

# AMADOR COUNTY ASSESSMENT PRACTICES SURVEY

**JULY 2012**

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No. 2012/030

July 31, 2012

TO COUNTY ASSESSORS:

AMADOR COUNTY  
ASSESSMENT PRACTICES SURVEY

A copy of the Amador County Assessment Practices Survey Report is enclosed for your information. The Board of Equalization (BOE) completed this survey in fulfillment of the provisions of sections 15640-15646 of the Government Code. These code sections provide that the BOE shall make surveys in each county and city and county to determine that the practices and procedures used by the county assessor in the valuation of properties are in conformity with all provisions of law.

The Honorable James B. Rooney, Amador County Assessor, was provided a draft of this report and given an opportunity to file a written response to the findings and recommendations contained therein. The report, including the assessor's response, constitutes the final survey report, which is distributed to the Governor, the Attorney General, and the State Legislature; and to the Amador County Board of Supervisors and Grand Jury.

Fieldwork for this survey was performed by the BOE's County-Assessed Properties Division from July through September 2010. The report does not reflect changes implemented by the assessor after the fieldwork was completed.

Mr. Rooney and his staff gave their complete cooperation during the survey. We gratefully acknowledge their patience and courtesy during the interruption of their normal work routine.

These survey reports give government officials in California charged with property tax administration the opportunity to exchange ideas for the mutual benefit of all participants and stakeholders. We encourage you to share with us your questions, comments, and suggestions for improvement.

Sincerely,

/s/ Louie Feletto for

David J. Gau  
Deputy Director  
Property and Special Taxes Department

DJG:ps  
Enclosure

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## **INTRODUCTION**

Although county government has the primary responsibility for local property tax assessment, the State has both a public policy interest and a financial interest in promoting fair and equitable assessments throughout California. The public policy interest arises from the impact of property taxes on taxpayers and the inherently subjective nature of the assessment process. The financial interest derives from state law that annually guarantees California schools a minimum amount of funding; to the extent that property tax revenues fall short of providing this minimum amount of funding, the State must make up the difference from the general fund.

The assessment practices survey program is one of the State's major efforts to address these interests and to promote uniformity, fairness, equity, and integrity in the property tax assessment process. Under this program, the State Board of Equalization (BOE) periodically reviews the practices and procedures (surveys) of every county assessor's office. This report reflects the BOE's findings in its current survey of the Amador County Assessor's Office.

The assessor is required to file with the board of supervisors a response that states the manner in which the assessor has implemented, intends to implement, or the reasons for not implementing the recommendations contained in this report. Copies of the response are to be sent to the Governor, the Attorney General, the BOE, and the Senate and Assembly; and the Amador County Board of Supervisors and Grand Jury. That response is to be filed within one year of the date the report is issued and annually thereafter until all issues are resolved. The Honorable James B. Rooney, Amador County Assessor, elected to file his initial response prior to the publication of our survey; it is included in this report following the Appendixes.

While typical management audit reports emphasize problem areas, they say little about operations that are performed correctly. Assessment practices survey reports also tend to emphasize problem areas, but they also contain information required by law (see *Scope of Assessment Practices Surveys* at page 2) and information that may be useful to other assessors. The latter information is provided in the hope that the report will promote uniform, effective, and efficient assessment practices throughout California.

## **SCOPE OF ASSESSMENT PRACTICES SURVEYS**

Government Code sections 15640 and 15642 define the scope of an assessment practices survey. As directed by those statutes, our survey addresses the adequacy of the procedures and practices employed by the assessor in the valuation of property, the volume of assessing work as measured by property type, and the performance of other duties enjoined upon the assessor.

In addition, pursuant to Revenue and Taxation Code<sup>1</sup> section 75.60, the BOE determines through the survey program whether a county assessment roll meets the standards for purposes of certifying the eligibility of the county to continue to recover costs associated with administering supplemental assessments. Such certification is obtained either by satisfactory statistical result from a sampling of the county's assessment roll, or by a determination by the survey team—based on objective standards defined in regulation—that there are no significant assessment problems in the county. The statutory and regulatory requirements pertaining to the assessment practices survey program are detailed in Appendix B.

Our survey of the Amador County Assessor's Office included reviews of the assessor's records, interviews with the assessor and his staff, and contacts with officials in other public agencies in Amador County who provided information relevant to the property tax assessment program.

Since this survey did not include an assessment sample pursuant to Government Code section 15640(c), our review included an examination to determine whether "significant assessment problems" exist, as defined by Rule 371.<sup>2</sup>

This report offers recommendations to help the assessor correct assessment problems identified by the survey team. The survey team makes recommendations when assessment practices in a given area are not in accordance with property tax law or generally accepted appraisal practices. An assessment practices survey is not a comprehensive audit of the assessor's entire operation. The survey team does not examine internal fiscal controls or the internal management of an assessor's office outside those areas related to assessment. In terms of current auditing practices, an assessment practices survey resembles a compliance audit—the survey team's primary objective is to determine whether assessments are being made in accordance with property tax law.

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<sup>1</sup> Unless otherwise stated, all statutory references are to the California Revenue and Taxation Code.

<sup>2</sup> All rule references are to sections of California Code of Regulations, Title 18, Public Revenues.

## EXECUTIVE SUMMARY

As stated in the Introduction, this report emphasizes problem areas we found in the operations of the assessor's office.

Many of our recommendations concern portions of programs which are currently effective, but need improvement. In many instances, the assessor is already aware of the need for improvement and is considering changes as time and resources permit.

In our review of the assessor's administration programs, we noted the assessor is properly handling staffing, workload, appraiser certification, and staff property and activities. However, we noted the assessment appeals and exemptions programs are in need of some improvement.

In the area of real property assessment, we noted the need for improvement in the following programs: change in ownership, new construction, California Land Conservation Act (CLCA) properties, taxable possessory interests, and mineral properties.

The assessor has effective programs for processing business property statements and valuing business equipment. However, we found improvement is needed in conducting audits, as well as assessing manufactured homes, aircraft, and vessels.

Despite the recommendations noted in this report, we found that most properties and property types are assessed correctly.

We found no significant assessment problems as defined in Rule 371. Since Amador County was not selected for assessment sampling pursuant to Government Code section 15643(b), this report does not include the assessment ratios that are generated for surveys that include assessment sampling. Accordingly, pursuant to section 75.60, Amador County continues to be eligible for recovery of costs associated with administering supplemental assessments.

Following is a list of the formal recommendations contained in this report, arrayed in the order that they appear in the text.

