



Memorandum

To: Mr. Dick Johnson -- MIC:64

Date: March 13, 1997

From: Ken McManigal

Subject: Penalties for Property Statements that are not Board-prescribed

This is in response to your January 21, 1997, memorandum received March 4, 1997, wherein you requested our opinion as to whether a county assessor may impose penalties for failure to file or for late filing of a property statement that is not a Board-prescribed form:

In our assessment practices surveys, we have routinely criticized assessors when we find them levying penalties against taxpayers when the property statement involved is not a Board-prescribed form, but is merely a staff recommended form. Bill Minor says we are right, that penalties and penalty language may only be used for forms whose content has been prescribed by the Board, such as the AH 571 series (general Business Property Statements). There are many other kinds of property statements that are not Board-prescribed; e.g., boats, aircraft, etc.

Government Code Section 15606, which designates the powers and duties of the Board, states in subdivision (d) and at its conclusion:

15606. The State Board of Equalization shall do all of the following:

* * *

(d) Prescribe and enforce the use of all forms for the assessment of property for taxation, including forms to be used for the application for reduction in assessment.


* * *

This section is mandatory.

Thus, the Board is specifically authorized to prescribe and enforce the use of all forms for the assessment of property for taxation.

Board-prescribed forms as well as forms recommended by the Assessment Standards Division are identified in Assessors' Handbook AH 222, Standard Form List. Of course, compliance with forms through the use of penalty statements therein may be sought only in instances involving Board-prescribed forms which include penalty statements therein. Attempts to gain compliance in instances in which staff-recommended forms have been used by including penalty statements in the forms is not contemplated by Section 15606 or by any other section of the Government Code or Revenue and Taxation Code but rather, are expressly precluded by Section 15606 (d) and the admonition in Section 15606 that Section 15606 is mandatory.

In the event that an assessor or assessors using a staff-recommended form determine that the form and compliance therewith is necessary to perform the duties of their office, they may petition the Board to adopt the form with the content, including penalty statement, they advocate.


JKM:ba

cc: Mr. J. E. Speed - MIC:63
Mr. Tom McClaskey - MIC:64
Mr. Arnold Fong - MIC:64
Mr. David Hendrick - MIC:64
Mr. Pete Gaffney - MIC:64
Ms. Claudia Tendal - MIC:64
Mr. David Lucero - MIC:64
Mr. Bill Minor - MIC:64

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MAR 14 1997
PROP. TAX ADMIN.
State Board of Equalization