



(916) 324-6594

September 11, 1985

Mr. E. Dan O'Connell
Colusa County Assessor
547 Market Street
Colusa, CA 95932

Dear Mr. O'Connell:

This letter is in reply to your letter of August 14, 1985, in which you set forth the following facts:

1. A possessory interest tax has been levied for the fiscal year July 1, 1985, through June 30, 1986, based on the fact that lessee A occupied nontaxable publicly owned real property on March 1, 1985.
2. The lessor is Colusa County (Airport).
3. The lessor terminated the possessory interest of lessee A effective July 31, 1985.
4. The lessor had possession of the property for the month of August 1985.
5. Lessee B will occupy the premises commencing September 1, 1985, for the remainder of the fiscal year.

Based on the foregoing facts, you ask the following questions:

1. What is the total tax liability for lessee A?

Reply: Since A owned a taxable possessory interest on lien date, his tax liability is based on the lien date taxable value of his possessory interest despite the fact that his term of possession ended early in the 1985-86 fiscal year. In our recent telephone conversation, you advised me that the taxable value of A's possessory interest was based on a remaining term of possession extending beyond the current fiscal year. It therefore appears that A may have

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a valid basis for having his assessment reduced through application to the county appeals board pursuant to Revenue and Taxation Code* Section 1603. Through this process, the taxable value could be reduced to reflect the shortened term of possession.

2. What is the tax liability for lessee B as mandated by Senate Bill 813?

Reply: B's occupancy of the premises on September 1, 1985, will result in the creation of a taxable possessory interest which is a change in ownership under Section 61(b). Section 75.11(b) requires that if a change in ownership occurs after June 1, but before the succeeding March 1, the supplemental assessment shall be the difference between the new base year value and the taxable value on the current roll. The "new base year" value is the full cash value as of September 1, 1985. (Section 75.8.) Since the taxable possessory interest created by B's occupancy on September 1, 1985 is new property, it has no taxable value on the current roll. The supplemental assessment in this case is therefore equal to the new base year value. B's tax liability would be determined by applying the current year's tax rate to the supplemental assessment and multiplying that result by .75. (Section 75.41.)

3. How is the month of possession by the county handled?

Reply: It could be reflected in a reduction of A's assessment obtained through the appeals process. There are no other statutory provisions which apply in such a situation. Section 4831 permits the correction of errors resulting in incorrect entries on the roll, however, that section would not appear to be applicable here since the error involved the exercise of value judgment.

If we can be of further assistance, please let us know.

Very truly yours,

Eric F. Eisenlauer
Tax Counsel

EFE:fr

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

* All statutory references are to the Revenue and Taxation Code unless otherwise indicated.