- RECOMMENDATION 1:** Instruct applicants to return the withdrawal form for an assessment appeal directly to the clerk of the board (clerk). .....12
- RECOMMENDATION 2:** Improve the exemptions program by: (1) exempting only that portion of a veterans' organization's property used exclusively for qualifying purposes, and (2) for the renewal of the low-income disabled veterans' exemption, calculating penalties on the amount over the basic exemption. ....16
- RECOMMENDATION 3:** Improve the LEOP program by applying appropriate penalties as required by section 482(b).....21

**RECOMMENDATION 4:** Improve the new construction program by: (1) classifying wells as land pursuant to Rule 124, (2) granting new construction exclusions for claims for disabled access improvements only upon compliance with sections 74.3 and 74.6. ....27

**RECOMMENDATION 5:** Deduct a charge for the return of the well value when valuing CLCA properties.....31

**RECOMMENDATION 6:** Improve the taxable possessory interest program by: (1) periodically reviewing all taxable possessory interests with stated terms of possession for declines in value, (2) assessing all taxable possessory interests, (3) correctly classifying property as a taxable possessory interest, (4) properly identifying the name of the specific government agency controlling the use of a property, (5) obtaining current copies of all lease agreements or permits for taxable possessory interests, (6) recognizing lessor expenses when valuing taxable possessory interests by the income approach, (7) adding the present worth of unpaid future contract rents to the sale price of a taxable possessory interest, (8) properly issuing supplemental assessments for taxable possessory interests upon a change in ownership or new construction, and (9) reappraising all taxable possessory interests upon a change in ownership as required by section 61(b).....32

**RECOMMENDATION 7:** Treat settling ponds and tailings facilities as separate appraisal units. ....37

**RECOMMENDATION 8:** Review unpatented mining claim valuation procedures to ensure compliance with Rule 21 regarding the addition of the present worth of future rental payments to the comparable sale price of unpatented mining claims.....38

**RECOMMENDATION 9:** Improve the audit program by: (1) timely auditing the books and records of professions, trades, and businesses pursuant to section 469, and (2) removing incorrect language from county-generated audit letters.....40

**RECOMMENDATION 10:** When depreciating manufactured homes for valuation purposes, use an in-house percent good table only when supported by a valid study. ....44

**RECOMMENDATION 11:** Properly allocate the sale price of a manufactured home in a resident-owned mobilehome park (ROP) between the value of the manufactured home and the value of the interest in the park.....45

- RECOMMENDATION 12:** Modify the aircraft assessment program by: (1) applying adjustments to the average retail price as outlined in Assessors' Handbook Section 577, *Assessment of General Aircraft* (AH 577), and (2) adjusting aircraft value estimates to reflect reported optional equipment. ....46
- RECOMMENDATION 13:** Collect the required fee when accepting the initial claim for the historical aircraft exemption in accordance with section 220.5(e).....48
- RECOMMENDATION 14:** Improve the vessel assessment program by: (1) using market derived factors to value vessels, (2) adding sales tax as a component of market value, and (3) sending a marina report form to all marinas. ....49



## OVERVIEW OF AMADOR COUNTY

Amador County was originally created from a portion of Calaveras County in 1854. In later years, Amador County expanded north to include portions of El Dorado County, while giving up its easterly Sierra territory to form Alpine County in 1863. Amador County is bordered by El Dorado County to the north, Alpine County to the east, Calaveras County to the south, and Sacramento County to the west.

Amador County is in the eastern foothills of the Central Valley within an area commonly referred to as the "Mother Lode." The county encompasses an area of about 605 square miles. Of the total area of the county, 593 square miles is land and the remaining 12 square miles is water. The county includes five incorporated cities: Amador City, Sutter Creek, Jackson, Ione, and Plymouth. The county seat is Jackson. As of 2009, the overall population of Amador County was estimated to be 37,876 residents.

The following table displays information pertinent to the 2010-11 assessment roll:

	PROPERTY TYPE	ENROLLED VALUE
<b>Secured Roll</b>	Land	\$1,668,707,985
	Improvements	\$2,720,108,690
	Personal Property	\$85,242,583
	Total Secured	\$4,474,059,258
<b>Unsecured Roll</b>	Land	\$3,651,018
	Improvements	\$42,095,144
	Personal Property	\$80,944,998
	Total Unsecured	\$126,691,160
<b>Exemptions<sup>3</sup></b>		(\$127,097,804)
	<b>Total Assessment Roll</b>	<b>\$4,473,652,614</b>

<sup>3</sup> The value of the Homeowners' Exemption is excluded from the exemptions total.

The next table summarizes the changes in assessed values over recent years:<sup>4</sup>

<b>ROLL YEAR</b>	<b>TOTAL ROLL VALUE</b>	<b>CHANGE</b>	<b>STATEWIDE CHANGE</b>
2010-11	\$4,473,653,000	-3.8%	-1.9%
2009-10	\$4,650,614,000	-2.5%	-2.4%
2008-09	\$4,769,654,000	6.6%	4.7%
2007-08	\$4,472,593,000	11.9%	9.6%
2006-07	\$3,996,050,000	13.3%	12.3%

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<sup>4</sup> State Board of Equalization Annual Report, Table 7

## ADMINISTRATION

This section of the survey report focuses on administrative policies and procedures of the assessor's office that affect both the real property and business property assessment programs. Subjects addressed include the assessor's budget and staffing, workload, appraiser certification, staff property and activities, assessment appeals, and exemptions.

### ***Budget and Staffing***

To enable the assessor to perform his duties, the county board of supervisors annually funds the assessor's office through the county's general fund. The allotted funds are provided so the assessor can produce a timely assessment roll, administer legally permissible exemptions, develop and maintain a set of current maps delineating property ownership, defend assessments as required before an appellate body, and provide information and services to the public as needed.

The following table shows the assessor's budget and staffing over recent years:

<b>BUDGET YEAR</b>	<b>GROSS BUDGET</b>	<b>CHANGE</b>	<b>PERMANENT STAFF</b>
2010-11	\$1,198,245	0.7%	11
2009-10	\$1,189,464	0.8%	12
2008-09	\$1,179,943	2.7%	13
2007-08	\$1,148,976	11.2%	12
2006-07	\$1,033,178	N/A	12

The Amador County Assessor's Office has a full-time budgeted staff of 11 positions. This includes the assessor, the assistant assessor, 4 real property appraisers, 1 auditor-appraiser, 1 drafting technician, and 3 support staff.

### ***Workload***

Generally, the assessor is responsible for annually determining the assessed value of all real property and business personal property (including machinery and equipment) in the county. To accomplish this task, the assessor reviews recorded documents and building permits to discover assessable property. In addition, the assessor will identify and value all business personal property (including machinery and equipment), process and apply tax exemption claims for property owned by qualifying religious and welfare organizations, and prepare assessment appeals for hearing before the local board of equalization.

In addition, for most real property, the assessor is required to annually enroll the lower of current market value or the factored base year value. Therefore, when any factor causes a decline in the market value of real property, the assessor must review the assessment of the property to determine whether the decline has impacted the taxable value of the property for that year. In

certain economic times, this decline may greatly impact the workload of the assessor. Additionally, the number of assessment appeals may increase during this period.

According to the prior tables, the assessor's roll value has decreased each of the last two years, while the gross budget has increased each of the last five years. The assessor's workload has also fluctuated over recent years, reflecting volatile market conditions. The number of assessable changes in ownership showed a slight increase over the last roll year due to an increase in the number of foreclosures, while the two prior years showed decreases. There was a decrease each of the last three years in the number of building permits filed resulting in assessable new construction, while there was an increase in the number of assessment appeals filed for each of those years. We also noted a substantial increase in the number of declines in value enrolled for the 2009-10 roll year.

