630.0020

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)

(916) 445-4982

WILLIAM M. BENNETT
First District, Kentfield

CONWAY H. COLLIS
Second District, Los Angeles

ERNEST J. DRONENBURG, JR.
Third District, San Diego

PAUL CARPENTER
Fourth District, Los Angeles

GRAY DAVIS
Controller, Sacramento

CINDY RAMBO
Executive Director

May 17, 1990

No. 90/40

TO COUNTY ASSESSORS:

MUTUAL LIFE INSURANCE OF NEW YORK v. CITY OF LOS ANGELES

On March 26, 1990 the California Supreme Court ruled in Mutual Life Insurance Of New York v. City of Los Angeles, 50 Cal.3d 402, that by virtue of the "in lieu" provision of subdivision (f), Section 28, Article XIII of the California Constitution, the personal property owned by insurance companies is exempt from property taxation regardless of whether the property is used for insurance related business or not.

The Court dismissed the idea that personal property owned by an insurance company but used in non-insurance business should be subject to property tax. In doing so, the California Supreme Court disapproved the decision reached in Massachusetts Mutual Life Insurance Co. v. City and County of San Francisco (1982) 129 Cal.App.3d 876. The Court stated:

> "Massachusetts Mutual is faulty in several respects."

The Court went on to severely criticize the decision in Massachusetts Mutual with the net affect that for property tax assessment purposes Massachusetts Mutual is no longer determinative. Therefore, previous insurance company related property tax opinions expressed by the Board of Equalization in letters to assessors 82/69, 82/87, and 82/90 are no longer valid. All other Board letters addressed to either taxpayers or government agencies that relied on the Massachusetts Mutual case are likewise no longer valid.

Ownership of the personal property is the controlling factor in determining whether the exemption applies. Property which is leased to an insurance company is taxable whether used in insurance operations or not. However, property owned by an insurance company but leased to an independent party would be exempt.

Wholly owned subsidiary corporations are not exempt solely because of their affiliation with a qualifying parent corporation. Each legal entity must be a qualifying "insurer" in order to exempt personal property owned by the legal entity.

The Court's decision clarifies existing law. Therefore, any prior assessment of insurance company owned personal property that was levied because the property was not used to produce taxable gross insurance premiums is in

error. Any such assessment would be subject to both refund statutes and the statute of limitations.

If you have any questions or need further assistance, please contact our Business Property Technical Services Unit at (916) 445-4982.

Sincerely,

Verne Walton

Verne Walton, Chief
Assessment Standards Division

VW:sk