



(916) 323-7715

November 9, 1982

Mr. S

Attn: Mr. B

Dear Mr. B :

This is in response to your October 25, 1982, letter to GR regarding P Company's Application for Reassessment of Property Damaged by Misfortune or Calamity dated October 18, 1982, and filed with your office on October 19, 1982. The Application pertains to several of P Company's MI parcels and states that it is made pursuant to Revenue and Taxation Code Section 170 and San Joaquin County Ordinance No. 2711, but in view of the fact that P Company's property is assessed by this Board and not your office, you ask whether Section 170 is applicable in this instance.

Section 170, as well as Revenue and Taxation Code Section 51 and other sections, was added by AB 1488/Stats. 1979, Ch. 242, in effect July 10, 1979, to further implement Article XIII A of the California Constitution. As you are aware, Proposition 13/Article XIII A was adopted by the electorate on June 6, 1978, and was amended by Proposition 8 on November 7, 1978, to allow county assessors to reduce the assessed values of properties which were substantially damaged, etc. In this regard, see Proposition 8 of the November 1978 Ballot, AB 1488, and the October 29, 1979, Assembly Revenue and Taxation Committee Report on Property Tax Assessment (No. 748).

Section 51 was added to provide for the taxable value of real property, including damaged, etc., property, for purposes of Article XIII A. Section 170 was added to provide for disaster relief; pertained to implementation by county boards of supervisors, county ordinances, and assessors (county assessors according to Revenue and Taxation Code Section 128); and replaced previous disaster relief statutes (Revenue and Taxation Code Sections 155.1, 155.13, and 155.14). See Property Tax Rule 461 which implements Article XIII A and our

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November 30, 1979, Letter to Assessors No. 79/207, Revisions in Calamity and Disaster Relief Assessment Procedures in Light of Assembly Bills 1488 and 1019.

On the other hand, Section 170 does not reference the Board (State Board of Equalization according to Revenue and Taxation Code Section 20), Board-assessment statutes (Revenue and Taxation Code Sections 721-867) contain no reference to Section 170, and the Board has previously concluded on June 14, 1978, that the provisions of Article XIII A are not applicable to state assessees. See enclosed copy of portion of June 14, 1978, Board Minutes, with Exhibit 6-4 referred to therein. It would follow that the Board would conclude that statutes implementing Article XIII A, such as Section 170, are similarly not applicable to state assessees and thus, we advise that Section 170 is inapplicable in this instance.

Although several state assessees, including P Company in P Company v. State Board of Equalization, Cal. 2d ___, have attempted to seek a judicial determination to the effect that Article XIII A is applicable to state assessees, to date, none has been successful in doing so. While there are still some such suits pending, unless and until one of them is decided adversely, the Board's position remains that Article XIII A is inapplicable to state assessees.

Very truly yours,

James K. McManigal, Jr.
Tax Counsel

JKM:fr
Enclosures
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