These trends are shown in the following table:

<b>Workload Description</b>	<b>2009-10</b>	<b>2008-09</b>	<b>2007-08</b>	<b>2006-07</b>	<b>2005-06</b>
Changes in Ownership	1,091	1,082	1,109	1,341	1,965
New Construction	269	568	657	948	893
Declines In Value	4,068	728	730	226	300
Assessment Appeals	47	48	25	11	14

***Appraiser Certification***

Section 670 provides that no person shall perform the duties of an appraiser for property tax purposes unless he or she holds a valid appraiser's certificate issued by the BOE. There are a total of 7 certified appraisers on staff, including the assessor; 4 hold advanced appraiser's certificates. We found that the assessor and his staff possess the required appraiser's certificates. Additionally, we found that the auditor-appraiser performing audits meets the requirements referenced in section 670(d). The assessor uses one contract appraiser.

In Amador County, the assistant assessor is the training coordinator, and oversees the training and certification program for appraisers. Individual education is tracked utilizing the BOE annual reports. Although there is no financial incentive to obtain an advanced certificate, appraisers are encouraged to take the necessary courses to obtain the certificate.

According to our report on training hours for Amador County, no appraisers were deficient as of June 30, 2010. The assistant assessor is careful to ensure none of the appraisal staff is deficient in training hours and follows up on any discrepancies reported on the BOE training report.

Amador County has contracted with a private appraisal firm to provide services to the assessor for the appraisal of mineral properties. The contractor possesses an advanced certificate and is current in his continuing education hours.

We found no problems with the assessor's appraiser certification program.

### ***Staff Property and Activities***

The BOE's assessment practices survey includes a review of the assessor's internal controls and safeguards as they apply to staff-owned properties and conflicts of interest. This review is done to ensure there are adequate and effective controls in place to prevent the assessor's staff from being involved in the assessment of property in which they have an ownership interest and to prevent conflicts of interest.

The assessor becomes aware of employee-owned property through name recognition when a recorded deed is received in the office, through self-declaration by the employee acquiring the property, and from the annual filing of the California Fair Political Practices Commission Form 700, Statement of Economic Interests (Form 700), which requests information regarding employee ownership in any real property, other than their primary residence, as well as ownership interest in any business entity.

The assessor's policy is that no employee shall perform work that will result in changing assessment roll data, such as, but not limited to, ownership, values, exemptions, comparable benchmarking, and property characteristics for properties owned by the employee, their spouse, parents, or children. When an appraisal for either a change in ownership or completed new construction is required on a staff-owned property or business, it is assigned to the appraiser responsible for that geographic area. The assistant assessor and the assessor review the appraisal, and ensure that it is completed by someone other than the property owner. The assessor's policy states that violation of the employee-owned assessment policy will result in discipline up to, and including, termination of employment.

The assessor has policies and procedures in place to prevent conflicts of interest. Among other activities, employees are not allowed to engage in non-assessor office appraisal or appraisal related activities within Amador County. Employees are required to apply in writing to the assessor for approval prior to beginning all outside employment and meet with the assessor to review the conditions of outside activity. Employees engaged in outside employment must report on a quarterly basis, listing all outside appraisal or accounting assignments within the reporting period. Lastly, all employees are required to comply with the reporting requirements for Form 700. The assessor's policy clearly states that violation of the assessor's policy regarding conflict of interest shall be grounds for dismissal.

We reviewed the assessor's staff-owned property and activities policies and procedures, as well as a number of staff-owned properties. We found no problems with the assessor's staff property and activities program.

### ***Assessment Appeals***

The assessment appeals function is prescribed by article XIII, section 16 of the California Constitution. Sections 1601 through 1641.5 are the statutory provisions governing the conduct and procedures of assessment appeals boards and the manner of their creation. As authorized by Government Code section 15606, the Board has adopted Rules 301 through 326 to regulate the assessment appeals process.

Pursuant to section 1601, the body charged with the equalization function for the county is the appeals board, which is either the county board of supervisors meeting as a county board of equalization or an appointed assessment appeals board. Appeal applications must be filed with the clerk of the board (clerk). The regular time period for filing an appeal application, as set forth in section 1603, is July 2 to September 15; however, if the assessor does not provide notice to all taxpayers of real property on the local secured roll of the assessed value of their real property by August 1, then the last day of the filing period is extended to November 30. Section 1604(c) and Rule 309 provide that the appeals board must make a final determination on an appeal application within two years of the timely filed appeal application unless the taxpayer and appeals board mutually agree to an extension of time or the application is consolidated for hearing with another application for reduction by the same taxpayer.

In Amador County, the five-member board of supervisors serves as the county board of equalization for assessment appeals. There are no hearing officers. The filing period for Amador County assessment appeals is July 2 through November 30 for the assessment year in question.

The following table sets forth the assessment appeals workload in recent years:

ASSESSMENT ROLL	2009-10	2008-09	2007-08	2006-07	2005-06
Appeals Filed	47	48	25	11	14
Appeals Carried Over From Prior Year	23	28	21	20	14
<b>Total Appeals Workload</b>	<b>70</b>	<b>76</b>	<b>46</b>	<b>31</b>	<b>28</b>
Resolution:					
Withdrawn	18	18	6	2	3
Stipulation	34	23	4	2	1
Appeals Reduced	0	9	5	5	2
Appeals Upheld	2	0	1	1	1
Appeals Increased	0	0	0	0	0
Other Determination*	4	3	2	0	1
<b>Total Resolved</b>	<b>58</b>	<b>53</b>	<b>18</b>	<b>10</b>	<b>8</b>
To Be Carried Over**	12	23	28	21	20

\* Note: Includes, but not limited to late-filed appeals, applicants' failure to appear and board denied applications.

\*\*Note: "To Be Carried Over" includes appeals with time extensions by mutual agreement of the parties.

The increase in appeals filed in recent years reflects the overall decline in property market values statewide.

Property owners typically contact the assessor's office when they have questions involving the valuation of their property before filing an appeal. Owners may request that the assessor review their assessment by completing the assessor's *Request for Assessment Review* form available at the assessor's public counter or available on the assessor's website. Consequently, many

valuation questions or concerns are resolved in the assessor's office without the need for an appeal.

The clerk is responsible for providing applications for changed assessment to the public. The application can be obtained at the board of supervisors' public counter or through the Amador County website. The clerk receives the application, date stamps it, reviews it for completeness and timely filing, provides a copy to the assessor, and schedules the appeal for a hearing. In compliance with section 1605.6, the clerk sends a letter to the applicant with notification of the time, date, and place of the hearing.

The assessor's administrative support supervisor receives a copy of the appeal application and any supporting documentation the applicant may have provided from the clerk. She then reviews the appeal, tracks the appeal in the computer on a spreadsheet log, and assigns the appeal to the appropriate appraiser for handling. The assigned appraiser attempts to make contact with the applicant prior to the hearing in an effort to resolve the issue before going through a formal appeals process. If an agreement is reached, the applicant may withdraw the appeal or a stipulation may be created. If an applicant decides to withdraw the appeal, the administrative support supervisor sends a letter of withdrawal for the applicant's signature and provides a return envelope for their convenience. Once the administrative support supervisor receives the signed withdrawal, she makes a photocopy for the assessor's records and delivers the original withdrawal request to the clerk. If the applicant and the assessor agree to a changed value, a stipulation is created, outlining the details of the agreement. Upon receipt of the signed stipulation, the administrative support supervisor forwards the stipulation to the appeals board for approval before enrolling the agreed upon value. If no agreement can be reached, the appeal process continues and a hearing takes place.

