



(916) 323-7714

September 10, 1985

Legal Status of the Assessors' Handbook

Dear

In your letter of August 23, 1985, to you pose the following questions:

1. What legal status do statements and opinions set forth in a volume of the Assessors' Handbook have?
2. To what extent are Assessors, Boards of Equalization and Assessment Appeals Boards bound to follow suggestions or recommendations set forth in a volume of the Assessors' Handbook?

Briefly stated, it is your view that the handbook has no more value or force than the opinion of any other qualified member of the profession in regard to the first question. On the second, you contend that Boards are not bound in any way to follow the suggestions or recommendations which may be set forth in the handbook.

Initially, it should be noted that the Assessors' Handbook series is one product of the Board's duties under Government Code Section 15606. Specifically, subsection (e) requires the Board to issue instructions to assessors designed to promote uniformity throughout the state in the assessment of property for purposes of taxation. The various handbooks in the series are produced by the staff and reviewed by several committees of the California Assessors Association. After appropriate notice and hearing wherein both assessors and taxpayers present their views, most of the handbooks are formally adopted by the Board in public session. By design the handbooks provide specific advice in the various appraisal areas. They supply the concrete appraisal examples that

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represent practical implementation of the Board issued Property Tax Rules (Title 18, Public Revenue, California Administrative Code). Despite the fact that the handbooks deal with specifics, some instances can occur where the instructions are lacking or do not provide exact application. However, notwithstanding these exceptions it is our position that the handbooks shall be followed by assessors whenever they are clearly applicable to the appraisal situation.

In Carlson v. Assessment Appeals Bd. I (May 1985) 167 Cal.App.3d 1004, the court of appeal had occasion to construe the legal status of AH 501, the General Appraisal Manual and at 1012 concluded that the handbooks contain regulations within the meaning of Government Code Section 15606. The court cited the holding of the California Supreme Court in Coca Cola Co. v. State Bd. of Equalization 25 Cal.2d 918 at 921:

Although not necessarily controlling, as where made without the authority of or repugnant to the provisions of a statute, the contemporaneous administrative construction of the enactment by those charged with its enforcement and interpretation is entitled to great weight and courts generally will not depart from such construction unless it is clearly erroneous or unauthorized.

The Carlson Court then adopted the applicable provision of AH 501 in support of its holding.

In regard to your second question, the court also noted Government Code Section 15606(c) which directs the board to prescribe regulations governing local boards of equalization and assessors in performance of their duties. Based on this reliance and the ultimate holding of Carlson, we conclude that within the context of the above quoted statement of the supreme court, if the handbook clearly applies to the appraisal problem, then it must be followed by both the assessor and the appeals board because the courts will not depart from its provisions.

These conclusions may seem somewhat general but they are given in the same tenor as your request. The quoted provision clearly states the general rule as we see it. It also provides for the exceptions wherein the Assessors' Handbook should not be applied.

Very truly yours,

Tax Counsel