

STATE BOARD OF EQUALIZATION



Taxpayers' Rights Advocate's

# 2018-19 ANNUAL REPORT

Property Taxes and  
Alcoholic Beverage Tax

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# LETTER FROM THE TAXPAYERS' RIGHTS ADVOCATE

February 2020

Ms. Brenda Fleming  
Executive Director



Dear Ms. Fleming:

I am pleased to present to you the *Taxpayers' Rights Advocate's Property Taxes and Alcoholic Beverage Tax Annual Report* for fiscal year 2018-19. This report:

- Highlights accomplishments of the Taxpayers' Rights Advocate Office during the past year;
- Contains examples of cases illustrating the services our office provides to assist taxpayers;
- Identifies current issues that our office worked on to resolve;
- Describes our involvement in important new projects to assist taxpayers; and
- Identifies bill of rights provisions for tax programs under our agency's jurisdiction.

In fiscal year 2018-2019, our office began publishing educational materials to help local taxpayers understand various exclusion and exemption topics that may result in property tax savings. The first three information sheets in the series address exclusions from reassessment for transfers of property between parents and children, transfers of property from grandparents to grandchildren, and the transfer of base year value on the principal residence for persons age 55 and over. The information sheets are written in simple, non-technical terms.

We look forward to continuing work with local agencies, divisions within our agency, and the public as our office identifies issues, resolves problems, and assists taxpayers statewide.

Respectfully submitted,

*Lisa Thompson*

Lisa Thompson  
Taxpayers' Rights Advocate  
State Board of Equalization

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# TAXPAYERS' RIGHTS ADVOCATE OFFICE

## VISION

To be a trusted voice of reason and fairness when resolving issues between taxpayers<sup>1</sup> and the government.

## MISSION

To positively affect the lives of taxpayers by protecting their rights to proper assessment and collection of property taxes throughout the state, and to protect the rights of alcoholic beverage tax taxpayers.

## GOALS

- To ensure that taxpayers coming to the Taxpayers' Rights Advocate Office with problems that have not been resolved through normal channels have their concerns promptly and fairly addressed.
- To identify laws, policies, and procedures that present barriers or undue burdens to taxpayers attempting to comply with the tax laws; to bring those issues to the attention of Board of Equalization (BOE) and county management; and to work cooperatively on making changes to laws, policies, and procedures where necessary.
- To meet taxpayer needs by opening appropriate channels of communication, providing education, and finding solutions to unresolved problems.
- To promote BOE staff's commitment to honor and safeguard the rights of taxpayers.
- To review property tax matters from the viewpoint of the taxpayer and identify needed changes to procedures on the distribution of information on property tax matters between and among the BOE, assessors, and taxpayers; or the need for development and implementation of education and informational programs or materials in such area.

<sup>1</sup> The term "taxpayers" in this publication means payers of property taxes and the alcoholic beverage tax.

## PROFILE

### Taxpayers' Bills of Rights Mandate a Taxpayers' Rights Advocate

In January 1989, the *Harris-Katz California Taxpayers' Bill of Rights* was placed into law to ensure that the rights, privacy, and property of California taxpayers were adequately protected in the assessment and collection of sales and use taxes; programs which were administered by the BOE until July 1, 2017.

In January 1993, the Special Taxes Bill of Rights expanded the Bill of Rights statutory authority to special tax and fee programs administered by the BOE. As of July 1, 2017, the BOE remains responsible for the alcoholic beverage tax program which is one of the programs affected by these statutory provisions.

The *Morgan Property Taxpayers' Bill of Rights* was placed into law in January 1994, governing the assessment, audit, and collection of property taxes, with the goal of ensuring that millions of taxpayers receive fair and uniform treatment under the property tax laws.

Each Taxpayers' Bill of Rights provides for a Taxpayers' Rights Advocate (Advocate). For instance, the designation of an Advocate for property taxes is found beginning with Revenue and Taxation Code section 5904 (see [Appendix 1](#)), and found in section 3246.1 for the alcoholic beverage tax (see [Appendix 2](#)).

### Legal Responsibilities of the Taxpayers' Rights Advocate

The responsibilities of the Advocate are specifically delineated in the law. Consistent with the Taxpayers' Bills of Rights, the Advocate:

- Facilitates resolution of taxpayer complaints or problems, regarding property taxes and ensures prompt corrections when errors have occurred in property tax assessments;
- Monitors programs administered by the BOE and property tax programs administered by counties for compliance with the Taxpayers' Bills of Rights and recommends new procedures or revisions to existing policy to ensure fair and equitable treatment of taxpayers;

- Works with BOE staff to ensure that taxpayer educational materials are clear and understandable; and
- Coordinates statutory Taxpayers' Bill of Rights hearing for property taxes and the alcoholic beverage tax to give the public an opportunity to express their concerns, suggestions, and comments to the Board Members.

### How the Taxpayers' Rights Advocate Office Fulfills its Legal Responsibilities

#### *Facilitates resolution of taxpayer complaints or problems*

The Taxpayers' Rights Advocate (TRA) Office generally assists taxpayers who:

- Have been unable to resolve a matter through normal channels;
- Want information regarding BOE and county procedures;
- Claim their rights have been violated in the assessment or collection of property taxes or the alcohol beverage tax; or
- Seek confirmation that staff action is lawful and consistent with approved policy.

The TRA Office provides assistance to taxpayers and BOE staff by facilitating better communication between these parties, which helps eliminate potential misunderstandings. Taxpayers are provided information on policies and procedures so they can be better prepared to discuss and resolve their issues with staff.

#### *Monitors programs and recommends policy or procedural changes*

In cases where the law, policy, or procedures do not currently allow any change to the staff's actions, but a change to the law, policy, or procedure appears warranted, the TRA Office works toward clarification or modification. Several of the past recommendations for policy or procedural changes, suggestions for enhancements to staff training materials, and proposals for legislative change have resulted from direct contacts with taxpayers.

The TRA Office routinely takes part in ongoing policy discussions, adding the perspective of taxpayers' rights, by participating in BOE interested parties meetings and discussions with department management.

### ***Ensures information and guidance provided is easy to understand***

The TRA Office suggests new legislation and routinely reviews proposed revisions to informational and educational materials to ensure they are easy to understand. The TRA Office assists in providing information to the public through taxpayer information sheets on various topics, which are posted on the BOE website.

### ***Coordinates Taxpayers' Bill of Rights hearings***

The TRA Office is responsible for making arrangements, in cooperation with the Board Proceedings Division, for a yearly bill of rights hearing regarding property taxes and the alcoholic beverage tax. After the hearings, the TRA Office works with appropriate areas of the BOE or counties to address issues and concerns conveyed to Board Members by presenters and provides follow-up reports to the Members when appropriate. The TRA Office also prepares responses outlining how presenters' concerns were addressed and posts this information on the BOE website.