Assessment appeals hearings are held on Tuesdays to coincide with regular board meetings. Although it is the assigned appraiser who prepares and presents the appeal, the assessor attends all appeals hearings. We attended one scheduled appeals hearing. We reviewed the appeal packet to be presented by the assigned appraiser and found it to be complete and well organized, with documentation supporting the assessor's opinion of value.

We reviewed several records involving assessment appeals and found them to be well documented and complete. No appeal has gone unresolved for more than two years without a timely filed extension. Overall, the assessor's assessment appeals program is well administrated, with experienced staff that is well prepared and works well with the assessment appeals board. However, we did find one area in need of improvement.

**RECOMMENDATION 1:** Instruct applicants to return the withdrawal form for an assessment appeal directly to the clerk of the board (clerk).

When an applicant notifies the assessor of their intent to withdraw their application for appeal, the administrative support supervisor mails a withdrawal form with a letter and return envelope to the applicant requesting that the applicant sign and return the withdrawal form directly to the assessor's office. After receipt and review of the withdrawal form, the administrative support supervisor retains a copy for the assessor's records and sends the original to the clerk.

The county board of equalization is an independent entity, whose function is to resolve value disputes between taxpayers and the assessor. Therefore, it is inappropriate for the assessor to act as an intermediary between this board and taxpayers by requesting taxpayers to submit withdrawal forms to the assessor.

The assessor's procedure could give the appearance that the assessor is intervening in the right of every appellant to an independent third-party review. The assessor should revise the withdrawal letter to instruct the applicant to submit the request for withdrawal directly to the clerk rather than the assessor's office. The clerk should then timely forward a copy of the withdrawal form to the assessor.

### **Exemptions**

For the exemptions portion of the Amador County survey, we reviewed a sampling of church, religious, welfare, and disabled veterans' exemptions.

The exemptions program is administered by the assessor's administrative supervisor and an administrative assistant. In addition to having attended the California Assessors' Association Exemptions Workshop, Levels I and II, the assessor relies on Publication 149: *Property Tax Welfare Exemption*, Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions* (AH 267), and other resources on the BOE website for guidance in his administration of the exemptions program. The assessor also maintains internal procedures for processing claims, as well as the entry and maintenance of exemptions on the system.

We found exemption claims are date-stamped, thoroughly reviewed, and the assessor ensures the inclusion of necessary documents, such as Supplemental Affidavits and valid *Organizational Clearance Certificates* (OCCs), when applicable.

All first time filings for exemptions are field inspected by appraisers, who then submit BOE-267-FIR, *Welfare Exemption Assessor's Field Inspection Report*, detailing their findings. After a first filing, field inspections are conducted if there is any indication of nonqualifying use of the property.

In addition to requiring a copy of an OCC for the first filing of a welfare exemption, the assessor annually reviews all OCCs on the BOE website to ensure their continued validity.

### **Church and Religious Exemptions**

Article XIII, section 3(f) of the California Constitution authorizes exemption of property used exclusively for religious worship. This constitutional provision, implemented by section 206, exempts buildings, the land on which they are situated, and equipment used exclusively for religious worship when such property is owned or leased by a church. Property that is reasonably and necessarily required for church parking is also exempt under article XIII, section 4(d) of the California Constitution, provided that the property is not used for commercial purposes. The church parking exemption is available for owned or leased property meeting the requirements of section 206.1. The Legislature has also implemented the religious exemption in section 207, which exempts property owned by a church and used exclusively for religious worship or for



both religious worship and school purposes (excluding property used solely for schools of collegiate grade).

County assessors administer the church and religious exemptions. The church exemption, including the church parking exemption, requires an annual filing of the exemption claim. The religious exemption requires a one-time filing by the claimant, although the assessor annually mails a form to claimants to confirm continuing eligibility for the exemption. Once granted, the religious exemption remains in effect until terminated or until the property is no longer eligible for the exemption.

The following table presents religious and church exemption data for recent years:

ROLL YEAR	RELIGIOUS EXEMPTIONS	EXEMPTED VALUE	CHURCH EXEMPTIONS	EXEMPTED VALUE
2010-11	35	\$10,736,788	2	\$275,514
2009-10	35	\$10,760,237	2	\$251,169
2008-09	34	\$10,219,204	2	\$270,755
2007-08	33	\$ 9,916,476	2	\$265,447
2006-07	33	\$ 9,604,849	2	\$260,243

### Welfare Exemption

Article XIII, section 4(b) of the California Constitution authorizes the Legislature to exempt property owned and used exclusively for religious, hospital, or charitable purposes by organizations formed and operated exclusively for those purposes. When the Legislature enacted section 214 to implement this constitutional provision, a fourth purpose (scientific) was added. Both the organizational and property use requirements must be met for the exemption to be granted.

The welfare exemption is co-administered by the BOE and county assessors. The BOE is responsible for determining whether an organization itself is eligible for the welfare exemption and for issuing either *Organizational Clearance Certificates* (OCCs) to qualified organizations or *Supplemental Clearance Certificates* (SCCs) to limited partnerships, which have a qualified organization as the managing general partner, that own and operate low-income housing. The assessor is responsible for determining whether the use of a qualifying organization's property is eligible for exemption and for approving or denying exemption claims.

The assessor may not grant a welfare exemption on an organization's property unless the organization holds a valid OCC issued by the BOE or a valid SCC issued by the BOE if the property is a low-income housing property owned and operated by a limited partnership, which has a qualified organization (OCC holder) as the managing general partner. The assessor may, however, deny an exemption claim based on non-qualifying use of the property, notwithstanding that the BOE has issued an OCC or SCC to the claimant.

The following table shows welfare exemption data for recent years:

<b>ROLL YEAR</b>	<b>WELFARE EXEMPTIONS</b>	<b>EXEMPTED VALUE</b>
2010-11	55	\$105,367,066
2009-10	55	\$106,006,941
2008-09	56	\$122,271,571
2007-08	56	\$99,038,421
2006-07	56	\$72,373,457

### Disabled Veterans' Exemption

The disabled veterans' exemption is authorized by article XIII, section 4(a) of the California Constitution. This constitutional provision, implemented by section 205.5, exempts a specified amount of the value of a dwelling when occupied as a principal place of residence by a qualified disabled veteran (or the veteran's unmarried surviving spouse). The property must be owned by the veteran, the veteran's spouse, or the veteran and the veteran's spouse jointly. The amount of exemption is \$100,000 or, for qualifying low-income veterans, \$150,000. Both of these amounts are adjusted annually by a cost of living index.

The disabled veterans' exemption at the \$100,000 basis requires a one-time filing, while the low-income exemption at the \$150,000 level requires annual filings to ensure the claimant continues to meet the household low-income restriction.

