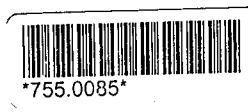
State of California

Memorandum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Board of Equalization
Legal Division-MIC: 82

To :

Mr. Ramon J. Hirsig, Acting Chief
Valuation Division

Date: May 2, 1996

From : James M. Williams

Subject: **Board Assessment Jurisdiction**

In your memo of April 17 you described a situation wherein a state assessee originally leased an entire office building and, although not stated, I'll assume that it was used for purposes that were subject to state assessment. In time, the state assessee leased out portions on the ground floor to commercial enterprises such as space for a restaurant, book and candy store, travel agency, etc. Accordingly you ask: Since the entire building is no longer being used 100% by the state assessee can the assessment jurisdiction for the entire property be transferred back to the county assessor? The answer is the California Constitution requires assessment by the Board if the building is used by the state assessee regardless of the fact that portions may be used by others.

However, I would invite your attention to the last paragraph of Article XIII, Section 19:

> *The Board may delegate to a local assessor the duty to assess a property used but not owned by a state assessee on which the taxes are to be paid by a local assessee.*

If the lessor of the office building is being billed for and paying the taxes on the building, then I would conclude that the above specifications have been met and it would be proper for the Board to make the delegation. If the taxes have been passed on to the state assessee, then the assessment can not be delegated; however, there is nothing to prevent an amendment to the lease so that delegation could be made in subsequent years.

I am attaching a copy of the Acting Chief Counsel's (aka - EFE) memo of March 15, 1996 which cites several memos on this subject which I am assuming that you have on file. I would also invite your attention to the Attorney General's opinion of March 19, 1957 which you also should have and which represents the only legal precedent dealing with your question.

If you would like additional information, or are unable to locate the precedents cited, please do not hesitate to contact me.

JMW:jd
precednt/valuadiv/1996/96009.jmw

Attachment

cc: Mr. Larry Augusta

State of California

Board of Equalization
Legal Division

Memorandum

To: Mr. Paul Steinberg, Legal Counsel
to Honorable Dean F. Andal -- MIC:78

Date: March 15, 1996

From: Gary J. Jugum
Acting Chief Counsel

Subject: State Assessees

This is in response to your E-mail message of February 27, 1996 to Larry Augusta and Les Sorensen in which you requested copies of any opinions, letters or memoranda addressing the question of Board assessment of property owned or used by state assessees which is unrelated to their state assessee activity involving a relatively small amount of property, i.e., the Southern California Water issue. It is our understanding that the Board began assessing water systems to Southern California Water Company in addition to its electric plant sometime between 1965 and 1971. Unfortunately, we were unable to locate the legal opinion in support of that position. We have attached the following memoranda, however, all of which are consistent with the position that all of the property owned or used by state assessees is subject to Board assessment:

1. Memorandum from E. L. Sorensen, Jr. to Honorable Matthew K. Fong dated December 21, 1993

2. Memorandum from Eric Eisenlauer to Gene Mayer dated February 7, 1994

3. Memorandum from Ken McManigal to John Hagerty dated May 16, 1994.

For any questions regarding this matter, please call Eric Eisenlauer at 322-0050.

GJJ:EFE:ba
Att.
cc: Mr. E. L. Sorensen, Jr. - MIC:73
Mr. Jim Speed w/o att. - MIC:63
Mr. Ray Hirsig w/o att. - MIC:61
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