### **Cooperation with Advocates of Other Government Agencies**

Quarterly meetings are held with the Taxpayer Advocates from other state agencies and the Internal Revenue Service to discuss common problems and systemic issues facing California's taxpayers. In attendance are Advocates from the BOE, California Department of Tax and Fee Administration (CDTFA), Employment Development Department (EDD), Franchise Tax Board (FTB), and the Internal Revenue Service (IRS), as well as the Small Business Advocate in the Governor's Office of Business and Economic Development (GO-Biz) and Ombudsperson from the Office of Tax Appeals (OTA). These meetings, along with close working relationships among the advocate offices, have allowed all the tax agencies serving California taxpayers to have a better understanding of taxpayer issues. California taxpayers also benefit from the TRA Office's ongoing relationships with the other California Advocates due to the enhanced opportunities for outreach to community groups provided by contacts developed by all the Advocates.

### **Differences Between Implementation of the Property Taxpayers' Bills of Rights and California Taxpayers' Bill of Rights**

The major difference for the TRA Office between the implementation of the Property Taxpayers' Bill of Rights and the California Taxpayers' Bill of Rights is in the resolution of taxpayer complaints, as outlined below.

#### ***Property taxes***

The TRA Office primarily resolves property tax cases directly with the county assessors, tax collectors, and auditor-controllers (all elected officials), as well as clerks of the assessment appeal boards. Additionally, the TRA Office works with the BOE's Legal Department and the County-Assessed Properties Division when required. The TRA Office also works cooperatively with the California Assessors' Association on statewide issues. Although the TRA Office does not have the legal authority to overturn local actions, TRA Office staff are generally successful in soliciting cooperation and ensuring that taxpayers receive proper treatment under the law. In cases where there is no procedural or legal authority to remedy a problem – and a change does appear justified – the TRA Office may recommend specific policy, procedural, and/or legislative changes.

#### ***Alcoholic beverage tax***

In contrast to the way the TRA Office resolves property tax issues, alcoholic beverage tax issues are primarily resolved directly with BOE staff and the TRA Office of CDTFA. If complaints arose, the BOE's TRA Office would coordinate with the CDTFA's TRA Office in resolving the complaint since CDTFA collects the alcoholic beverage tax under an agreement with the BOE.

## **PUBLIC OUTREACH**

The public becomes aware of the services offered by our office in a number of ways. For example, information is included about the TRA Office in many BOE publications, is accessible on Internet sites, and is provided by TRA Office staff of other state agencies and by local county agencies.

## Publications

- [Publication 145](#), *California Taxpayer Resources – We're Here for You*, provides contact information for the Advocates from the BOE, CDTFA, EDD, FTB, IRS, GO-Biz, and OTA. Publication 145 is posted on the websites of the participating state agencies and the California Tax Service Center website, [www.taxes.ca.gov](http://www.taxes.ca.gov).
- Many BOE publications reference the TRA Office's contact information.
- Contact information for the TRA Office can be found at the back of this Annual Report.

## Internet and Telephone

- The California Tax Service Center website, [www.taxes.ca.gov](http://www.taxes.ca.gov), contains links to all California Taxpayer Advocates' webpages and publication 145 via the "Contact Us" selection and then "Your Rights" option.
- The TRA Office's webpage, [www.boe.ca.gov/tra](http://www.boe.ca.gov/tra), can be accessed from any page of the BOE's website. The webpage contains mailing address and telephone contact information for the TRA Office and provides a means for taxpayers to communicate with the TRA Office directly via email inquiry form.
- The TRA Office's contact information is available on Information Sheet publications by the BOE's TRA Office.

## Public Events and Local Agencies

The public learns about the services of the TRA Office at the following types of events:

- Monthly Board meetings: Information about the TRA Office and taxpayers' rights are described at the annual taxpayers' bill of rights hearing at a public meeting of the elected Board of Equalization (Board) and the TRA's current annual report is provided for the hearing before the Board.
- Presentations made by county assessors and their staff at seminars, conferences, or at meetings of individual business groups.
- Referrals from county assessors' offices and county tax collectors' offices.

# TAXPAYER CONTACTS WITH TRA OFFICE

## CASES AND CONTACTS RECEIVED

The TRA Office conducted work on approximately 230 new cases in fiscal year 2018-19, all relating to property taxes.

Additionally, the TRA Office receives contacts from taxpayers who have questions or concerns that need to be addressed by other government agencies not involved with the assessment or collection of property taxes. The TRA Office assists such taxpayers by directing the requester to the appropriate state or county agency that can assist them.

## PROPERTY TAX CASE RESOLUTION

Property owners throughout the state contact the TRA Office for assistance and information. Although primary contact is with individual taxpayers, cases also originate from contact with tax agents, and attorneys; and government officials such as assessors, tax collectors, auditor-controllers, Board Members, and legislators.

The variety of issues represented by the cases requires that technical advisors in the TRA Office have broad knowledge and experience in property assessment and taxation. Since the technical advisors have a property appraisal background with experience in a County Assessor's Office and/or at the BOE, they can quickly determine how an issue should be resolved.

The majority of property tax cases are resolved in conjunction with local county assessors, tax collectors, and assessment appeals board clerks. Multiple offices are often involved in the resolution of taxpayers' cases.

### *Types of cases*

In fiscal year 2018-19, the majority of property tax cases were in the valuation category, which includes topics such as value reductions, changes in ownership, appraisal methodology, exclusions, exemptions, assessment appeals, new construction, general property tax information and definitions, and actual enrollment of values. The remaining cases were in the administrative category, which includes topics such as creating and mailing tax bills, refunds, and penalties.

Each case may contain a variety of issues that prompted the taxpayer to contact the TRA Office.

### *How taxpayers were referred to the TRA Office*

Staff of county assessors' offices throughout the state refer taxpayers to the TRA Office for assistance. Board Member offices and the BOE website are also sources of referrals.

### **Examples of Property Tax Cases**

The following cases illustrate how taxpayers' issues are resolved by the TRA Office staff and indicate the range of services provided by the property tax technical advisors. Our role usually involves review and explanation of processes and methodologies, as well as facilitation of resolutions between taxpayers and county departments.

#### ***Taxpayer given information in non-technical language***

**Issue.** A taxpayer received a penalty for not paying her property taxes timely because her online payment did not go through even though there was enough money in her bank account.

**Resolution.** The TRA Office verified with the county tax collector the parcel information and property tax bill amount of the first installment and second installment and asked for information concerning the rejection of her online payment submission. The TRA office explained in non-technical terms the reason for penalty and penalty cancellation request process to the taxpayer.



**Summary – Services Provided.** The TRA Office’s understanding of the property tax assessment and collection process allows us to explain technical and legal language in terms that can be understood by taxpayers. In this case, once the taxpayer had a better understanding of the cancellation process, she was satisfied and paid the taxes and penalties then submitted a request for penalty cancellation. The penalty was canceled by the tax collector.

***Some transfers of real property are exempt from reassessment***

**Background.** A change in ownership of real property can trigger a reassessment of value which causes an increase in property taxes. However, some property transfers are exempt. In some cases, a transfer from a parent to child or grandparent to grandchild is exempt from reassessment because it does not result in an actual change in ownership.

**Issue.** A taxpayer who inherited property from his stepfather was reassessed at current market value creating a much higher property tax liability. The taxpayer’s request to have the reassessment reversed was denied by the county assessor.

**Resolution.** The TRA Office helped the taxpayer understand what documentation was needed by the Assessor’s Office to show that the transfer, in part, qualified for exclusion from reassessment for purposes of property tax change in ownership. Once the taxpayer submitted the correct documents, reassessment on 50 percent of the property was reversed by the county assessor. The TRA Office also explained why part of the transfer was subject to reassessment because it was between siblings rather than parent to child.

