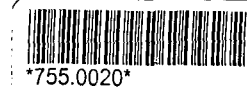


Memorandum



To : Mr. Gene Mayer

Date : July 27, 1984

From : James M. Williams

Subject: Penalty Limitations

Please excuse the delay in response to your memo of May 14. Since I concur in your conclusion, the timing didn't appear to be critical.

Specifically, you ask for an interpretation of Revenue and Taxation Code Section 830(5):

No penalty added pursuant to paragraph (1), (2), (3), or (4) shall exceed five million dollars (\$5,000,000) of full value: (emphasis added)

Since you have added penalties to an assessment based on paragraphs (1) and (2), you need to know whether the limitation applies individually or cumulatively.

The general rule in California is that the conjunction "or" shall be interpreted in the disjunctive or alternatively unless there is other evident wording to the contrary. Here, I don't find any and it seems clear that the use of a single phrase by the Legislature could have indicated the opposite. I, therefore, agree that the limitation applies individually and not cumulatively.

JMW
JMW:fr

cc: Mr. Gordon P. Adelman
Mr. Robert H. Gustafson
Mr. Gene DuPaul
Mr. William Jackson

RECEIVED

JUL 27 1984

Valuation Division
Board of Equalization

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