been no assessment to RLS for these classes regardless of the amount of calendar year 1995 California presence.

I have enclosed a copy of Assembly Bill 1426 containing the cited R&T Code Sections which were effective as of January 1, 1995. Please note the comments contained in the Legislative Counsel's Digest which are consist with the Division's position as stated above. I also believe it is worth noting the legislative counsel's comment that because railcars are considered personal property the legislature has the authority under the state constitution to provide for differential taxation schemes. If I can be of additional assistance please telephone me at 916-327-8404.

Sincerely,

David J. Hendrick

David J. Hendrick
Supervising Property Appraiser
Valuation Division

enclosure

cc: Ramon Hirsig
Harold Hale
Ken Thompson
Mary Ann Morgan

State of California

Board of Equalization
Legal Division

Memorandum

To : Gene Mayer

Date: June 22, 1992

From : James M. Williams

Subject: Private Railroad Cars Car Count Processing

In your memo of May 11, 1992 you requested our opinion regarding the inclusion of car day data for cars that had California presence in the prior year but were later disposed of prior to the lien date. The current staff procedure tallies all car days by class of car that enters the state in the prior year. This tally is then combined with the lien date market value of the class to produce the current year assessment.

TTX contends that it is improper to use car day data for any car that does not exist on the current lien date for purposes of the current assessment. Staff takes the position that its current procedure is correct.

As you note Revenue and Taxation Code, section 11293 specifies the method to determine the amount of cars to be used in the calculation of the current assessment. The statute explicitly requires that the Board shall determine the average number of each class of private railroad cars physically present in the state in the year immediately preceding the year in which the tax is imposed. There is no directive to delete any category of car from that calculation. Furthermore section 11294 which provides the only exclusion from the method also does not delete pre-lien date disposed of cars from the calculation.

Of the three variables, car days, tax rate and lien date value, the first two are both derived from prior year sources. The lien date value is calculated right at the end of the prior year and at the beginning of the new assessment year. The combination of these variables in the calculation is logically consistent. While the car days were accumulated prior to disposition of the car it received the full benefits and protection of the state and thus established a taxable nexus. Correspondingly, a new car that is introduced to the state is not taxed in the year of introduction so over time there will be a natural adjustment in the resulting car days.

In our view the staff procedure correctly follows the statute and should not be changed.