**Summary – Services Provided.** The TRA Office’s understanding of exclusions permitted under the law and how changes in ownerships are assessed allows them to help taxpayers submit the correct documents to the county assessor’s office to resolve their issues.

***Some people can transfer the base year value of their home to a replacement***

**Background.** A change in ownership of real property, which includes the purchase of a home, can cause a reassessment of value which can increase the amount of property taxes that a person pays on their new home (replacement) compared to what they paid on their previous home. However, there is an exclusion from reassessment available for persons age 55 and older if certain qualifications are met. In some cases, a transfer of base year value can be made from the original home to the replacement home, such that the purchase of the new home does not result in reassessment and the owner avoids property tax increases.

**Issue.** A taxpayer sold a home in one county and purchased a replacement home in another county that accepted base year value transfers as adopted by county ordinance. The request to transfer the base year value from the taxpayer’s original home was not approved by the county assessor because it appeared the value of the replacement home was more than the original property.

**Resolution.** The TRA Office helped the taxpayer understand what documentation they needed to submit to the county assessor’s office to show that the home which the taxpayer sold was in fact the taxpayers’ primary residence, and that the purchase price of the replacement home included more than just the real property.

**Summary – Services Provided.** The TRA Office’s understanding of exclusions from reassessment under the law allows them to help taxpayers submit the correct documents to the Assessor’s Office to resolve their issues.

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## ISSUE RESOLUTION

The two primary functions of the TRA Office are to ensure fair and equitable treatment of taxpayers in the assessment and collection of property taxes and to recommend changes in policies, procedures, and laws to improve and ease taxpayer compliance. As a result of specific contacts from taxpayers, issues raised at annual Taxpayers' Bill of Rights hearings, suggestions received from BOE staff and other agencies, and issues identified by the TRA Office staff, the issues are resolved with the appropriate department or departments.

The following projects were initiated to resolve issues brought to the attention of the TRA Office that resulted in changes being implemented or in progress.

### **Assessment Appeals Process Project**

As a result of comments made at the August 2017 Taxpayers' Bill of Rights hearing by one taxpayer group regarding the use of data in the assessment appeals process, the BOE's Property Tax Department initiated an interested parties process to facilitate resolution of the issues. The California Assessors' Association and the California Association of Clerks and Election Officials, as well as the taxpayer group that raised the issue, participated in the interested parties process. The project, referred to as the Assessment Appeals Process project, resulted in Board adoption of amendments to the following Property Tax Rules in December 2018: Rule 302, *The Board's Function and Jurisdiction*; Rule 305, *Application*; Rule 305.1, *Exchange of Information*; Rule 305.2, *Prehearing Conference*; and Rule 323, *Postponement and Continuances*. The rule amendments became effective January 1, 2020; refer to [Letter To Assessors \(LTA\) No. 2019/051](#) dated 12/31/2019. Work on this project began in the 2017-18 fiscal year, and continued through fiscal year 2018-19, and into fiscal year 2019-20. In addition to rule changes, the project included revisions to the BOE publication *Assessment Appeals Manual*, and proposed a new form for requests for information under section 441(d). Changes implemented clarify rules regarding local county assessment appeals hearings.

### **Solar Energy New Construction Exclusion**

Due in part to contacts made to the TRA Office in 2018 by a taxpayer representative, the BOE's Property Tax Department initiated an interested parties process to address issues that emerged since the November 2012 release of BOE's *Guidelines for Active Solar Energy Systems New Construction Exclusion*. The project, referred to as the Solar Energy Systems New Construction Exclusion, began in September 2018, and is separated into phases; refer to [LTA 2018/047](#) for discussion of the project. Work on this project began in fiscal year 2018-19, and continues into fiscal year 2019-20. Phase one of the project addresses reporting requirements; a proposed new property statement reporting form is being developed in this phase for reporting solar energy power plant equipment to an Assessor's Office.

# TAXPAYER SERVICE IMPROVEMENTS

## IMPROVEMENTS BY COUNTIES

The TRA Office notes specific improvements counties have made in the services provided to the public.

Each year we monitor and report on improvements that enhance service to the public. This year we are highlighting six counties that have made significant strides forward.

### Butte County

Butte County experienced the largest and most destructive fire in the state's history on November 8, 2018. Over 18,000 structures were either damaged or destroyed and 85 people lost their lives. The Butte County Assessor's Office immediately went to work to assist taxpayers.

- Starting on November 9, 2018, all staff were either answering phones, working the counter, or at the Disaster Recovery Center to provide service to those affected.
- Coffee, tea, and refreshments were put in the lobby for those affected to enjoy as they were waiting for assistance.
- The Assessor participated in all town hall meetings to explain the disaster relief process and answer questions. Press releases were issued and answers to frequently asked questions posted on the website.
- Bi-weekly meetings were held with staff from the Auditor, Tax Collector, and Clerk of the Board to make sure we were all communicating the same message.
- The Shasta County Assessor's Office provided assistance to the Butte County Assessor's Office in the form of the database they used to calculate values after the Carr Fire. This was invaluable since the Butte County Assessor's Office did not have to create a database from scratch. The database allowed the appraisal staff to process assessments quickly to make the necessary corrections.

- Butte County worked closely with its property tax vendor, Megabyte Systems, to automate the correction process. Corrections were sent in batches of 2,500; and were processed within two weeks. This allowed the Assessor's Office to process all of the corrections and issue notices to taxpayer within six months of the disaster. The Auditor was able to issue all corrected tax bills and refunds by June 15.

### Los Angeles County

Over the past several years, the Los Angeles County Assessor's Office has implemented a robust public education initiative aimed at engaging taxpayers and increasing knowledge of savings programs and other resources. In addition to increased social media presence across Facebook®, Twitter, Instagram®, and LinkedIn®, regular eNewsletters, and traditional media outreach; well promoted taxpayer seminars have been a key component of the initiative.

In fiscal year 2018-19, seminars for homeowners and businesses were held across Los Angeles County with strong attendance driven by digital media and reliance on partner agencies and community and professional organizations.

- Two seminars for homeowners and real estate professionals were held in Long Beach and Inglewood in August and September 2018, respectively, and were attended by a collective 550 people. These seminars included presentations on the basics of Proposition 13, and good to know information about changes in ownership, new construction, and exemptions and exclusions. They also provided an opportunity for homeowners and others to speak to appraisers, as well as staff from the Auditor-Controller, Registrar-Recorder/County Clerk, Department of Consumer and Business Affairs, and the California State Board of Equalization.

- Six seminars for businesses and nonprofit organizations on how to file the Business Personal Property Statement were also held throughout the County in March 2019, with a collective attendance of approximately 350. These seminars included detailed presentations on filing requirements and instructions, as well as the opportunity for individual assistance. While business seminars had been held before, an improved marketing effort dramatically increased attendance; with further outreach to nonprofit organizations.

Providing a venue not only for expert presentations, but for people to ask questions, especially of multiple agencies in one place, alleviates the all too often stress and confusion of navigating a complex property tax system. It engages taxpayers with their government, increasing understanding and trust, and ultimately reducing errors while improving service to the public.

