

Sacramento, California
March 12, 1959

Mr. Redacted

Redacted

Federal reservations – your memorandum of March 4.

This will confirm our conversation of March 10 in which I pointed out to you that, although we can give you a list of the areas in California over which the Federal Government has exclusive jurisdiction or jurisdiction concurrent with the State of California, the list itself would not serve the purpose which you have in mind. I explained to you that the manner of acquisition of lands by the government and the dates of acquisition are important points in determining whether the State has reserved the jurisdiction to tax within the various areas. It would not be possible to determine whether an article of personal property, for example, were within the state's taxing jurisdiction without an adequate map or description showing where the property is located.

Under Section 127 of the Government Code the State Lands Commission is given the duty of preparing and maintaining an adequate index or record of documents with descriptions of the lands over which the United States has acquired jurisdiction. The law provides that the index shall record the degree of jurisdiction acquired by the United States for each acquisition.

Because of lack of funds to carry out this work, the State Lands Commission has it only partly done. However, much useful information from the property tax standpoint can be obtained at the office of this commission at 1403 12th Street, Sacramento.

The commission, in certain cases, has information showing the book and page where certain conveyances to the government are recorded in various counties and has some map and land description information. It is for that reason that each case which is brought to your attention should be handled individually by obtaining from the State Lands Commission whatever information it has that will be helpful to you.

As an example of the problem, Mather Field in Sacramento County consists of land the area of which is about one-third under the exclusive jurisdiction of the United States and two-thirds under the taxing jurisdiction of the State of California. In 1939 former Political Code Section 34 relating to lands acquired by the government under Clause 17, Section 8, Article 1, United States Constitution for the erection of forts, magazines, arsenals, dock yards and

other needful buildings, was amended so as to reserve the State's entire power of taxation. The amendment became effective September 19, 1939. Any acquisition by the government on or after that date for the purposes mentioned was subject to the State's power to tax. With considerable addition and revision the provisions of Political Code Section 34 are now in Section 126 of the Government Code. It cannot be stated as a positive rule that with respect to all acquisitions of the government prior to the 1939 date the State has no power to tax. There are exceptions. But as a general rule, acquisitions of the government for military purposes prior to that date consist of areas where the State or its political subdivisions do not have the power to tax. One-third of Mather Field was acquired by the United States Government prior to 1939 and two-thirds of the acreage comprising the field were acquired after 1939.

To give you another example showing why dates are important, the United States Government finally acquired jurisdiction over Yosemite National Park on April 15, 1919; however, in the act ceding jurisdiction to the United States, the State reserved its power to tax persons and corporations, their franchises and property, on lands within the park. Hence, the 1939 date has nothing to do with the Yosemite National Park, for example.

/S/ H.J.S.

JHS:dd

September 13, 1966

Issued 9-20-66

Opinion No. 1966-155

Mr. E. C. Williams, Assessor
County of San Diego
103 County Administration Center
San Diego, CA

Dear Mr. Williams:

On May 5, 1966 you requested our opinion as to the taxability of personal property found on the United States Government reservations, which reservations were acquired by the United States prior to September 19, 1939.

Our opinion may be summarized as follows:

Neither the State of California nor any of its agencies has the power to tax property in any form located on United States Government reservations acquired by the United States prior to September 19, 1939 unless the United States authorized or the State of California reserved such rights at the time of acquisition.

Attached hereto are San Diego County Counsel Opinion Numbers 1945-24 and 1945-47, wherein this same question was discussed and answered. You attached a copy of a letter prepared by the firm of Redacted in 1959 wherein Mr. Redacted of that firm analyzed the law in this area and came to basically the same conclusions as our earlier opinions. Also attached hereto is a copy of that letter.

Because of the comprehensive nature of the two attached opinions and the letter from Mr. Redacted, and because the law is still the same, we find it unnecessary to review this question in depth at this time. However, for your information, very briefly, the law is as follows:

Article I, Section 8, Clause 17 of the United States Constitution delegates to Congress exclusive power over all land acquired by the United States not exceeding ten miles square, ceded by a state and accepted by Congress, which becomes the seat of the Government of the United States and like authority over all places purchased with the consent of a state legislature which is acquired for the purpose of erecting forts, magazines, arsenals, dockyards and other needful buildings. In *Surplus Trading Co. v. Cook*, 281 U.S. 647, 74 L. Ed. 155. We assume for purposes of this discussion that the government reservations with which we are here concerned clearly fall within the definition of "forts, magazines, arsenals, dockyards and other needful buildings."

On February 1, 1940, certain sections of the United States Code were amended to provide that if the Government wished to acquire property and wished to establish exclusive jurisdiction in itself, it was required to file notice of acceptance on behalf of the United States with the governor of such intention. Otherwise, it would be conclusively presumed that the United States had not acquired such exclusive jurisdiction. The personal property located on any lands acquired by the United States subsequent to that date, then, are generally subject to taxation by a state if owned by private individuals in any instance where proper notice was not given to the governor. However, concerning properties acquired prior to that time, the burden was on the states and if the state legislature did not reserve the power to tax personal property located on such land, it does not have

the power. Prior to September 19, 1939 the State of California never reserved such powers. On that date, the State amended Section 34 of its Political Code to reserve to the State the power and jurisdiction to tax with respect to lands ceded to or acquired by the United States. This provision is now found in Section 126 of the government code. Hence, with certain exceptions, in California, personal property found on government reservations acquired prior to that time is not taxable. Such has been the law since 1939 and insofar as we can determine, nothing has been enacted by the Congress of the United States to alter the situation.

The law is the same now as it was when the attached opinions were written, and we specifically advise that you are correct in not assessing personal property situated on certain government reservations acquired prior to September 19, 1939.

Very truly yours,

BERTRAM McLEES,
JR., County Counsel

(Original signed by)
By LAWRENCE KAPILOFF, Deputy

LK:MAR

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Approved: