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November 3, 2000

Honorable Gregory J. Smith
Assessor/Recorder/County Clerk
County of San Diego
1600 Pacific Highway, Room 103
San Diego, CA 92101-2480

Attention: Mr. Craig Rustad

Re: *Supplemental Tax Bill Liability - Property Transferred from Local Assessee to State Assessee*

Dear Mr. Rustad,

This is in response to your letter of September 8, 2000 addressed to Assistant Chief Counsel Larry Augusta in which you request our opinion concerning the liability of a state assessee for a prorated portion of a supplemental tax bill for a supplemental assessment made prior to acquisition of the property by the state assessee. The state assessee, Pacific Bell, contends that it is not liable for payment of the supplemental tax bill because state assessed property is not subject to supplemental assessment. You believe that Pacific Bell is liable for the amount of the tax representing the portion of the fiscal year that it owned the property.

For the reasons set forth below, it is our view that Pacific Bell acquired the property subject to the lien imposed by the prorated supplemental tax and is, therefore, liable for payment of that prorated portion of the tax. As you note, Pacific Bell's state-assessed property has not been subjected to supplemental assessment; the supplemental assessment was made for the prior transfer when the property was subject to local assessment.

Facts Presented

On January 6, 1999, an individual, Jeffrey Lin, acquired the subject property, resulting in a change in ownership. On September 7, 1999, Pacific Bell acquired the subject property from Mr. Lin. Two prorated supplemental tax bills were issued for the 1999-2000 tax year. Mr Lin received a prorated bill for the 68 days (July 1 to September 6) of the fiscal year during which he owned the property. Pacific Bell received a prorated bill for the balance of the fiscal year, 298 days, from the date it acquired title on September 7, 1999 to the end of the fiscal year on June 30, 2000.

Law and Analysis

Section 75.11 provides for the procedure for making supplemental assessments resulting from changes in ownership or new construction. Subdivision (a) of that section provides, in relevant part, that

If the change in ownership occurs or the new construction is completed on or after January 1 but on or before May 31, then there shall be two supplemental assessments placed on the supplemental roll. The first supplemental assessment shall be the difference between the new base year value and the taxable value on the current roll. In the case of a change in ownership of the full interest in the real property, the second supplemental assessment shall be the difference between the new base year value and the taxable value to be enrolled on the roll being prepared.

With respect to assessments on the supplemental roll, Revenue and Taxation Code section 75.54, subdivision (a) provides that “[t]axes on the supplemental roll become a lien against the real property on the date of the change in ownership or completion of new construction unless by other provisions of law the taxes are not a lien on real property.” Additionally, subdivision (c) qualifies subdivision (a) by providing, in relevant part, that

in the event there is a subsequent change in ownership following an initial change in ownership . . . , that occurs before the mailing of the supplemental tax billing attributable to the initial change in ownership . . . , then the lien for supplemental taxes is extinguished and that portion of the supplemental assessment attributable to the assessee from the date of the initial change in ownership or completion of new construction to the date of the subsequent change in ownership shall be entered on the unsecured roll or on the supplemental roll as an unsecured assessment in the name of the person who would have been the assessee if the additional change in ownership had not occurred, and thereafter that portion of the tax shall be treated and collected like other taxes on the unsecured roll. The remaining portion of the supplemental tax attributable to the initial change in ownership becomes a lien against the real property on the date of the subsequent change in ownership which lien shall also secure any increase or decrease in supplemental taxes resulting from the determination of the new base year value required to be made following the subsequent change in ownership.

The County Tax Collectors’ Reference Manual (January 1999), which is published by the State Controller’s Office, explains in section 3110 on page 210 that subdivision (c) “requires proration of taxes according to period of ownership in cases where change in ownership occurs before billing is made for prior supplemental assessment on the same property.”

In this case, a change in ownership of the property occurred on January 6, 1999 upon Lin’s purchase, and, pursuant to section 75.11, subdivision (a), the assessor made two supplemental assessments, as required.

The subsequent transfer on September 7, 1999 to Pacific Bell occurred before the mailing of the supplemental tax billing and the special procedure, pursuant to subdivision (c), must be followed¹, i.e., “the remaining portion of the supplemental tax attributable to the initial change in ownership [became] a lien against the real property on the date of the subsequent change in ownership.” The prorated supplemental tax bill received by Pacific Bell reflected its ownership of the property for the remaining 298 days of the 1999-2000 fiscal year. There is no statutory provision for removal of a supplemental tax lien or cancellation of the tax by reason of a subsequent acquisition of a property by a state assessee. Therefore, Pacific Bell acquired the property subject to the lien, which remains on the property until the tax is paid.

While it is true that the Board has taken the position,² consistent with your office’s policy, that a transfer of property from a local assessee to a state assessee is not subject to supplemental assessment, this is not the type of transfer that led to the supplemental assessments and the tax bills in this situation. As you state in your letter, the supplemental assessment upon which the disputed tax was levied was made when the property transferred to the local assessee, and not upon the transfer to Pacific Bell.

The views expressed in this letter are only advisory in nature; they represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Very truly yours,

/s/ Louis Ambrose

Louis Ambrose
Tax Counsel

LA:tr
prop/prec/suppases/00/01lou

cc: Mr. Dick Johnson, MIC:63
Mr. David Gau, MIC:64
Ms. Jennifer Willis, MIC:70

¹ See Assessors’ Handbook 201, Assessment Roll Procedures, page 74.

² See Letter to Assessors, No. 85/75 and Annotation No. 790.0220.