### **Napa County**

Napa County hired Megabyte Systems to scan and index its 24,000-archived assessor map book pages from the 1967 roll year to the present. Archived maps are displayed for the public in the Napa County Assessor's Office. The Assessor's Office is working with the county Information Technology Service Department to make the maps available on its website. Archived maps are invaluable for tracing parcel configurations, tax rate area changes, annexations, etc.

### **Sacramento County**

During fiscal year 2018-19, the Sacramento County Assessor's Office made several improvements related to the online Assessor Parcel Viewer tool that enhances the customers' experience.

In September 2018, Sacramento County Assessor Parcel Maps were made available free of charge to the public for viewing, downloading, and printing through the Assessor's website. This was the result of a joint 18-month project with Sacramento County's Department of Technology. It not only provides convenient public access to the maps, but also saves time and resources for customers and Assessor's staff. Retrieving a map online is as simple as typing in the parcel number,

address, or map book number. The Assessor's Office uploads an average of ten new maps per week, providing our customers with the most current information.

In early 2019, the Sacramento County Assessor's Office audited the property characteristics displayed in Assessor Parcel Viewer for accuracy and ease of understanding. This led to several significant enhancements, including a Residential Building Count for each parcel, displaying Total Living Area of all residential structures on a parcel, separately identifying Garage and Carport areas, and the ability to report more than two stories for residential parcels.

- Two new explanatory resources: "Data Field Descriptions" and "Accessory Dwelling Unit Disclaimer" are now available through links in the Assessor Parcel Viewer's Property Building Information panel.
- These enhancements, individually and together, promote better understanding of the Assessor's Building Characteristics fields and the data presented, as well as clarifying the Assessor's Land Use Codes as applied to Accessory Dwelling Units.
- The April-May-June 2019 edition of the Sacramento County Newsletter featured the article "Assessor Parcel Viewer — How Can It Help," which highlights the many useful features available online via the Assessor Parcel Viewer. Newsletters can be accessed at [www.saccounty.net/Pages/SacCountyNewsletter.aspx](http://www.saccounty.net/Pages/SacCountyNewsletter.aspx).

### **San Francisco City and County**

This past year, the City and County of San Francisco's Assessor's Office has undertaken a series of initiatives aimed at providing taxpayer education and improved access to their office.

The San Francisco Assessor's Office prioritizes educating the public about its work and about tax savings programs. This year, the office has organized a series of free Property Tax Savings 101 workshops in partnership with the San Francisco Public Library. Each month, Assessor's staff visit a different neighborhood branch library in San Francisco to teach curriculum on

understanding assessed value and property tax savings programs, including Proposition 58 (parent/child transfers) and Proposition 60 (transfer of assessment to replacement property by seniors). Workshops have been well-attended and sparked lively Q&A with homeowners from each neighborhood.

San Francisco has also focused on strategies to make the Assessor's Office more accessible to taxpayers in an increasingly digital world. To add a layer of convenience for taxpayers on the go, the office has created an online appointment system, which works in tandem with a streamlined public service lobby navigation implemented this year. In addition, the office has translated its entire website into Spanish, Chinese, and Tagalog to accommodate taxpayers in the county and make information as easily accessible as possible for all.

### San Luis Obispo County

San Luis Obispo has completed a major step in the technology transformation of the Assessor's Office from reliance on paper files and maps to entirely digital documents. This effort will greatly benefit the public and other governmental entities that rely on Assessor's records. The technology modernization project has transformed information management and assures the long-term preservation and safeguarding of millions of pages of documents that comprise the office property records of the county.

The technology project eliminated 43 tons or 86,000 pounds of paper by digitizing 2.8 million pieces of paper contained within 168,000 property files. The result is greater accuracy and efficiency in the handling of critical assessment files and maps.

Scanning paper files to modern digital documents was accomplished three months early and 20 percent under budget, saving taxpayers \$65,000. The Assessor's goal in leading the technology modernization effort is to provide taxpayers with improved service. Property records are now instantly available to taxpayers through the San Luis Obispo County Assessor's website.

## IMPROVEMENTS BY TRA OFFICE

### Educating the Public

The TRA Office is committed to making improvements to taxpayer education and providing taxpayers with information in simple understandable terms. Under the property taxpayers' bill of rights, the TRA Office has a role in taxpayer education; specifically to assist assessors in their efforts to provide education to local taxpayers.

In 2018, the BOE's TRA and California Assessors' Association discussed the TRA providing taxpayer education through the issuance of short information sheets for various exemptions and exclusions, written in simple, non-technical terms.

An information sheet addresses a specific topic and is geared to help taxpayers understand that topic. Each topic is limited to two pages and includes basic information on the purpose of the exemption or exclusion, main requirements, how to apply, helpful hints, and where find additional information. The information sheets are posted to the BOE's website and accessed through the TRA page ([www.boe.ca.gov/tra](http://www.boe.ca.gov/tra)) under the selection for *Taxpayer Education*.

The TRA Office developed the first two information sheets in the series on various exclusion and exemption topics at the end of fiscal year 2017-18, and they were published in July 2018. These information sheets address exclusions for family transfers among parents, children, and grandparents. The third information sheet, published in June 2019, addresses the transfer of base year value on the principal residence for persons 55 and over.

Information sheets published to date are:

- *Information Sheet, Property Tax Savings: Transfers Between Parents and Children (Publication 800-1)*
- *Information Sheet, Property Tax Savings: Transfers From Grandparents to Grandchildren (Publication 800-2)*
- *Information Sheet, Property Tax Savings: Transfer of Property Tax Base to Replacement Property—Age 55 and Over (Publication 800-3)*

The TRA Office continues work on developing information sheets on other topics to help taxpayers understand the area of property taxation and exclusions and exemptions available to them that could result in property tax savings.

### **Ease of Access to Information**

The TRA Office is committed to ensuring that the public has access to information when they need it. Because California has experienced much loss and devastation from disasters (such as wildfires and winter storms) in the last few years, the TRA Office worked with the BOE's Property Tax Department to update information on our agency's website to ensure comprehensive information was available on disaster relief from property tax. The layout of the information was reorganized into separate categories for ease of use and to improve the taxpayer's experience. A quick reference chart was added to identify relief that is available to taxpayers based on property type and type of disaster. Frequently asked questions were expanded to identify counties that have ordinances allowing a base-year value transfer from another county for a principal residence substantially damaged or destroyed by a Governor-declared disaster.



# APPENDIX 1

## THE MORGAN PROPERTY TAXPAYERS' BILL OF RIGHTS

(Revenue and Taxation Code Sections)

**5900. Title.** This part shall be known and may be cited as “The Morgan Property Taxpayers’ Bill of Rights.”

**5901. Findings and declarations.** The Legislature finds and declares as follows:

- (a) Taxes are a sensitive point of contact between citizens and their government, and disputes and disagreements often arise as a result of misunderstandings or miscommunications.
- (b) The dissemination of information to taxpayers regarding property taxes and the promotion of enhanced understanding regarding the property tax system will improve the relationship between taxpayers and the government.
- (c) The proper assessment and collection of property taxes is essential to local government and the health and welfare of the citizens of this state.
- (d) It is the intent of the Legislature to promote the proper assessment and collection of property taxes throughout this state by advancing, to the extent feasible, uniform practices of property tax appraisal and assessment.

