

(916) 445-4589

September 25, 1981

Mr. Redacted

Dear Mr. Redacted

From my discussion with Mr. Redacted of your office and from reading your letter of Redacted, we understand the basic question you have is whether Section 23154 of the Revenue and Taxation Code requires the State Board to assess special franchises of all taxpayers and not just those of public utilities and precludes the local assessor from assessing them.

As I indicated to Mr. Redacted, this question was considered a little over a year ago by our chief counsel. I have quoted at length from his letter. You will note from the quoted analysis, he concludes Section 23154 does not prohibit the local assessor from assessing the special franchises of non-state assesseees nor does it require the Board to assess special franchises other than public utilities.

"Attached is a request. . . . that the Board assess special franchises held by other than public utilities. The main concern appears to be with cable T.V. companies.

"Mr. Redacted bases his position on the language of Section 23154 of the Revenue and Taxation Code, which is as follows:

The tax imposed under this chapter is in lieu of all ad valorem taxes and assessments of every kind and nature upon the general corporate franchises of the corporations taxable under this chapter but is not in lieu of any taxes or assessments upon special franchises owned, held or used by said corporations. All such special franchises shall be assessed annually by the board, at their actual value, in the same manner as is provided for the assessment of other

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property to be assessed by said board under Section 19 of Article XIII of the Constitution of the State and shall be subject to taxation to the same extent and in the same manner as other property so assessed by said board.

Obviously, the language of the section when read by itself can be interpreted to support Mr. Redacted view. Nevertheless, the staff is of the opinion that the history of the property tax, public utility gross receipts tax, and the franchise tax indicates the proper interpretation to be that the Board assess only special franchises held by state assessees. Any attempt by the Board to appraise special franchises held by local assessees would present a problem not only as to its legal authority but also appraisal problems since it would be most difficult to appraise a franchise other than as part of the appraisal of the property used in the enjoyment of the franchise.

"The problems associated with the appraisal of franchises held by cable television companies has been previously studies and is covered in Assessors Handbook 568, adopted in 1977. As you would expect, the Handbook provides for local assessment of franchises, along with the assessment by the county assessor of the cable system tangible property.

"In view of Mr. Redacted's letter, the staff requests the Board to direct the Executive Secretary to inform Mr. Redacted that consistent with more than 40 years of practice based on our understanding of the law, the Board declines to assess property owned by non-public utility companies."

Very truly yours,

Glenn L. Rigby
Assistant Chief Counsel

GLP;jlh