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Environmental (Corporation) Fee Federal Reserve Bank

Congress expressly exempted the Federal Reserve Bank from taxes, but waived the immunity of federal agencies from fees imposed by states with respect to hazardous wastes programs. The environmental fee is regarded as a tax, and the Federal Reserve Bank is therefore not subject to it. 11/24/92.



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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Controller, Sacramento

November 24, 1992

BURTON W. OLIVER

Executive Director

(Redacted)

(Redacted)

Re: Environmental Fee
Account No. (redacted)

Dear Mr. (Redacted):

This letter is in reference to our recent correspondence and telephone conversations concerning the application of the environmental fee imposed by Health and Safety Code Section 25205.6 to the (redacted). As I mentioned to you over the telephone, the Board has been engaged in the lengthy process of determining the appropriate application of the various hazardous waste fees and taxes to agencies and instrumentalities of the federal government. I apologize for the delay you have experienced in awaiting our resolution of this issue.

Based on the relevant state and federal law, including the protection afforded the Federal Reserve Bank by 12 U.S.C. 531 and the three-prong test set forth in *Massachusetts v. United States* (1978) 435 U.S. 444 for distinguishing between a tax and a fee, we have determined that the environmental fee imposed by Section 25205.6 does not apply to the Federal Reserve Bank.

Please feel free to contact me if you have any further questions.

Very truly yours,

Janet Vining

Tax Counsel

JV:wk

cc: Mr. E. V. Anderson
Mr. Robert Frank
Mr. Larry Augusta
Mr. Dennis Mahoney, Department of Toxic Substances Control
Ms. Orchid Kwei, Department of Toxic Substances Control