**5902. Administration.** This part shall be administered by the board.

**5903. “Advocate.”** “Advocate” as used in this part means the “Property Taxpayers’ Advocate” designated pursuant to Section 5904.

**5904. Property Taxpayers’ Advocate; responsibilities.**

- (a) The board shall designate a “Property Taxpayers’ Advocate.” The advocate shall be responsible for reviewing the adequacy of procedures for both of the following:
  - (1) The distribution of information regarding property tax assessment matters between and among the board, assessors, and taxpayers.
  - (2) The prompt resolution of board, assessor, and taxpayer inquiries, and taxpayer complaints and problems.
- (b) The advocate shall be designated by, and report directly to, the executive officer of the board. The advocate shall at least annually report to the executive officer on the adequacy of existing procedures, or the need for additional or revised procedures, to accomplish the objectives of this part.
- (c) Nothing in this part shall be construed to require the board to reassign property tax program responsibilities within its existing organizational structure.

**5905. Additional duties.** In addition to any other duties imposed by this part, the advocate shall periodically review and report on the adequacy of existing procedures, or the need for additional or revised procedures, with respect to the following:

- (a) The development and implementation of educational and informational programs on property tax assessment matters for the benefit of the board and its staff, assessors and their staffs, local boards of equalization and assessment appeals boards, and taxpayers.
- (b) The development and availability of property tax informational pamphlets and other written materials that explain, in simple and nontechnical language, all of the following matters:
  - (1) Taxation of real and personal property in California.
  - (2) Property tax exemptions.



- (3) Supplemental assessments.
- (4) Escape assessments.
- (5) Assessment procedures.
- (6) Taxpayer obligations, responsibilities, and rights.
- (7) Obligations, responsibilities, and rights of property tax authorities, including, but not limited to, the board and assessors.
- (8) Property tax appeal procedures.

**5906. Additional duties.**

- (a) The advocate shall undertake, to the extent not duplicative of existing programs, periodic review of property tax statements and other property tax forms prescribed by the board to determine both of the following:
  - (1) Whether the forms and their instructions promote or discourage taxpayer compliance.
  - (2) Whether the forms or questions therein are necessary and germane to the assessment function.
- (b) The advocate shall undertake the review of taxpayer complaints and identify areas of recurrent conflict between taxpayers and assessment officers. This review shall include, but not be limited to, all of the following:
  - (1) The adequacy and timeliness of board and assessor responses to taxpayers' written complaints and requests for information.
  - (2) The adequacy and timeliness of corrections of the assessment roll, cancellations of taxes, or issuances of refunds after taxpayers have provided legitimate and adequate information demonstrating the propriety of the corrections, cancellations, or refunds, including, but not limited to, the filing of documents required by law to claim these corrections, cancellations, or refunds.
  - (3) The timeliness, fairness, and accessibility of hearings and decisions by the board, county boards of equalization, or assessment appeals boards where taxpayers have filed timely applications for assessment appeal.
  - (4) The application of penalties and interest to property tax assessments or property tax bills where the penalty or interest is a direct result of the assessor's failure to request specified information or a particular method of reporting information, or where the penalty or interest is a direct result of the taxpayer's good faith reliance on written advice provided by the assessor or the board.
- (c) Nothing in this section shall be construed to modify any other provision of law or the California Code of Regulations regarding requirements or limitations with respect to the correction of the assessment roll, the cancellation of taxes, the issuance of refunds, or the imposition of penalties or interest.
- (d) The board shall annually conduct a public hearing, soliciting the input of assessors, other local agency representatives, and taxpayers, to address the advocate's annual report pursuant to Section 5904, and to identify means to correct any problems identified in that report.

**5907. Employee evaluations.** No state or local officer or employees responsible for the appraisal or assessment of property shall be evaluated based solely upon the dollar value of assessments enrolled or property taxes collected. However, nothing in this section shall be construed to prevent an official or employee from being evaluated based upon the propriety and application of the methodology used in arriving at a value determination.

**5908. Educational assistance.** Upon request of a county assessor or assessors, the advocate, in conjunction with any other programs of the board, shall assist assessors in their efforts to provide education and instruction to their staffs and local taxpayers for purposes of promoting taxpayer understanding and compliance with the property tax laws, and, to the extent feasible, statewide uniformity in the application of property tax laws.

**5909. Written rulings.**

- (a) County assessors may respond to a taxpayer's written request for a written ruling as to property tax consequences of an actual or planned particular transaction, or as to the property taxes liability of a specified property. For purposes of statewide uniformity, county assessors may consult with board staff prior to issuing a ruling under this subdivision. Any ruling issued under this subdivision shall notify the taxpayer that the ruling represents the county's current interpretation of applicable law and does not bind the county, except as provided in subdivision (b).
- (b) Where a taxpayer's failure to timely report information or pay amounts of tax directly results from the taxpayer's reasonable reliance on the county assessor's written ruling under subdivision (a), the taxpayer shall be relieved of any penalties, or interest assessed or accrued, with respect to property taxes not timely paid as a direct result of the taxpayer's reasonable reliance. A taxpayer's failure to timely report property values or to make a timely payment of property taxes shall be considered to directly result from the taxpayer's reasonable reliance on a written ruling from the assessor under subdivision (a) only if all of the following conditions are met:
  - (1) The taxpayer has requested in writing that the assessor advise as to the property tax consequences of a particular transaction or as to the property taxes with respect to a particular property, and fully described all relevant facts and circumstances pertaining to that transaction or property.
  - (2) The assessor has responded in writing and specifically stated the property tax consequences of the transaction or the property taxes with respect to the property.

**5910. Report to board.** The advocate shall, on or before January 1, 1994, make specific recommendations to the board with respect to standardizing interest rates applicable to escape assessments and refunds of property taxes, and statutes of limitations, so as to place property taxpayers on an equal basis with taxing authorities.

**5911. Legislative intent.** It is the intent of the Legislature in enacting this part to ensure that:

- (a) Taxpayers are provided fair and understandable explanations of their rights and duties with respect to property taxation, prompt resolution of legitimate questions and appeals regarding their property taxes, and prompt corrections when errors have occurred in property tax assessments.
- (b) The board designate a taxpayer's advocate position independent of, but not duplicative of, the board's existing property tax programs, to be specifically responsible for reviewing property tax matters from the viewpoint of the taxpayer, and to review and report on, and to recommend to the board's executive officer any necessary changes with respect to, property tax matters as described in this part.

## APPENDIX 2

### THE CALIFORNIA TAXPAYERS' BILL OF RIGHTS

Excerpts pertaining to the Alcoholic Beverage Tax  
(Revenue and Taxation Code Section 32460 – 32476,  
from Article 2 of Chapter 9 of Part 14. Alcoholic Beverage Tax)  
(Article 2 added by Stats. 1992, Ch. 438, Sec. 8. Effective January 1, 1993.)

#### **32460.**

The board shall administer this article. Unless the context indicates otherwise, the provisions of this article shall apply to this part.

