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April 4, 1980

Law Controlling Reassessment Hearings
Of State Assessees

On March 24, 1980, the decision, ITT World Comm., Inc. v. County of Santa Clara, 101 Cal. App. 3d 246, became final since the taxpayer did not petition for hearing by the California Supreme Court. The landmark holding by Justice Christian of the First District Court of Appeal (San Francisco) is stated:

> It cannot be said that, as an absolute rule of appraisal practice, and as an intrinsic attribute of tangible property, RCNLD is a ceiling on value. Thus, it cannot be said that, as a matter of law, an assessment in excess of RCNLD is necessary arbitrary, in excess of discretion or in violation of standards prescribed by law.

The court reasoned that RCNLD is normally a ceiling in a free and competitive market, but noted that exceptions can be made when the property is a regulated utility subject to unitary appraisal in the context of an oligopolistic market. Procedurally the case was decided on the narrow legal question since the factual determination of the various indicators of value was not in dispute. The same question wherein the context of the market is at issue will shortly be resolved by the recently completed trial involving the Modesto & Empire Traction Company.

Although Santa Clara County is listed as the named defendant as one of the four counties where the property is located, the action was primarily defended by the Board since the taxpayer is a state assessee. In 1975 the Board, supported by Mr. Redacted survey research, decided to amend the section of the "Grey Ghost" which had viewed RCNLD as a ceiling due to the constitutional prohibition against the taxation of franchises. On cross motions for summary judgement before Judge Ira A. Brown, Jr., in San Francisco Superior Court, Deputy Attorney General Edward P. Hollingshead successfully argued the Board's position. Likewise on appeal by the taxpayer, Mr. Hollingshead prepared and submitted an excellent brief, much of which was incorporated verbatim in the Court's published decision.

Although the primary issue establishes an appraisal principle that will apply to a limited number of taxpayers, the Court enumerated a significant series of rules, previously applicable to local assessment, and applied them to this state assessee:

1. Since no one method of appraisal alone can be used to estimate the value of all property, the Board, subject to requirements of fairness and uniformity, may exercise its discretion in using one or more of them.

2. The Board is presumed to have properly performed its duties.

3. The taxpayer has the burden of showing that the assessment was not fair and equitable.

4. The Board is not required to go forward with any evidence, but may stand on the presumption of correctness of the assessment.

5. The taxpayer must overcome the presumption of correctness of the assessment by presenting to the Board evidence of assessment impropriety.

6. In determining the value of property the Board may take into consideration earnings derived therefrom, which may depend upon the possession of intangible rights and privileges that are not themselves regarded as a separate class of taxable property.

7. Market value for assessment purposes is the value of property when put to beneficial or productive use.

8. The assessment of taxable property may take into account earnings from that property that depend upon possession of a franchise.

The staff intends to make full use of these rules in the upcoming (June) reassessment hearings and also later for Private Railroad Car Tax Hearings.