

(916) 445-3237

505-0095

May 30, 1978

Mr. E. F. Wanaka
Contra County Assessor
834 Court Street
Martinez, CA 94553

Attention: T. M. Rodgers
Exemption Section Supervisor

Dear Ms. Rodgers:

This is in response to your letter of May 5, 1978, to Mr. Glenn Rigby concerning the restoration of a homeowners' exemption which was terminated after the Advice of Termination card was returned to your office by the Post Office marked, "Undeliverable as Addressed; Unable to Forward." Specifically, you present the factual situation of a homeowner qualified for the exemption in 1974 and who received the continuous exemption in 1975. However, because of mail problems, the homeowner obtained a Post Office Box in 1976 to which the Post Office was unable to forward his Advice of Termination card. Pursuant to Section 255.6 of the Revenue and Taxation Code and Property Tax Rule 135(c), the assessor's office terminated the exemption. You ask whether the assessor can now restore the exemption to the homeowner for 1976, 1977 and 1978 upon proof that the homeowner owned and occupied the property as his principal place of residence for those years.

Although your office terminated the exemption in accordance with the procedures set forth in Rule 133(c), it is possible that further verification upon receipt of the returned Advice of Termination card would have established that the homeowner was still eligible for the exemption. Therefore, it is our opinion that in such a situation, the assessor may correct the roll pursuant to Section 4831 of the Revenue and Taxation Code and the homeowner may file for a claim for refund. This opinion is based on (1) the existence of a valid exemption claim on file, (2) the lack of further verification upon receipt of the returned Advice of Termination card, (3) the non-cancellation of the exemption by the claimant, and (4) the continuous-eligibility for exemption of the homeowner for the years at issue.

Very truly yours,

Margaret S. Shedd
Tax Counsel

(916) 445-8485

November 3, 1978

Mr. Bradley L. Jacobs
Orange County Assessor
630 North Broadway
P. O. Box 149
Santa Ana, CA 92702

Dear Mr. Jacobs:

Mrs. Redacted Jordan of Redacted Hills was here in Sacramento recently to inquire concerning the restoration of a homeowners' exemption (Jordan, Redacted (JT), Assessor's Parcel No. Redacted) which was terminated in 1977 after both the Advice of Termination Notice and Notice of Property Valuation were returned to your office by the Post Office in March 1977 and July 1977, respectively, with the notation:

“Not Deliverable As Addressed
Unable To Forward”

As we understand the situation, the Jordans were receiving the homeowners' exemption for their residence at Redacted for several years prior to the 1977-78 fiscal year. In March 1977, an Advice of Termination Notice was sent to the Jordans at Redacted, but it was undelivered and returned to your office. In July 1977, a Notice of Property Valuation was sent to the Jordans at but it also was undelivered and returned to your office. As a result, the exemption was terminated, presumably pursuant to the provisions of Section 255&6 of the Revenue and Taxation Code and Property Tax Rule 135 (c).

The Advice of Termination Notice was not delivered possibly because no reference to “D” or “Unit D” was included in the address. The Notice of Property Valuation was not delivered because of Post Office mishandling (September 12, 1978, letter from Postmaster to Mrs. Jordan). Under the circumstances, we believe that you can restore the homeowners' exemption for, 1977-78 and 1978-79 fiscal years upon confirmation that the Jordans owned and occupied the property as their principal place of residence on the March 1 lien dates.

Although the homeowners' exemption was terminated, it appears that further verification upon receipt of the returned Advice of Termination Notice would have established that the Jordans were still eligible for the exemption. In an instance such as this, it is our opinion that an assessor may correct the roll pursuant to Section 4331 and that a homeowner may claim a refund and obtain a reduction in taxes as the result of the restoration of the exemption where:

1. a valid exemption claim has been on file,
2. there has been no further verification upon receipt of the returned Advice of Termination Notice,
3. the homeowner has not cancelled the exemption,
4. the homeowner can establish that he was eligible for the exemption for the year or years in question.

Very truly yours,

James K. McManigal, Jr.
Tax Counsel

JKM:fr

CC:

bc: Mr. Verne Walton (W. Grommet)
Legal Section