#### **32461.**

- (a) The board shall establish the position of the Taxpayers' Rights Advocate. The advocate or his or her designee shall be responsible for facilitating resolution of taxpayer complaints and problems, including any taxpayer complaints regarding unsatisfactory treatment of taxpayers by board employees, and staying actions where taxpayers have suffered or will suffer irreparable loss as the result of those actions. Applicable statutes of limitation shall be tolled during the pendency of a stay. Any penalties and interest that would otherwise accrue shall not be affected by the granting of a stay.
- (b) The advocate shall report directly to the executive officer of the board.

#### **32462.**

- (a) The board shall develop and implement an education and information program directed at, but not limited to, all of the following groups:
  - (1) Taxpayers newly registered with the board.
  - (2) Board audit and compliance staff.
- (b) The education and information program shall include all of the following:
  - (1) A program of written communication with newly registered taxpayers explaining in simplified terms their duties and responsibilities.
  - (2) Participation in seminars and similar programs organized by federal, state, and local agencies.
  - (3) Revision of taxpayer educational materials currently produced by the board that explain the most common areas of taxpayer nonconformance in simplified terms.
  - (4) Implementation of a continuing education program for audit and compliance personnel to include the application of new legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.
- (c) Electronic media used pursuant to this section shall not represent the voice, picture, or name of members of the board or of the Controller.

#### **32463.**

The board shall conduct an annual hearing before the full board where industry representatives and individual taxpayers are allowed to present their proposals on changes to the Alcoholic Beverage Tax Law which may further improve voluntary compliance and the relationship between taxpayers and government.

#### **32464.**

The board shall prepare and publish brief but comprehensive statements in simple and nontechnical language that explain procedures, remedies, and the rights and obligations of the board and taxpayers. As appropriate, statements shall be provided to taxpayers with the initial notice of audit, the notice of proposed

additional taxes, any subsequent notice of tax due, or other substantive notices. Additionally, the board shall include this language for statements in the annual tax information bulletins that are mailed to taxpayers.

**32465.**

- (a) The total amount of revenue collected or assessed pursuant to this part shall not be used for any of the following:
  - (1) To evaluate individual officers or employees.
  - (2) To impose or suggest production quotas or goals, other than quotas or goals with respect to accounts receivable.
- (b) The board shall certify in its annual report submitted pursuant to Section 15616 of the Government Code that revenue collected or assessed is not used in a manner prohibited by subdivision (a).
- (c) Nothing in this section shall prohibit the setting of goals and the evaluation of performance with respect to productivity and the efficient use of time.

**32466.**

The board shall develop and implement a program that will evaluate an individual employee's or officer's performance with respect to his or her contact with taxpayers. The development and implementation of the program shall be coordinated with the Taxpayers' Rights Advocate.

**32467.**

The board shall, in cooperation with the Taxpayers' Rights Advocate, and other interested taxpayer-oriented groups, develop a plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include determination of standard timeframes and special review of cases that take more time than the appropriate standard timeframe.

**32468.**

Procedures of the board, relating to appeals staff review conferences before a staff attorney or supervising tax auditor independent of the assessing department, shall include all of the following:

- (a) Any conference shall be held at a reasonable time at a board office that is convenient to the taxpayer.
- (b) The conference may be recorded only if prior notice is given to the taxpayer and the taxpayer is entitled to receive a copy of the recording.
- (c) The taxpayer shall be informed prior to any conference that he or she has a right to have present at the conference his or her attorney, accountant, or other designated agent.

**32469.**

- (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:
  - (1) The taxpayer files a claim for the fee and expenses with the board within one year of the date the decision of the board becomes final.
  - (2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.
  - (3) The board decides that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, in an amount determined by the board in its sole discretion.
- (b) To determine whether the board staff has been unreasonable, the board shall consider whether the board staff has established that its position was substantially justified.
- (c) The amount of reimbursed fees and expenses shall be limited to the following:
  - (1) Fees and expenses incurred after the date of the notice of determination, jeopardy determination, or a claim for refund.

- (2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.
- (d) Any proposed award by the board pursuant to subdivision (a) shall be available as a public record for at least 10 days prior to the effective date of the award.
- (e) The amendments to this section by the act adding this subdivision shall be operative for claims filed on or after January 1, 2000.

**32470.**

- (a) An officer or employee of the board acting in connection with any law administered by the board shall not knowingly authorize, require, or conduct any investigation of, or surveillance over, any person for nontax administration related purposes.
- (b) Any person violating subdivision (a) shall be subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from office or discharge from employment.
- (c) This section shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.
- (d) The provisions of this section are not intended to prohibit, restrict, or prevent the exchange of information where the person is being investigated for multiple violations which include alcoholic beverage tax violations.
- (e) For the purposes of this section:
  - (1) "Investigation" means any oral or written inquiry directed to any person, organization, or governmental agency.
  - (2) "Surveillance" means the monitoring of persons, places, or events by means of electronic interception, overt or covert observations, or photography, and the use of informants.

**32471.**

- (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to civil tax matters in dispute that are the subject of protests, appeals, or refund claims, consistent with a reasonable evaluation of the costs and risks associated with litigation of these matters.
- (b) (1) Except as provided in paragraph (3) and subject to paragraph (2), the executive director or chief counsel, if authorized by the executive director, of the board may recommend to the State Board of Equalization, itself, a settlement of any civil tax matter in dispute.
  - (2) No recommendation of settlement shall be submitted to the board, itself, unless and until that recommendation has been submitted by the executive director or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise, in writing, the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, itself, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.
- (3) A settlement of any civil tax matter in dispute involving a reduction of tax or penalties in settlement, the total of which reduction of tax and penalties in settlement does not exceed five thousand dollars (\$5,000), may be approved by the executive director and chief counsel, jointly. The executive director shall notify the board, itself, of any settlement approved pursuant to this paragraph.
- (c) Whenever a reduction of tax, or penalties, or total tax and penalties in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file, for at least

one year, in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:

- (1) The name or names of the taxpayers who are parties to the settlement.
- (2) The total amount in dispute.
- (3) The amount agreed to pursuant to the settlement.
- (4) A summary of the reasons why the settlement is in the best interests of the State of California.
- (5) For any settlement approved by the board, itself, the Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the taxpayer or the national defense.

- (d) The members of the State Board of Equalization shall not participate in the settlement of tax matters pursuant to this section, except as provided in subdivision (e).
- (e) (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board, itself, within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for settlement, the matter shall be referred back to the executive director or chief counsel in accordance with the decision of the board.
  - (2) Disapproval of a recommendation for settlement shall be made only by a majority vote of the board. Where the board disapproves a recommendation for settlement, the matter shall be remanded to board staff for further negotiation, and may be resubmitted to the board, in the same manner and subject to the same requirements as the initial submission, at the discretion of the executive director or chief counsel.
- (f) All settlements entered into pursuant to this section shall be final and nonappealable, except upon a showing of fraud or misrepresentation with respect to a material fact.
- (g) Any proceedings undertaken by the board itself pursuant to a settlement as described in this section shall be conducted in a closed session or sessions. Except as provided in subdivision (c), any settlement considered or entered into pursuant to this section shall constitute confidential tax information for purposes of Section 32455.
- (h) This section shall apply only to civil tax matters in dispute on or after the effective date of the act adding this subdivision.
- (i) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any determination, rule, notice, or guideline established or issued by the board in implementing and administering the settlement program authorized by this section.

