



(916) 323-7715

September 26, 1984

Dear Ms. :

Your August 20, 1984, letter to Mr. Kenneth Cory, Controller of the State of California, has been referred to this Board for reply.

Per your letter, the Housing Authority is a governmental entity, exempt from taxation of any kind in the State of Texas and exempt from federal income taxation. As the Housing Authority has received statements from Central Bank Leasing (CBL) requesting payment of property taxes due on property owned by CBL and currently being leased to it in Houston, you ask that forms, information and/or applications necessary for the Housing Authority to be exempt from taxation in California be forwarded to you.

Taxation and exemption from taxation of property in California follow: from Article XIII of the California Constitution and from Revenue and Taxation Code sections enacted pursuant thereto. Under Section 1 of Article XIII, unless otherwise provided by the Constitution or other laws of the United States, all property is taxable. Section 3(b) of Article XIII provides that property owned by a local government is exempt from property taxation, except as provided in Section 11(a) of Article XIII whereunder land and improvements owned by local governments outside their boundaries are taxable. There is no exemption from property taxation for property owned by a governmental entity of another state but located in California.

Similarly, property owned by a non-governmental entity and leased to the State or local government is taxable

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since a private lessor is not exempt from property taxation on such a leasehold interest (Ohrbach's Inc. v. Los Angeles County, 190 Cal.App. 2d 575). Thus, property owned by a non-governmental entity and leased to a governmental entity of another state in California would also be taxable.

In answer to your question then, as property owned or used by governmental entities of other states in California is taxable, there are no forms, applications, etc., which would exempt the Housing Authority from property taxation in California.

There is another aspect to your inquiry, however, since you state in your letter that the property is being leased to the Housing Authority in Houston. That aspect is one of the situs of the property. In this regard, enclosed please find copies of Property Tax Rules 203, 204, and 205. Rule 205 is intended to assist California assessors in establishing whether the presence or absence of property in or from their respective counties on the March 1 lien date results in property having situs in California and being taxable or not having situs in California and being exempt from property taxation. And as to leased property, Rule 204 states that the situs of property leased for an extended, but unspecified, period or for a term of more than six months shall be determined on the basis of the lessee's use.

Accordingly, depending upon the terms of the Housing Authority's lease agreement for the property with CBL, the property may have acquired situs as of the March 1, 1984, lien date in Houston, in which event it would not be subject to property taxation in California. As your letter is silent in this regard, you should review the lease agreement and discuss the matter with CBL. If as the result thereof you conclude that the property had acquired situs in Houston, CBL should discuss the matter with the appropriate county assessor.

If we can be of further assistance in this regard, please advise.

Very truly yours,

James K. McManigal, Jr.
Tax Counsel

JKM:jlh
Enc.

cc: Honorable Kenneth Cory
State Controller

bc: Messrs. Adelman, Gustafson, Walton
Legal Section