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other taxes, is an involuntary exaction. See United States v. Anderson Cottonwood Irrigation District, 299 U.S. 171, 57 S.Ct. 421, 75 L.Ed. 1011, 134 F.2d 881, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

As you are undoubtedly aware, the act of November 6, 1955, Pub. L. 89-344, 79 Stat. 1304, authorizes executive agencies to install, repair, and replace sidewalks around federally owned or controlled buildings by reimbursement to States and political subdivisions. While one might argue that what has been authorized for sidewalks should apply equally to streets, the legislative history of the cited act precludes that argument.

Specifically, in floor debate on H.R. 9890, 89th Congress, the derivative source of Pub. L. 89-344, the following colloquy took place between Congressman Brooks, the Chairman of the Government Activities Subcommittee, and Congressman Rogers of Colorado.

"MR. ROGERS of Colorado. * * * The city and county of Denver fix the streets under city ordinances. The abutting landowner has a responsibility to pay his proportionate share. My question is, Would this authorize the Air Force to pay its part as the abutting landowner for the repair of that street?"

"MR. BROOKS. I do not believe it would go that far * * *. This does not include streets. I believe this has no contemplation to include streets."

"MR. ROGERS of Colorado. * * * But I would like to know * * * was there any testimony or any suggestion to this committee that they also assume the responsibility that all other landowners may assume of their proportionate share of the repair of the street in front of the building?"

"MR. BROOKS. We did not get involved in streets. This is limited to sidewalks. We have no estimates on the cost of going into the construction of streets and the repair bills in connection therewith. I believe this would be beyond the realm of this legislation."

"We had no hearings to indicate that we should do this. We have no testimony to reflect the cost."

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"If the gentlemen would want to introduce legislation of that type, certainly we would be glad to consider it. But we want to have some cost figures and estimates that would enable us to testify before the House as to what the actual situation is a little more accurately than we could now."

See 111 Cong. Rec., September 20, 1965, 23499, 23500.

In further explanation of H.R. 9830, Congressman Brooks had the following to say:

"This legislation would authorize the repair and replacement of sidewalks around federally owned property. In most municipalities, sidewalks are provided by assessing the abutting property owners for the cost of constructing and maintaining the sidewalks. Under the doctrine of sovereign immunity, the local governments are prohibited from assessing the Federal Government for sidewalk maintenance. As a result, the buildings frequently go unrepaired and such sidewalks around Federal may become quite hazardous to the citizens of the community.

"There is no general authority under present law authorizing these repairs by the Federal Government. This bill would authorize the executive agencies to make arrangements for the necessary repairs and, if the work can best be performed by the local governments, the agencies would be authorized to enter into agreements to reimburse those governments for the work. This bill in no way infringes on Federal Government immunity, but does provide the means whereby the Federal Government can fulfill its proper role as a property owner."

Ibid.

As can readily be seen from the foregoing there was no general authority for the United States to honor city assessments for the construction and repair of sidewalks until the enactment of Pub. L. 89-344^x and the legislative history of that act clearly shows that authority to reimburse for street construction and improvement was not intended to be covered by Pub. L. 89-344^x.

Accordingly, we must advise that there is no statute or regulation that would authorize the United States to pay the street assessment

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contemplated. We regret that our reply cannot be more favorable but trust that the foregoing will assist you in answering the letter of April 20, 1966, from the Director of Public Works of the City of St. Joseph, Missouri.

Sincerely yours,

FRANK H. WEITZEL

Assistant Comptroller General
of the United States

The Honorable Stuart Symington
United States Senate

TAXES

State

Government immunity

Assessments for local improvements

but otherwise not of such a character as to be subject to taxation. The fact that a certain class of property is exempt from taxation does not mean that it is not subject to taxation. It may be subject to taxation in some other way.

FRANK H. WEITZEL

Assistant
Attorney General

and the fact that the property is not subject to taxation in some other way.