The following table presents disabled veterans' exemption data for recent years:

<b>ROLL YEAR</b>	<b>DISABLED VETERANS' EXEMPTIONS</b>	<b>EXEMPTED VALUE</b>
2010-11	66	\$7,548,050
2009-10	58	\$6,639,135
2008-09	55	\$6,079,221
2007-08	56	\$5,900,671
2006-07	52	\$5,073,917

Overall, the assessor maintains an effective exemptions program, adhering to policies and procedures suggested by handbooks, Letters To Assessors, and the statutes pertaining to property tax exemptions. Exemption claim files are well organized and easily accessed, and the history and details of a property's exemption are well documented. Of particular note is the attention the assessor gives to field inspections and field inspection reports, as well as the annual review of OCCs for continued validity.

While the general operation of the assessor's exemptions program is commendable, we did discover two areas that could be improved.

**RECOMMENDATION 2:** Improve the exemptions program by: (1) exempting only that portion of a veterans' organization's property used exclusively for qualifying purposes, and (2) for the renewal of the low-income disabled veterans' exemption, calculating penalties on the amount over the basic exemption.

**Exempt only that portion of a veterans' organization's property used exclusively for qualifying purposes.**

The assessor grants a veterans' organization exemption to two adjoining parcels that are owned by a veterans' organization. One parcel is operated by the veterans' organization and used for the regular functions of a veterans' organization; the other parcel is operated by a subscription ambulance service for residents of Amador and Calaveras Counties. The veterans' organization maintains a separate organization to administer the operations of the ambulance service.

The assessor entirely exempts one parcel and all but 15 percent of the other parcel. Statutes provide that portions of veterans' organization property used *exclusively* for charitable activities may be exempt. While there are no notes in the file regarding the use of the parcel containing the veterans' hall, veterans' organization properties generally only qualify for areas used for the commandant's office, offices used for veterans' records and/or counseling for veterans and their families, and facilities used for scout troop equipment storage. The property of veterans' organizations used for bars and dining facilities primarily have a social aspect and are often available for rental and would not, therefore, be eligible for exemption.

Additionally, the operation of the adjoining property by an organization that does not possess an OCC makes it ineligible for exemption. If, however, the ambulance service did qualify and obtained an OCC, the combination of both owner (the veterans' organization) and operator (the ambulance service) qualifying and filing for the welfare exemption may allow the assessor to exempt the property.

**For the renewal of the low-income disabled veterans' exemption, calculate penalties on the amount over the basic exemption.**

We found that the assessor calculates late-filing penalties on the low-income provision of the disabled veterans' exemption based on the entire amount of exemption.

Section 276(b) states, "If a late-filed claim for the one-hundred-fifty-thousand-dollar (\$150,000) exemption is filed in conjunction with a timely filed claim for the one-hundred-thousand-dollar (\$100,000) exemption, the amount of any exemption allowed under the late-filed claim under subdivision (a) shall be determined on the basis of that portion of the exemption amount, otherwise available under subdivision (a), that exceeds one hundred thousand dollars (\$100,000), as applicable."

The disabled veterans' exemption requires a one-time filing. Thereafter, the basic amount of the exemption does not require a separate filing. A claimant for the disabled veterans' exemption must annually file for any amount over the basic and it is that amount on which penalties are to be calculated.

Calculating penalties on the entire exemption amount rather than the amount exceeding the basic level can have an exceedingly harsh impact to the claimant. For example, using the 2009 disabled veterans' exemption amounts of \$114,634 and \$171,952 for the basic and low income amounts, respectively, a claimant filing for the maximum exemption and receiving a 90 percent late-filing penalty should receive 90 percent of the amount over \$114,634; an exemption of \$166,220. Penalties calculated on the entire amount yields an exemption of \$154,757 – a difference of approximately \$11,500. The assessor should adjust his procedures to grant the claimant the proper exemption.

## **ASSESSMENT OF REAL PROPERTY**

The assessor's program for assessing real property includes the following principal elements:

- Revaluation of properties that have changed ownership.
- Valuation of new construction.
- Annual review of properties that have experienced declines in value.
- Annual revaluations of certain properties subject to special assessment procedures, such as property subject to California Land Conservation Act contracts and taxable possessory interests.

Article XIII A of the California Constitution provides that, absent post-1975 new construction or changes in ownership, the taxable value of real property shall not exceed its 1975 full cash value, except that it can be adjusted annually for inflation by a factor not to exceed 2 percent.

### *Change in Ownership*

Section 60 defines change in ownership as a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee simple interest. Sections 61 through 69.5 further clarify what is considered a change in ownership and what is excluded from the definition of change in ownership for property tax purposes. Section 50 requires the assessor to enter a base year value on the roll for the lien date next succeeding the date of the change in ownership; a property's base year value is its fair market value on the date of change in ownership.

### **Discovery**

The Amador County Assessor's primary source of discovering properties which have changed ownership is by reviewing deeds and other documents recorded at the county recorder's office. The recorder's office requires BOE-502-A, *Preliminary Change of Ownership Report (PCOR)*, to accompany documents submitted for recording that transfer ownership of real property. If a transfer document is received without a PCOR, the recorder's office will apply a \$20 charge to the recording fee. PCORs are available to the public at the assessor's office and the recorder's office, as well as on the assessor's website. PCORs are hand delivered to the assessor's office daily. The assessor has computer access to the recorder's entire cumulative database of recorded documents and reviews them all on a weekly basis, making copies of those documents that indicate a change in ownership.

Other means used by the assessor to discover potential changes in ownership are through the BOE's Legal Entity Ownership Program (LEOP). In addition, changes in ownership are discovered by information from taxpayers, attorneys, and family members, as well as reviewing newspapers, business property statements, changes of name and address for tax bills, and requests for homeowner's exemptions.

The following table shows the total number of reappraisable transfers in Amador County in recent years:

<b>ROLL YEAR</b>	<b>REAPPRAISABLE TRANSFERS</b>
2009-10	1,091
2008-09	1,082
2007-08	1,109
2006-07	1,341
2005-06	1,965

According to the assessor, the recent slight increase in reappraisable transfers reflects not only a decline in property values, making properties in this rural county more affordable, but also an increase in foreclosure activity and subsequent resales.

### Document Processing

There are two change in ownership technicians that screen all recorded documents in the recorder's data base. Documents needing verification of legal description or an assessor's parcel number (APN) are routed to the mapping section. Incomplete PCORs are returned to the property owner with a letter requesting completion and return of the PCOR to the assessor's office.

The change in ownership technicians verify and compare information on the recorded documents and PCORs, such as the grantor's name, legal description, and APN, with the information in the assessor's database. If all the information matches the assessor's records, the new owner's information is entered into the database using the appropriate transfer document code. The property record is also updated with the current transfer information. The recorded documents and PCORs are analyzed to determine if the transfer is reappraisable, and if so, what percentage transferred, or if an exclusion from reassessment applies. If it appears an exclusion may apply, the appropriate exclusion form is mailed to the property owner and the reassessment is held in a suspense file pending the return of the completed form. If an event is determined to be reappraisable, an appraisal worksheet is generated directing reassessment for the transfer event and sent to the appropriate appraiser for reassessment.

