



Memorandum

To : Mr. Jim Barga

Date : January 17, 1991


From : Ken McManigal

Subject: American National Red Cross

Reference is made to your January 14, 1991, letter to Mr. Tom Van Groningen/Red Cross, Stanislaus County Chapter, copy attached.

Attached is a copy of my July 13, 1989, letter to Mr. Adrian Arima, wherein it was concluded that the Red Cross is an instrumentality of the United States for purposes of immunity from state taxation, including property taxation. Attached also is a copy of the United States Court of Appeals for the Ninth Circuit's October 31, 1990, decision in United States of America v. City of Spokane, No. 90-35118, wherein the court set forth the principle that a state cannot impose a tax upon an instrumentality of the United States; examined legal precedent pertaining to Federal instrumentalities, including Department of Employment v. United States, 385 U.S. 355, 87 S. Ct 464, 17 L. Ed. 2d 414, wherein the Supreme Court held the Red Cross to be an instrumentality of the United States for purposes of immunity from state taxation levied on its operations; and similarly held that the Red Cross is an instrumentality of the United States immune from state and local taxation when lawfully pursuing its mandated purposes.

Accordingly, the Red Cross being an instrumentality of the United States, property it owns is exempt from property taxation, the same as property owned by the United States is exempt from property taxation, irrespective of the welfare exemption and the requirements therefor. Thus, a letter to Mr. Van Groningen similar to the July 13, 1989, letter to Mr. Arima would be appropriate. The Stanislaus County Assessor can then concur in your letter and exempt the Red Cross's property as government-owned property, or he can proceed as directed by the Stanislaus County Counsel, his legal advisor.


JKM:jd
3634H

Attachments

cc: Mr. John Hagerty
Mr. Verne Walton.