STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
?20 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 1799, SACRAMENTO, CALIFORNIA 95808)

April 19, 1974

No. 74/75

TO COUNTY ASSESSORS, AUDITORS, AND TAX COLLECTORS:

ASSESSMENT OF LEASED PERSONAL PROPERTY

Assembly Bill 709 (Statutes 1973, Chapter 786) requires that a notice of assessment and a tax bill be sent to both the lessor and lessee if the property is enrolled jointly on the unsecured roll. It amends Section 405 of the Revenue and Taxation Code to read as follows:

> "(a) Annually, the assessor shall assess all the taxable property in his county, except state-assessed property, to the persons owning, claiming, possessing, or controlling it on the lien date.
>
> (b) The assessor may assess all taxable property in his county on the unsecured roll jointly to both the lessee and lessor of such property.
>
> (c) Notices of assessment[1/] and tax bills relating to jointly assessed property on the unsecured roll shall be mailed to both the lessee and the lessor at their latest addresses known to the assessor."

As amended, Section 405 of the Revenue and Taxation Code allows the assessor to assess leased property to either a single assessee (lessee or lessor) or to joint assessees (lessee and lessor) if the assessment is on the unsecured roll.

Suggested Procedure Where the Assessor Elects to Assess a Single Assesee

If the assessor decides to assess to only one party, we offer the following suggestions:

1. The assessee should be selected by considering the sufficiency of security for the payment of taxes, the ease of administration, and the exempt status of the lessor or lessee.

1/ Applies to Section 619, Notification of Amount of Assessment.

2. Where the lessor maintains a place of business in California, he would normally be the proper assessee. However, should the <u>lessor</u> not maintain a place of business in California, then the <u>lessee</u> would probably provide the most security for payment.

3. If the <u>lessor</u> is a bank, insurance company, or tax-exempt organization, the property should be assessed to the <u>lessee</u>. When the lessee is a bank, insurance company, or tax-exempt institution, the <u>lessor</u> is the proper assessee (See AH 571). When the <u>lessee</u> is a free public library, free museum, or public school the property is <u>not</u> assessable to anyone because use rather than ownership is the exemption test (Section 202, Revenue and Taxation Code).

4. When a bank leases personal property to the federal government, this State or a political subdivision of this State, the property is exempt as neither lessor nor lessee in such case is required to pay personal property taxes.

Suggested Procedure Where the Assessor Elects to Jointly Assess

The assessor should confine joint assessment to those cases in which a collection problem is anticipated. Tax bills are required to be sent to both parties. This requirement presents a difficulty in that dual tax bills may result in unavoidable dual payments. The assessor cannot indicate primary and secondary liabilities for the property tax statutes do not recognize such differences. If there is a collection problem, the assessor should <u>not</u> inform either party not to pay. Should both persons pay the tax, the tax collector must accept the first payment and refund the second.

To avoid dual payments as much as possible, the assessor should decide which person to list first, this party should receive the original tax bill, and the second person listed should receive a copy that is clearly marked as a copy.

To determine the order of listing assessees, the considerations normally exercised for determining a proper <u>single</u> assessee should be used. For example, the person who is considered to be the more certain to pay the tax should be listed first; the exempt status of the lessor or lessee is also a vital consideration.

Recommended Roll Entry and Billing Procedures

The procedure that we describe below contemplates that the assessor inform the county auditor of the assessees involved and that the auditor enroll <u>only one assessment</u> even though dual bills are mailed. We realize that most assessors will be unable to comply with the dual assessment provisions of this letter through the use of automated equipment. The computer master file for the unsecured assessment roll system will seldom contain sufficient record space to display identifying data for two business entities. In that case, utilization of the option provided by Assembly Bill 709 will be difficult. The assessor must develop special procedures to:

1. List the first person named and his mailing address on the assessment roll. The dual assessment, of course, is listed in both names.

2. Provide the tax collector with the mailing address of the second person if the computer record files do not contain space for both names and addresses.

3. Put on both the original and the copy of each joint tax bill the following printed or stamped statement:

NOTICE

This is a joint assessment. One payment satisfies the tax liability. It is the obligation of those assessed to determine who will make the payment.

Here is an example of the recommended assessment roll entry. In this case the assessor determined that the most likely person to pay the tax bill is the lessor; therefore, the lessor (first listed) receives the original tax bill, and the lessee (second listed) receives the copy of the tax bill.

Taxpayer's Business Machines (lessor)
111 Main Street
Akron, Ohio

John Jones (lessee)
222 Front Street
Sacramento, California

Excessive costs of programming and maintaining computer record files in smaller counties may cause assessors to type the multi-copy ("snap-out") dual purpose assessment roll sheets and tax bills.

If you have any questions regarding the above, please contact William Grommet of this division concerning the assessment of the property or Earl Lucas, Chief, Division of Local Government, Fiscal Affairs, State Controller's Office, 1227 'O' Street, Room 509, Sacramento, California 95814, phone (916) 445-5153 concerning the procedures to be followed by the county auditor and tax collector.

Sincerely,

Jack F. Eisenlauer

Jack F. Eisenlauer, Chief
Assessment Standards Division

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