### **32471.5.**

- (a) (1) Beginning on January 1, 2007, the executive director and chief counsel of the board, or their delegates, may compromise any final tax liability where the reduction of tax is seven thousand five hundred dollars (\$7,500) or less.
  - (2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars (\$7,500). A recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

- (3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars (\$7,500), but less than ten thousand dollars (\$10,000).
- (b) For purposes of this section, “a final tax liability” means any final tax liability arising under Part 14 (commencing with Section 32001), or related interest, additions to tax, penalties, or other amounts assessed under this part.
- (c) (1) Offers in compromise shall be considered only for liabilities that were generated by a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.
- (2) Notwithstanding paragraph (1), a qualified final tax liability may be compromised regardless of whether the business has been discontinued or transferred or whether the taxpayer has a controlling interest or association with a similar type of business as the transferred or discontinued business. All other provisions of this section that apply to a final tax liability shall also apply to a qualified final tax liability, and a compromise shall not be made under this subdivision unless all other requirements of this section are met. For purposes of this subdivision, a “qualified final tax liability” means that part of a final tax liability, including related interest, additions to tax, penalties, or other amounts assessed under this part, arising from a transaction or transactions in which the board finds no evidence that the taxpayer collected reimbursement or tax reimbursement from the purchaser or other person and which was determined against the taxpayer under Article 2 (commencing with Section 32271), Article 3 (commencing with Section 32291), or Article 4 (commencing with Section 32301) of Chapter 6.
- (3) A qualified final tax liability may not be compromised with any of the following:
- (A) A taxpayer who previously received a compromise under paragraph (2) for a liability, or a part thereof, arising from a transaction or transactions that are substantially similar to the transaction or transactions attributable to the liability for which the taxpayer is making the offer.
- (B) A business that was transferred by a taxpayer who previously received a compromise under paragraph (2) and who has a controlling interest or association with the transferred business, when the liability for which the offer is made is attributable to a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer’s liability was previously compromised.
- (C) A business in which a taxpayer who previously received a compromise under paragraph (2) has a controlling interest or association with a similar type of business for which the taxpayer received the compromise, when the liability of the business making the offer arose from a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer’s liability was previously compromised.
- (d) The board may, in its discretion, enter into a written agreement which permits the taxpayer to pay the compromise in installments for a period not exceeding one year. The agreement may provide that such installments shall be paid by electronic funds transfers or any other means to facilitate the payment of each installment.
- (e) Except for any recommendation for approval as specified in subdivision (a), the members of the State Board of Equalization shall not participate in any offer in compromise matters pursuant to this section.
- (f) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) may be required to enter into any collateral agreement that is deemed necessary for the protection of the interests of the state. A collateral agreement may include a provision that allows the board to reestablish the liability, or any portion thereof, if the taxpayer has sufficient annual income during the succeeding five-year period. The board shall establish criteria for determining “sufficient annual income” for purposes of this subdivision.

- (g) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) shall file and pay by the due date all subsequently required tax returns and reports for a five-year period from the date the liability is compromised, or until the taxpayer is no longer required to file tax returns and reports, whichever period is earlier.
- (h) Offers in compromise shall not be considered where the taxpayer has been convicted of felony tax evasion under this part during the liability period.
- (i) For amounts to be compromised under this section, the following conditions shall exist:
- (1) The taxpayer shall establish that:
    - (A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer's present assets or income.
    - (B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.
  - (2) The board shall have determined that acceptance of the compromise is in the best interest of the state.
- (j) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.
- (k) (1) Offers for liabilities with a fraud or evasion penalty shall require a minimum offer of the unpaid tax and fraud or evasion penalty.
- (2) The minimum offer may be waived if it can be shown that the taxpayer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the taxpayer.
- (l) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.
- (m) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, taxpayers who are liable through dual determination or successor's liability, the acceptance of an offer in compromise from one liable taxpayer shall reduce the amount of the liability of the other taxpayers by the amount of the accepted offer.
- (n) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars (\$500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:
- (1) The name of the taxpayer.
  - (2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.
  - (3) The amount offered.
  - (4) A summary of the reason why the compromise is in the best interest of the state.
- The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 32455. A list shall not be prepared and releases shall not be distributed by the board in connection with these statements.



- (o) A compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:
- (1) The board determines that a person did any of the following acts regarding the making of the offer:
    - (A) Concealed from the board property belonging to the estate of a taxpayer or other person liable for the tax.
    - (B) Received, withheld, destroyed, mutilated, or falsified a book, document, or record or made a false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.
  - (2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.
- (p) A person who, in connection with an offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars (\$50,000) or imprisoned pursuant to subdivision (h) of Section 1170 of the Penal Code, or both, together with the costs of investigation and prosecution:
- (1) Conceals from an officer or employee of this state property belonging to the estate of a taxpayer or other person liable in respect of the tax.
  - (2) Receives, withholds, destroys, mutilates, or falsifies a book, document, or record, or makes a false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax.
- (q) For purposes of this section, “person” means the taxpayer, a member of the taxpayer’s family, a corporation, agent, fiduciary, or representative of, or another individual or entity acting on behalf of, the taxpayer, or another corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.
- (r) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

**32471.5.**

- (a) (1) The executive director and chief counsel of the board, or their delegates, may compromise any final tax liability where the reduction of tax is seven thousand five hundred dollars (\$7,500) or less.
- (2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars (\$7,500). A recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.
- (3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars (\$7,500), but less than ten thousand dollars (\$10,000).
- (b) For purposes of this section, “a final tax liability” means any final tax liability arising under Part 14 (commencing with Section 32001), or related interest, additions to tax, penalties, or other amounts assessed under this part.
- (c) Offers in compromise shall be considered only for liabilities that were generated by a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.
- (d) Offers in compromise shall not be considered where the taxpayer has been convicted of felony tax evasion under this part during the liability period.
- (e) For amounts to be compromised under this section, the following conditions shall exist:

- (1) The taxpayer shall establish that:
    - (A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer's present assets or income.
    - (B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.
  - (2) The board shall have determined that acceptance of the compromise is in the best interest of the state.
- (f) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.
- (g) (1) Offers for liabilities with a fraud or evasion penalty shall require a minimum offer of the unpaid tax and fraud or evasion penalty.
- (2) The minimum offer may be waived if it can be shown that the taxpayer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the taxpayer.
- (h) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.
- (i) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, taxpayers who are liable through dual determination or successor's liability, the acceptance of an offer in compromise from one liable taxpayer shall reduce the amount of the liability of the other taxpayers by the amount of the accepted offer.
- (j) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars (\$500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:
- (1) The name of the taxpayer.
  - (2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.
  - (3) The amount offered.
  - (4) A summary of the reason why the compromise is in the best interest of the state.
- The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 32455. A list shall not be prepared and releases shall not be distributed by the board in connection with these statements.
- (k) A compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:
- (1) The board determines that a person did any of the following acts regarding the making of the offer:
    - (A) Concealed from the board property belonging to the estate of a taxpayer or other person liable for the tax.
    - (B) Received, withheld, destroyed, mutilated, or falsified a book, document, or record, or made a false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

- (2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.
- (l) A person who, in connection with an offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars (\$50,000) or imprisoned pursuant to subdivision (h) of Section 1170 of the Penal Code, or both, together with the costs of investigation and prosecution:
- (1) Conceals from an officer or employee of this state property belonging to the estate of a taxpayer or other person liable in respect of the tax.
  - (2) Receives, withholds, destroys, mutilates, or falsifies a book, document, or record, or makes a false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax.
- (m) For purposes of this section, “person” means the taxpayer, a member of the taxpayer’s family, a corporation, agent, fiduciary, or representative of, or another individual or entity acting on behalf of, the taxpayer, or another corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.
- (n) This section shall become operative on January 1, 2023.

