



August 13, 1981

Re: Application of Local Revenue and Taxation Code Sections to State Assessment Problems

This is in response to your memo to G_____ of July 2, 1981, wherein you ask, generally, if the statutes specifically applicable to local assessment practices are equally applicable to state assessments and, specifically, if the provisions of Revenue and Taxation Code, Sections 469, 1605(d) and 533 can be applied to state assessees.

Article XIII, Section 19 of the California Constitution requires the Board of Equalization to annually assess certain properties, including railroad and public utility property. The section further states that such property shall be subject to taxation to the same extent and in the same manner as other property. Such "other property" is governed by Article XIII, Section 14 which requires all property taxed by local government to be assessed in the county, city, and district in which it is situated. Section 33 of the same Article states: "The Legislature shall pass all laws necessary to carry out the provisions of this Article." In this regard, the Legislature enacted Revenue and Taxation Code, Sections 401-673 relative to assessments generally, and Sections 721-900, relating to assessments by the State Board of Equalization. As you will note from the statutory scheme, the provisions relating to state assessees generally either parallel those relating to local assessees or offer alternative procedures. In determining whether Sections 401-673, particularly Sections 469 and 533 and Section 1605(a) (equalization of local assessments outside regular period) are applicable in those cases where Sections 721-900 are silent, we turn our attention to familiar rules of statutory construction:

1. The Legislature, having the general power to enact statutes, may give them such effect as it chooses to prescribe, so long as constitutional guarantees are not violated. A valid enactment is necessarily applicable to all cases within its scope. . .but it may not be applied to subjects not included either by express language or by fair implication. (58 Cal. Jur. 3d, Statutes, §17.)

The scope of the express language of Section 469 is the audit procedure for "locally assessable trade fixtures and business tangible personal property:" the netting procedure is applicable as a result of the audit of assessees of the same locally assessable property. Similarly, the express provisions of Section 53 relate to assessments made pursuant to Articles 3 and 4 (Arbitrary and Penal Assessments and Escape Assessments on the local roll.) The scope of Section 1605(d) is limited by its express language to locally assessable property which was the subject of a Section 469 audit and the original assessment thereof shall be subject to review, equalization and adjustment by the county board of equalization or assessment appeals board. In short, the express language of the aforementioned statutes limits their scope of operation to locally assessable property.

2. If the words of a statute are clear, the courts should not add or alter them to accomplish a purpose that does not appear on the fact of the statute or from its legislative history. The courts generally are without power to. . .extend it to subjects not included within it either by express language or by fair implication, since significance should be given, if possible, to every word, phrase, sentence and part of an act. (58 Cal. Jur. 3d, Statutes, §87.)

As discussed in 1 above, the express language, with significance given to every word, phrase, sentence and part of Sections 469, 533, and 1605(d) limits the operation of those provisions to local assessed property. A review of recent legislative history of SB 1752 (Ch. 732, Stats. 1978) and AB 2867 (Ch. 1112, Stats. 1978), which amended these code sections reveals nothing which would indicate that the Legislature even considered the impact of such provisions on state assessed property.

3. It will be assumed that the Legislature, in enacting or amending a statute, knew the existing laws, that it was familiar with the common-law rules and the acts of previous legislatures, that it had knowledge of existing judicial decisions construing the same as related statutes in the light thereof, and that its intent was to maintain a consistent body of rules. (58 Cal. Jur. 3d, Statutes, §92.)

Accordingly, it is assumed that the Legislature knew of the existence of statutes which were expressly and specifically applicable to state assessments, when it enacted and subsequently amended those statutes which expressly and specifically relate to local assessments. Our research has not uncovered any judicial or administrative interpretations which construe that the intent of the Legislature, in enacting local assessment laws, was to

make such provisions equally applicable to state assessment problems.

Thus, in light of the foregoing basic tenets of statutory interpretation, it appears that the intent of the Legislature in providing for both substantive and procedural statutes with respect to local assessees was to limit the scope of such enactments to local assessments. This is consistent with the general rule that if the legislative intent is clearly expressed on the face of the statute, its meaning cannot be challenged.

This determination leads us back to the California Constitution. As mentioned earlier, Section 19 of the Constitution requires the State Board of Equalization to annually assess public utilities and certain other enumerated properties. The only constitutional limitation on this authority is that such property be subject to taxation to the same extent and in the same manner as other property. Therefore, it is our opinion, that the Board in assessing state assessed properties must look to local statutes that directly affect tax liability, even though the express terms of such statutes do not include state assessees within their scope of operation. Thus, with respect to Sections 469 and 1605(d) (which allow equalization of an original assessment when an audit discloses an escape assessment) and Section 533 (which provides for a netting of tax liabilities and tax refunds), it is proper that the Board be guided by such provisions since they directly bear on the amount of tax liability. On the other hand, local statutes which merely specify filing dates, due dates, or other procedural matters are not controlling as they do not directly impact tax liability.

In conclusion, we are of the opinion that local assessment statutes are not expressly applicable to state assessees, nor is there any indication that the Legislature intended otherwise. However, the mandate of Section 19 is controlling on the point that property of state assessees shall be subject to taxation to the same extent and in the same manner as local property. Therefore, to the extent the Legislature is silent on matters directly affecting the tax liability of state assessees, the Board should be guided by those statutes which directly impact the tax liability of local assessees.