### Penalties

When a recorded document is received without a PCOR, the change in ownership technician sends BOE-502-AH, *Change in Ownership Statement (COS)*, with a 30 day request for completion and return of the COS. If the COS is not received within that time period, a second COS is sent with a 15 day request for completion and return. After the second notice is sent and the COS is not received within the time permitted, the assessor applies the penalty required by section 482(a).<sup>5</sup>

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<sup>5</sup> Effective January 1, 2012, Senate Bill 507 (Stats. 2011, ch. 708) amends section 482(a) to allow property owners 90 days to return a completed COS when requested by the assessor before penalties are applicable.

## Transfer List

Pursuant to section 408.1(a), the assessor shall maintain a list of transfers of any interest in property, other than an undivided interest, within the county, which have occurred within the preceding two-year period. Section 408.1(e) states the provisions of section 408.1(a) shall not apply to any county with a population under 50,000 people, as determined by the 1970 federal decennial census. Based on the population of 11,821 in Amador County in 1970, the assessor is not required to maintain a transfer list. However, the assessor does have a transfer list available to the public without charge.

A computer is available at the assessor's public counter for the public's use enabling access to transfer information. The transfer list is updated periodically and contains two years of preceding transfers. It is divided into geographical areas by city, APN book, and address. The list includes the names of the transferor and transferee (if available), the APN, the date of transfer/recording, the document number, and the documentary transfer tax (if available). Data provided on the transfer list is obtained from the indicated sale price calculated from the documentary transfer tax. The assessor's staff is available to assist the public in searching the transfer list and provides free copies of sales data. The assessor's transfer list is in full compliance with the provisions of section 408.1.

## Legal Entity Ownership Program (LEOP)

Section 64 provides that certain transfers of ownership interests in a legal entity constitute a change in ownership of all real property owned by the entity and any entities under its ownership control. Rule 462.180 interprets and clarifies section 64, providing examples of transactions that either do or do not constitute a change in entity control and, hence, either do or do not constitute a change in ownership of the real property owned by the entity. Discovery of these types of changes in ownership is difficult for assessors, because ordinarily there is no recorded document evidencing a transfer of an ownership interest in a legal entity.

To assist assessors, the BOE's LEOP section gathers and disseminates information regarding changes in control and ownership of legal entities that hold an interest in California real property. On a monthly basis, LEOP transmits to each county assessor a listing, with corresponding property schedules, of legal entities that have reported a change in control under section 64(c) or change in ownership under section 64(d). However, because the property affected is self-reported by the person or entity filing information with the BOE, LEOP advises assessors to independently research each entity's property holdings to determine whether all affected parcels have been identified and properly reappraised.

Sections 480.1, 480.2, and 482 set forth the filing requirements and penalty provisions for reporting of legal entity changes in control under section 64(c) and changes in ownership under 64(d). A change in ownership statement must be filed with the BOE within 90 days of the date of change in control or change in ownership; reporting is made on BOE-100-B, *Statement of Change in Control and Ownership of Legal Entities*. Section 482(b) provides for application of penalty if a person or legal entity required to file a statement under 480.1 and 480.2 does not do so within 90 days from the earlier of (1) the date of change in control or ownership or (2) the

date of written request by the BOE. The BOE advises county assessors of entities that are subject to penalty so they can impose the applicable penalty to the entity's real property.

Monthly reports received from the BOE are routed to the change in ownership technicians for processing. The technicians review the reports to confirm if any of the legal entities having undergone a change in control or ownership own property in Amador County. Parcels located within the county are identified and reviewed. The technicians also perform a name search on the computer system to ensure all of the entity's real property is reassessed.

The technicians discover potential changes in control of legal entities from newspaper articles, business property statements, taxpayer reporting, appraiser observations in the field, and word of mouth. If a technician discovers a change in control or ownership not listed on the LEOP reports, they notify the BOE's LEOP section by submitting BOE-100-BR, *County Assessor Legal Entity Transfer Referral*.

Once the technicians verify a change in control has taken place causing a reappraisable event, they ensure all of the properties involved in the change in control have been identified and create a transfer event in the computer, which is then assigned to an appraiser or auditor-appraiser for valuation. They also review the BOE's annual *Non-Response List* to identify any of the entities who may own property in Amador County.

Our review of several records show the assessor does a thorough job of reviewing LEOP reports and reassessing all property interests identified, as well as identifying additional properties not reported on the form. We found that the assessor processes LEOP notices properly and promptly revalues parcels having undergone a change in control or ownership. There is, however, one area in which the assessor can improve the LEOP program.

**RECOMMENDATION 3:** Improve the LEOP program by applying appropriate penalties as required by section 482(b).

We found instances where penalties were not applied for late filing of BOE-100-B.

Sections 480.1 and 480.2 require the filing of a signed BOE-100-B whenever a legal entity has undergone a change in control or ownership. At the time of our survey, section 482(b) provided that if a person or legal entity failed to file BOE-100-B within 45 days (90 days as of 1/1/12) of the BOE's written request, they were subject to a 10 percent penalty.<sup>6</sup> The BOE generated report titled, *Questionnaire Due Dates and Filing Dates for Entities Indicating a Change in Control or Change in Ownership – By Company*, lists legal entities which have undergone a change in control or ownership, and identifies due dates and actual filing dates of BOE-100-B for each entity. This report should be reviewed by the assessor and help to identify entities that have late filings in order to timely apply penalties to those properties.

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<sup>6</sup> Effective January 1, 2010, Senate Bill 816 (Stats. 2009, ch. 622) amends section 482(b) to provide for the application of a penalty if a person or legal entity fails to file a statement within 45 days of: (1) the date the change in control or the change in ownership occurred, or (2) the date of a written request from the BOE (filing of BOE-100-B), whichever occurs earlier. Prior to January 1, 2010, the penalty was only applicable if the statement was not filed within 45 days of a written request. In addition, effective January 1, 2012, Senate Bill 507 (Stats. 2011, ch. 708) amends the filing requirement from 45 days to 90 days for a legal entity to report a change in control or change in ownership, or to comply with a written request from the BOE, whichever occurs earlier.



The information on the BOE-100-B assists the assessor in determining if a change in ownership or change in control has occurred and in making an accurate assessment of a property. BOE-100-Bs filed beyond the second questionnaire (Q2) due date are considered late and, therefore, are subject to penalty. By failing to apply the required section 482(b) penalty, the assessor is not following statutory requirements and is not treating taxpayers equitably.

**Change in Ownership Exclusions – Section 63.1**

Section 63.1 generally excludes from the definition of "change in ownership" the purchase or transfer of principal residences and the first \$1 million of other real property between parents and children. Section 63.1 also excludes qualifying purchases or transfers from grandparents to their grandchildren.

To enforce the \$1 million limit for property other than principal residences, the BOE maintains a database that lists transfers of such property statewide. To further the state and local interests served by tracking these transfers, section 63.1 encourages county assessors to report such transfers to the BOE on a quarterly basis. The quarterly reporting, which was formerly mandatory, is now optional. Even if an assessor opts not to report quarterly to the BOE, however, the assessor must track such transfers internally to be in compliance with section 63.1.