**32472.**

- (a) The State Board of Equalization shall release any levy or notice to withhold issued pursuant to this part on any property in the event that the expense of the sale process exceeds the liability for which the levy is made.
- (b) (1) (A) The Taxpayers’ Rights Advocate may order the release of any levy or notice to withhold issued pursuant to this part or, within 90 days from the receipt of funds pursuant to a levy or notice to withhold, order the return of any amount up to two thousand three hundred dollars (\$2,300) of moneys received, upon his or her finding that the levy or notice to withhold threatens the health or welfare of the taxpayer or his or her spouse and dependents or family.
- (B) The amount the Taxpayers’ Rights Advocate may return to each taxpayer subject to a levy or notice to withhold, is limited to two thousand three hundred dollars (\$2,300), or the adjusted amount as specified in paragraph (2), in any monthly period.
  - (C) The Taxpayers’ Rights Advocate may order amounts returned in the case of a seizure of property as a result of a jeopardy determination, subject to the amounts set or adjusted pursuant to this section and if the ultimate collection of the amount due is no longer in jeopardy.
- (2) (A) The State Board of Equalization shall adjust the two-thousand-three-hundred-dollar (\$2,300) amount specified in paragraph (1) as follows:
- (i) On or before March 1, 2016, and on or before March 1 each year thereafter, the State Board of Equalization shall multiply the amount applicable for the current fiscal year by the inflation factor adjustment calculated based on the percentage change in the Consumer Price Index, as recorded by the California Department of Industrial Relations for the most recent year available, and the formula set forth in paragraph (2) of subdivision (h) of Section 17041. The resulting amount will be the applicable amount for the succeeding fiscal year only when the applicable amount computed is equal to or exceeds a new operative threshold, as defined in subparagraph (B).
  - (ii) When the applicable amount equals or exceeds an operative threshold specified in subparagraph (B), the resulting applicable amount, rounded to the nearest multiple of one hundred dollars (\$100), shall be operative for purposes of paragraph (1) beginning July 1 of the succeeding fiscal year.
- (B) For purposes of this paragraph, “operative threshold” means an amount that exceeds by at least one hundred dollars (\$100) the greater of either the amount specified in paragraph (1)

or the amount computed pursuant to subparagraph (A) as the operative adjustment to the amount specified in paragraph (1).

- (c) The State Board of Equalization shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.
- (d) Except as provided in subparagraph (C) of paragraph (1) of subdivision (b), this section shall not apply to the seizure of any property as a result of a jeopardy determination.

#### **32472.1.**

- (a) Except in any case where the board finds collection of the tax to be in jeopardy, if any property has been levied upon, the property or the proceeds from the sale of the property shall be returned to the taxpayer if the board determines any one of the following:
  - (1) The levy on the property was not in accordance with the law.
  - (2) The taxpayer has entered into and is in compliance with an installment payment agreement pursuant to Section 32389 to satisfy the tax liability for which the levy was imposed, unless that or another agreement allows for the levy.
  - (3) The return of the property will facilitate the collection of the tax liability or will be in the best interest of the state and the taxpayer.
- (b) Property returned under paragraphs (1) and (2) of subdivision (a) is subject to the provisions of Section 32474.

#### **32473.**

Exemptions from levy under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure shall be adjusted for purposes of enforcing the collection of debts under this part to reflect changes in the California Consumer Price Index whenever the change is more than 5 percent higher than any previous adjustment.

#### **32474.**

- (a) A taxpayer may file a claim with the board for reimbursement of bank charges and any other reasonable third-party check charge fees incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action by the board. Bank and third-party charges include a financial institution's or third party's customary charge for complying with the levy or notice to withhold instructions and reasonable charges for overdrafts that are a direct consequence of the erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action. The charges are those paid by the taxpayer and not waived or reimbursed by the financial institution or third party. Each claimant applying for reimbursement shall file a claim with the board that shall be in a form as may be prescribed by the board. In order for the board to grant a claim, the board shall determine that both of the following conditions have been satisfied:
  - (1) The erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action was caused by board error.
  - (2) Prior to the erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action, the taxpayer responded to all contacts by the board and provided the board with any requested information or documentation sufficient to establish the taxpayer's position. This provision may be waived by the board for reasonable cause.
- (b) Claims pursuant to this section shall be filed within 90 days from the date the bank and third-party charges were incurred by the taxpayer. Within 30 days from the date the claim is received, the board shall respond to the claim. If the board denies the claim, the taxpayer shall be notified in writing of the reason or reasons for the denial of the claim.

**32475.**

- (a) At least 30 days prior to the filing or recording of liens under Chapter 14 (commencing with Section 7150) or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of the Government Code, the board shall mail to the taxpayer a preliminary notice. The notice shall specify the statutory authority of the board for filing or recording the lien, indicate the earliest date on which the lien may be filed or recorded, and state the remedies available to the taxpayer to prevent the filing or recording of the lien. In the event tax liens are filed for the same liability in multiple counties, only one preliminary notice shall be sent.
- (b) The preliminary notice required by this section shall not apply to jeopardy determinations issued under Article 5 (commencing with Section 32311) of Chapter 6.
- (c) If the board determines that filing a lien was in error, it shall mail a release to the taxpayer and the entity recording the lien as soon as possible, but no later than seven days, after this determination and receipt of lien recording information. The release shall contain a statement that the lien was filed in error. In the event the erroneous lien is obstructing a lawful transaction, the board shall immediately issue a release of lien to the taxpayer and the entity recording the lien.
- (d) When the board releases a lien erroneously filed, notice of that fact shall be mailed to the taxpayer and, upon the request of the taxpayer, a copy of the release shall be mailed to the major credit reporting companies in the county where the lien was filed.
- (e) The board may release or subordinate a lien if the board determines that the release or subordination will facilitate the collection of the tax liability or will be in the best interest of the state and the taxpayer.

**32476.**

- (a) If any officer or employee of the board recklessly disregards board-published procedures, a taxpayer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.
- (b) In any action brought under subdivision (a), upon finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:
  - (1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.
  - (2) Reasonable litigation costs including any of the following:
    - (A) Reasonable court costs.
    - (B) Prevailing market rates for the kind or quality of services furnished in connection with any of the following:
      - (i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.
      - (ii) The reasonable cost of any study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party's case.
      - (iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars (\$75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.
- (c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff which contributed to the damages.
- (d) Whenever it appears to the court that the taxpayer's position in the proceeding brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars (\$10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under this part.

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Taxpayers' Rights Advocate's

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