



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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Executive Director

May 11, 2009

**Re: Reporting Exempt Tangible Personal Property on Form BOE-571-L  
Assignment No.: 08-058**

Dear Mr. \_\_\_\_\_ :

This letter is in response to your request for our opinion with respect to reporting requirements for certain tangible personal property either exempt from property tax or potentially exempt from property tax. You ask specifically whether, when filing form BOE 571-L *Business Property Statement* (Property Statement) with each county, it is necessary to include property that is, or is expected to be exempt from property taxes.

**Facts**

As set forth in your letter, \_\_\_\_\_ Corp, dba \_\_\_\_\_ Management Corp. ("Corp") is in the business of leasing mobile modular trailers, office and classrooms to hospitals, libraries, construction companies, and schools in most counties in California. The equipment is registered with one of the following California agencies:

1. The Department of Motor Vehicles ("DMV");
2. Department of Housing and Community Development ("HCD"); or
3. The Division of State Architect ("DSA").

Your letter states that all equipment registered with these agencies is exempt from property tax. For property registered with the DSA, which is rented to schools exclusively for educational purposes, Corp files form BOE-263 *Lessors' Exemption Claim* with each county.

### Law & Analysis

Revenue and Taxation Code,<sup>1</sup> section 441, subdivision (a) states that:

Each person owning taxable personal property ... having an aggregate cost of one hundred thousand dollars (\$100,000) or more for any assessment year shall file a signed property statement with the assessor. It further states that "Every person owning personal property that does not require the filing of a property statement or real property shall, upon request of the assessor, file a signed property statement."

Further, section 442 states that, "[t]he property statement shall show all taxable property owned, claimed, possessed, controlled, or managed by the person filing it and required to be reported thereon." This ensures that the assessor can fulfill his/her statutory duty to enroll all property that it is his/her duty to assess. (See Rev. & Tax. Code, § 601; see also Property Tax Rule 252.)<sup>2</sup>

Personal property can be exempt by reason of its ownership, use, and/or type. Not all exemptions are automatic, however. Some are allowed only if appropriate forms are filed timely and approved by the assessor, and in these cases, the property remains assessable unless an exemption claim is filed *and* approved. (Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures*, October 2002, at pp. 3-4.) Other exemptions, however, are automatic in that no application for exemption is necessary because the property is of a type that is simply not subject to property taxation.

Your first two categories of property, vehicles and equipment attached to them, including truck mounted equipment and relocatable offices, that are registered with the DMV and for which a vehicle license fee is paid to that agency, are of the type of property not subject to local property taxation. (For a discussion, see Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures*, October 2002, at pp. 121-123.) The AH 504 discussion also includes reference to trailers for which registration is made with the HCD, which is what we assume is referenced in your letter under category 2. To the extent that the properties in categories 1 and 2 are not subject to local property taxation, they are not required to be included on Corp's property statement.

However, property leased to or owned by private non-profit colleges, free public libraries or free museums is not automatically exempt. (Cal. Const., art. XIII, §§ 3(d), 3 (e), section 5 and Rev. and Tax. Code, § 202.) Whether leased or owned by a qualifying organization, a claim for exemption must be filed, and the property may qualify for exemption depending on whether it is used exclusively for the organization's exempt activities. Thus, the property registered with the DSA is subject to property tax and must be included on Corp's property statement.

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<sup>1</sup> All section references are to the Revenue and Taxation Code.

<sup>2</sup> It is our understanding that prior to transmitting the amount of tax due to the tax collector, the assessor reviews all exemption claims so that any property approved for exemption is not included in the taxable value upon which property taxes are computed. This ensures that taxpayers are not required to pay tax on exempt property and be obligated to file a subsequent claim for refund.

The views expressed in this letter are only advisory in nature; they represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Sincerely,

/s/ Daniel Paul/ef

Daniel Paul  
Tax Counsel

DP:cme

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cc: Honorable Dan Goodwin, MAI  
President, California Assessors' Association  
Ventura County Assessor

Mr. David Gau	MIC:63
Mr. Dean Kinnee	MIC:64
Mr. Todd Gilman	MIC:70