



STATE OF CALIFORNIA

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Fourth District, Los Angeles

E. L. SORENSEN, JR.  
Executive Director

January 20, 1998

Re: Application for Changed Assessment - Filing upon Notice of Assessed Value Change

Dear Mr. :

This is in reply to your facsimile letter of November 13, 1997 in which you request a legal opinion on the question of whether an application for reduction (assessment appeal application) of an escape assessment may be made in response to the receipt of a notice of proposed escape assessment. For the reasons stated below, it is our opinion that, on a strictly technical analysis, an assessment appeal application may not be filed until the escape has been enrolled and the assessee has received the notice required by Section 534 or the tax bill based on the assessment. The escape assessment is not valid for any purpose until it is enrolled and the proper notice is sent. An application filed in response to the notice of proposed assessment required by section 531.8 is invalid if it is filed prior to the enrollment and the date the notice or tax bill has been received.

The facts you stated are these. On or about August 26, 1996, your client received a single-page notice from the assessor's office reflecting two actions taken as a result of a determination by the assessor's office that a change in ownership of the subject parcel occurred on August 25, 1990. The single page notice included both a "Notice of Assessed Value Change" to reflect a supplemental assessment for roll year 1990 and a "Notice of Proposed Escape Assessment" reflecting escape assessments for tax years 1991 through 1996. The portion entitled "Notice of Proposed Escape Assessment" states that "[t]he following escape assessments will be enrolled ten days after the date of this notice" and identifies by dollar amounts the escape assessments for the years 1991 through 1996.

On October 23, 1996, you filed an application to appeal the supplemental assessment and a separate application to appeal the escape assessments. On September 29, 1997, the assessment appeals board notified you that the application appealing the escape assessments was invalid because you had filed based on a notice of proposed escape assessment (§531.8), rather than an actual notice of escape assessment or an adjusted tax bill (§534). The assessor's office informed you that no other notices had been sent, as they were required only to send the notice of proposed escape assessment. By the time you learned of the problem, the time to file on the tax bill had already expired.

Based on the foregoing you ask: "If the assessor has met his statutory duty to notify the taxpayer of assessment changes with the attached form, then why can not the taxpayer use that same form to file an assessment appeal?"

Part 2, Chapter 3, Article 4 of the Revenue and Taxation Code (section 531 and following sections) sets forth the provisions authorizing the assessment of property on the local roll which has escaped assessment. There are two provisions which apply to your situation, Section 531.8, requiring a notice of proposed assessment to be sent 10 days prior to enrolling any escape assessment, and Section 534 which provides, in pertinent part:

“No such assessment shall be effective for any purpose, including its review, equalization and adjustment by the Board of Equalization, until the assessee has been notified thereof personally or by United States mail at his address as contained in the official records of the county assessor. For purposes of Section 532, such assessment shall be deemed made on the date on which it is entered on the roll pursuant to Section 533 if the assessee is notified of the assessment within 60 days after the statute of limitations or the placing of the escape assessment on the assessment roll; otherwise, such assessment shall be deemed made only on the date the assessee is so notified. Receipt of the assessee of a tax bill based on such assessment shall suffice as such notice.”

Section 1605 which governs notice and review of assessments made outside the regular equalization period, including escape assessments, is to the same effect as section 534. While the notice pursuant to section 531.8 is a form of notice, it is not the notice required by section 534, and the express terms of the latter section make the date of notice the effective date of the escape enrollment for all purposes, including equalization. Since the application for reduction cannot be filed until the notice is received, your filing in advance of the receipt of that notice was untimely, and, therefore, invalid. This result seems compelled by the strict reading of the statutes.

The views expressed in this letter are only advisory in nature; they represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Very truly yours,



Louis Ambrose  
Tax Counsel

LA:ba

cc: Ms. Joann Sturges, Executive Officer and Clerk  
of the Assessment Appeals Board, County of Los Angeles  
Honorable Kenneth P. Hahn, Los Angeles County Assessor  
Mr. Dick Johnson, MIC:63  
Mr. Rudy Bischof, MIC:64  
Ms. Jennifer Willis, MIC:70

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