



STATE BOARD OF EQUALIZATION
POLICY, PLANNING, AND STANDARDS DIVISION
1000 N STREET, MIC: 64, SACRAMENTO, CALIFORNIA
(PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0064)
TELEPHONE (916) 445-4982
FAX (916) 323-8765

JOHAN KLEHS
First District, Hayward

DEAN F. ANDAL
Second District, Stockton

ERNEST J. DRONENBURG, JR.
Third District, San Diego

KATHLEEN CONNELL
Controller, Sacramento

JOHN CHIANG
Acting Member
Fourth District, Los Angeles

E. L. SORENSEN, JR.
Executive Director

No. 98/49

September 16, 1998

TO COUNTY ASSESSORS:

TAXABILITY OF AMTRAK PROPERTY

Recently questions have arisen in several counties concerning the status for local property tax purposes of real and personal property owned by AMTRAK or its rail carrier subsidiaries. AMTRAK has acquired possessory interests in port facilities in at least two counties and may have property in other counties as well. The purpose of this advisory letter is to state the Board's position regarding the taxability of property owned by AMTRAK.

Prior to the passage of Public Law 97-35, effective October 1, 1981, the Board's Valuation Division assessed private railroad cars owned by AMTRAK. At that time, AMTRAK owned no real property in California. P. L. 97-35, which was codified as subdivision (k) of § 24301 of Title 49 U.S.C., provided that on and after October 1, 1982, no tax could be assessed on AMTRAK personal property and no tax could be assessed on real property acquired by AMTRAK that was based on a value that exceeded the assessed value at the time AMTRAK acquired the property. After the enactment of this federal statute, the Board ceased to assess AMTRAK's rolling stock.

On September 10, 1982, subdivision (l) was added to § 24301 by Public Law 97-257, to provide that AMTRAK or a rail carrier subsidiary of AMTRAK is exempt from a tax or fee imposed by a state or local taxing authority and levied on AMTRAK after September 30, 1981; however, AMTRAK was not exempt under this provision from any tax or fee it was required to pay as of September 10, 1982.

Finally, this subdivision was again amended in 1997 by Public Law 105-134 to read as follows:

“(l) In general. - (1) Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are exempt from a tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of

any such transportation, or on the gross receipts derived therefrom after September 30, 1981. In the case of a tax or fee that Amtrak was required to pay as of September 10, 1982, Amtrak is not exempt from such tax or fee if it was assessed before April 1, 1997.”

It is the Board staff's position that pursuant to subdivision (1)(1) of section 24301, real and personal property owned by AMTRAK is essentially exempt from any and all state and local taxes levied on or after September 30, 1981.

Please contact Peter Gaffney of our Exemptions Unit if you have any questions. His telephone number is (916) 445-3524.

Sincerely,



Richard C. Johnson
Deputy Director
Property Taxes Department

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