The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any transferors who have exceeded their \$1 million limit. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.

Applications and information regarding section 63.1 exclusions are available to the public at the assessor's office and on the assessor's website. The assessor submits optional quarterly reports to the BOE listing approved section 63.1 transfer exclusions.

The following table shows section 63.1 claims filed in Amador County in recent years:

<b>ROLL YEAR</b>	<b>SECTION 63.1 CLAIMS FILED</b>
2009-10	102
2008-09	220
2007-08	220
2006-07	177
2005-06	207

The change in ownership technicians review all section 63.1 applications and determine if the exclusion will be accepted or denied. If a PCOR indicates a transfer may be between a parent(s) and child(ren) or from grandparent(s) to grandchild(ren), and a claim form was not submitted, a claim form and cover letter is sent to the property owner advising of a possible exclusion from reassessment. When a claim form is sent, the technician holds the PCOR in a suspense file, allowing 60 days for the owner to respond before the property is assigned to the appropriate appraiser for reassessment.

Very few claims involving property within the county have exceeded the \$1,000,000 limitation. The technicians review the *Report of Transferors Exceeding \$1,000,000* from the BOE. For transfers having exceeded the limit, the technician makes contact with other counties and the claimant to clarify information, and to determine which properties to exclude and which to reappraise.

Pursuant to section 63.1(i), the assessor keeps all claim forms in a secure area and the information is not accessible to the public in order to protect property owner confidentiality.

We reviewed several section 63.1 claim forms and found them to be properly handled.

### Change in Ownership Exclusions – Section 69.5

Section 69.5 generally allows persons 55 years of age or older, or who are severely and permanently disabled, to transfer the base year value of a principal residence to a replacement residence of equal or lesser value located within the same county. A county board of supervisors may provide by ordinance that base year values may be transferred from properties located outside the county.

In general, a person may claim relief under section 69.5 only once during their lifetime. To prevent improper multiple claims for this relief, section 69.5 requires county assessors to report to the BOE, on a quarterly basis, any approved section 69.5 claims.

The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any improper multiple claims. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.

Amador County does not have an ordinance in place to accept base year value transfers from other counties. As required, the assessor reports to the BOE on a quarterly basis any approved section 69.5 applications.

The following table represents section 69.5 claims filed in recent years.

<b>ROLL YEAR</b>	<b>SECTION 69.5 CLAIMS FILED</b>
2009-10	3
2008-09	7
2007-08	44
2006-07	47
2005-06	28

To avoid duplicate filing of a section 69.5 claim, the assessor reviews the *Duplicate Social Security Report* from the BOE to determine if any claims made in Amador County duplicate any claims made previously in another county.

We reviewed several section 69.5 base year transfer exclusions, including filed applications, and found all documents to be in compliance.

## Valuation

In general, each real property appraiser in the assessor's office is responsible for the reassessment of all residential property types within their assigned geographic area. There are two real property appraisers assigned to reassess all commercial property transfers in the county.

Under supervision, each real property appraiser is responsible for ensuring that their assigned work is completed, resulting in timely assessment of properties that have changed ownership. Every reappraisable transfer is reviewed to confirm the reported sale price accurately reflects market value. Residential changes in ownership are valued using the market approach to value, while commercial property changes in ownership are valued using both market and income approaches to value. If the property is unique, the cost approach to value may also be considered. Field inspections are at the appraiser's discretion and are conducted if the property has any condition issues, there is a discrepancy with the characteristics, it is a high-end custom property, or market data is not available. All appraisals are reviewed and approved by the assistant assessor prior to enrollment.

In accordance with the provisions of Rule 2, it is the policy of the Amador County Assessor's Office that the sale price of a property shall be considered to be the full cash value, barring compelling evidence to the contrary. The sale price presumption may be overcome by a preponderance of the evidence.

The assessor's office maintains a computer database of comparable sales information for all types of properties. Each appraiser is responsible for updating comparable sales information for their assigned area. Maintaining the comparable sales database includes entering the sales data into the computer and classifying the sale. The primary source of sale price information for this database is the PCOR, which provides a good deal of information concerning the transaction. The appraiser reviews the PCOR for information on the sale price, conditions of the sale, condition of the property at the time of sale, whether the property is improved or vacant, and whether it produces income. The assessor's office is a member of the Amador County Multiple Listing System and has access to all current listings and sales information for properties in the county.

We reviewed the files of several properties recently valued by the assessor for changes in ownership and found the assessor establishes the correct base year, uses reasonable appraisal techniques, correctly values partial interest transfers, correctly applies the annual inflation factor, and correctly enrolls supplemental assessments.

## Improvement Bonds

Improvement bonds are instruments used to finance construction of public improvements that generally enhance the land value of privately owned real property, such as sewers, sidewalks, lighting, and water lines. Land directly benefiting from such improvements is pledged as security for payment of the construction loan.

Section 110(b) provides there is a rebuttable presumption that the value of improvements financed by the proceeds of an assessment resulting in a lien imposed on the property by a public entity is reflected in the total consideration, exclusive of that lien amount, involved in the transaction. This presumption may be overcome if the assessor establishes by a preponderance of the evidence that all or a portion of the value of those improvements is not reflected in that consideration.

The assessor presumes that the value of the improvements financed by the bonds is reflected in the purchase price paid for the property, exclusive of the bond amount, and does not add the bonds to the purchase price.

### ***New Construction***

Section 70 defines newly constructed property, or new construction, as (1) any addition to real property since the last lien date, or (2) any alteration of land or improvements since the last lien date that constitutes a major rehabilitation of the property or converts the property to a different use. Further, section 70 establishes that any rehabilitation, renovation, or modernization that converts an improvement to the substantial equivalent of a new improvement, constitutes a major rehabilitation of the improvement. Section 71 requires the assessor to determine the full cash value of newly constructed real property on each lien date while construction is in progress and on its date of completion, and provides that the full cash value of completed new construction becomes the new base year value of the newly constructed property.

Rules 463 and 463.500 clarify the statutory provisions of sections 70 and 71, and the Assessors' Handbook Section 502, *Advanced Appraisal*, Chapter 6, provides guidance for the assessment of new construction.

There are several statutory exclusions from what constitutes new construction; sections 70(c) and (d), and sections 73 through 74.7 address these exclusions.

The Amador County Assessor has written procedures, policies, and forms dealing with the discovery and assessment of new construction. The assessor's website provides several new construction exclusion forms for taxpayers.

### **Discovery**

Building permits are the assessor's primary means of discovering new construction. The assessor receives permits from seven permit-issuing agencies: the Amador County Environmental Health Department, the Amador County Building Department, the cities of Jackson, Ione, Sutter Creek, Plymouth, and Amador City. Other discovery methods include performing field inspections, newspaper articles, business property statements, and information received from taxpayers.

### **Permit Processing**

The Amador County Building Department has a computer terminal with a system allowing the assessor's office to obtain permit information. The assessor's office is also able to pick up building plans and notices of completion from the Amador County Building Department.

