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May 5, 2004

Honorable Donald E. Williamson
San Bernardino County Assessor
172 West 3rd Street, 5th Floor
San Bernardino, CA 92415-0310

Re: Revenue and Taxation Code Section 220.5 Historical Aircraft Exemption

Dear Mr. Williamson:

This is in response to your April 29, 2001, facsimile of an April 27, 2004, letter to you concerning possible late filing for the historical aircraft exemption for prior years. As hereinafter discussed, until January 1, 2004, there was no provision for late filing for this exemption. Stats, 2003, Ch. 604, in January 1, 2004, did add section 276.5 to the Revenue and Taxation Code to provide for late filing. Thus, late filing is available for 2004 and thereafter. As enacted, however, section 276.5 is applicable only to late filings for 2004 and thereafter, not to late filings for prior years.

Facts

The April 27, 2004, letter states, in part:

“It has just come to my attention that my father, TI, has these tax liabilities for his old airplane. It’s an old World War II B-25. His airplane was classified as an historical airplane before and taxed accordingly. He was not aware of the tax changes or may have forgotten that he was to register every year the historical airplane classification. He did not do this and, unfortunately, he was taxed the higher rate. He has taken the plane to many air-shows free of charge.....”

X X X

“He has had this plane for more than 20 years and has spent a lot of time and money into restoring it. Now with this tax bill due he will have to sell the plane in order to pay his bill. My father is 78 years old and now suffers from memory lapses. He’ll talk to you today and tomorrow forget everything that happened the previous day.

X X X

“Is it possible to have the plane classified as a historical plane for the past previous years? Can it be reassessed for all the years he missed?”

Law and Analysis

Unfortunately, there are no provisions for late filing (or for reassessment under the circumstances) before January 1, 2004. Late filing is available for 2004 and thereafter, however.

As your know, Stats. 1987, Ch. 267, in effect January 1, 1988, added section 220.5, Aircraft of Historical Significance, to the Revenue and Taxation Code to exempt historical aircraft from property taxation:

“Aircraft of historical significance” means any aircraft which is an original, restored, or replica of a heavier than air powered aircraft which is 35 years or older or any aircraft of a type or model of which there are fewer than five in number known to exist worldwide. (Sec. 220.5 (d)).

While section 220.5 went on to provide that specific requirements would have to be met in order for the exemption to be available, neither it nor any other Revenue and Taxation Code section provided for late filing for the exemption.

Last year, Stats. 2003, Ch. 604, in effect January 1, 2004, added section 276.5 to the Code to provide for late filling. Thus, late filing is available for 2004 and thereafter. As enacted, however, section 276.5 is applicable only to late filings for 2004 and thereafter, not to late filings for prior years:

276.5. If a person claiming the exemption of an aircraft of historical significance under Section 220.5 fails to file the affidavit required by that section by 5 p.m. on February 15 of the fiscal year for which the exemption is claimed, but files that affidavit on or before the following August 1, the assessment shall be reduced by an amount equal to 80 percent of the reduction that would have been allowed had the affidavit been timely filed.

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. Therefore, they are not binding on any person or public entity.

Very truly yours,

/s/ James K. McManigal, Jr.

James K. McManigal, Jr.
Senior Tax Counsel

JKM:eb

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cc: Mr. David Gau, MIC:63
Mr. Dean Kinnee, MIC:64
Ms. Mickie Stuckey, MIC:62
Mr. Todd Gilman, MIC:70