Generally, most of the permits, building plans, and final notices are collected on a monthly basis from each agency.

The following table shows the number of building permits received and the number resulting in new assessments in recent years:

<b>ROLL YEAR</b>	<b>BUILDING PERMITS</b>	<b>NEW ASSESSMENTS</b>
2009-10	939	269
2008-09	1,191	568
2007-08	1,059	657
2006-07	1,801	948
2005-06	1,928	893

Once the permits are received, the assistant assessor enters the information into the computer system. There is also a spreadsheet tracking system by month with the permit number, date issued, assessor's parcel number (APN), and a short description of the purpose for the permit. Although not required by ordinance, the APN is listed on the permit. This information goes into a workload file on the computer system for the appraisers to review based on assigned areas. All permits are filed with the appraisal records, including permits that are considered to add no value, such as repair and maintenance, electrical, and re-roofing permits. The spreadsheet is reviewed at the end of the year to ensure all permits have been processed.

Methods used for the discovery of non-permitted new construction include field visits, newspaper articles, and information from taxpayers. Non-permitted new construction is enrolled as of the date of completion. If the date of completion is unknown, appraisers use their best judgment to estimate when the new construction was complete. As allowed by law, the assessor enrolls supplemental assessments for non-permitted new construction when discovered.

### Construction in Progress (CIP)

Section 71 requires the assessor to enroll construction in progress at its fair market value as of each lien date. The appraiser must determine the completion status of new construction at each lien date and assign a value based on the percentage completed. On subsequent lien dates, if the new construction is still incomplete, the assessor must enroll the construction in progress at its fair market value. This process continues until the new construction is complete, at which time the new construction is assessed at its fair market value and a base year value is assigned.

We reviewed several property records and found the assessor is correctly valuing new construction in progress by determining the market value as of the lien date using published costs, reported costs, and market analysis.

## Valuation

Upon completion of new construction, appraisers typically value new residential construction using the market and cost approaches, while commercial and industrial approaches are valued using the income approach, as well as the market and cost approaches. The assessor uses a variety of sources to develop a cost indicator of value for new construction, including Assessors' Handbook Section 531, *Residential Building Costs* (AH 531), the owner's reported costs, and *Marshall Valuation Service*. Appraisers can elect to send out a *Property Owner's Statement on New Construction* form to gather information to assist in the valuation. The form includes areas such as type of new construction, name of the contractor, cost information, and estimated date of completion. The source of cost data for residential, commercial, and industrial properties is documented on the building record. Based on the type of new construction, the appraiser will determine if a field inspection is necessary. Supplemental assessments are created and issued based on the date of completion of the new construction.

Overall, we found the assessor's program for the assessment of new construction to be thorough and values reasonable. However, there are some areas where improvements are needed.

**RECOMMENDATION 4:** Improve the new construction program by: (1) classifying wells as land pursuant to Rule 124, (2) granting new construction exclusions for claims for disabled access improvements only upon compliance with sections 74.3 and 74.6.

### **Classify wells as land pursuant to Rule 124.**

It is the assessor's policy to classify wells as structural improvements. Rule 124 provides that wells are land. By not attributing any value to the land for value added by the new construction of water wells, the assessor is underassessing the land and overassessing the improvements. This may also result in incorrect special assessments.

### **Grant new construction exclusions for claims for disabled access improvements only upon compliance with sections 74.3 and 74.6.**

The assessor excludes new construction performed for the purpose of making a dwelling more accessible to a severely and permanently disabled person who is a permanent resident of the dwelling without the information required in section 74.3. The assessor also excludes new construction performed for the purpose of making a building or structure more accessible to, or more usable by, a disabled person without the information required by section 74.6. If the permit description indicates it is for a disabled person to have access to an improvement, the permit is filed with the building record and notes are made indicating the permit description. The assessor does not reassess the new construction nor request BOE-63, *Disabled Persons Claim for Exclusion of New Construction*, or BOE-63-A, *Claim for Disabled Accessibility Construction Exclusion from Assessment* be filed to qualify for the exclusion.

Section 74.3(a) provides that "newly constructed" does not include the construction, installation, or modification of any portion or structural component of an existing single- or multiple-family dwelling that is eligible for the homeowner's exemption as described in section 218, if the

construction, installation, or modification is for the purpose of making the dwelling more accessible to a severely and permanently disabled person who is a permanent resident of the dwelling. In order for this exclusion to apply, the following conditions must be met: (1) the construction, installations, or modifications must be completed on or after June 6, 1990, on an existing dwelling, (2) the dwelling must be eligible for the homeowners' exemption, and (3) the work performed must be for the purpose of making the dwelling more accessible to a severely and permanently disabled person who is a permanent resident of the dwelling.

In order to receive the exclusion, the disabled person, their spouse, or their legal guardian must submit to the assessor the following: (1) a statement signed by a licensed physician or surgeon, of appropriate specialty, certifying the person is severely and permanently disabled as defined in section 74.3(b), and identifying specific disability-related reasons why the accessibility improvements or features are needed, and (2) a statement by the claimant identifying the construction, installation, or modification necessary to make the dwelling more accessible to the disabled resident.

For buildings other than owner-occupied dwellings, section 74.6 provides that "newly constructed" and "new construction" does not include the construction, installation, removal, or modification of any portion or structural component of an existing building or structure to the extent that it is done for the purpose of making the building or structure more accessible to, or more usable by, a disabled person. In order for this exclusion to apply, the following must be met: (1) the construction, installation, removal, or modification must be completed on or after June 7, 1994, to an existing building, (2) the work performed must be for the purpose of making the building more accessible to, or more usable by, a disabled person, and (3) the construction must not qualify for the construction exclusion provided by section 74.3(a).

In order to receive the exclusion, the following shall be submitted to the assessor: (1) notification by the property owner prior to, or within 30 days of, completion of any project that the property owner intends to claim the exclusion for improvements making the building or structure more accessible to, or usable by, a disabled person, (2) a statement from the property owner, primary contractor, civil engineer, or architect identifying those portions of the project making the building or structure more accessible to, or usable by, a disabled person, and (3) all documents necessary to support the exclusion, filed by the property owner, no later than six months after the completion of the project.

Use of BOE-63 and BOE-63-A facilitates this process. Both forms guide the property owner in providing the assessor the statements and certifications necessary to receive the exclusion. If the information required by sections 74.3 and 74.6 is not provided, the assessor is not authorized to exclude new construction from assessment for improvements intended to provide accessibility or usability for a disabled person. Failure to obtain the necessary information required by sections 74.3 and 74.6 may cause the assessor to grant exclusions for new construction that would otherwise be taxable.

### ***Declines in Value***

Section 51 requires the assessor to enroll on the lien date an assessment that is the lesser of a property's factored base year value (FBYV) or its current full cash value, as defined in

section 110. Thus, if a property's full cash value falls below its FBV on any given lien date, the assessor must enroll that lower value. If, on a subsequent lien date, a property's full cash value rises above its FBV, then the assessor must enroll the FBV.

**Discovery**

In order to discover property whose market value has declined below its FBV, the assessor relies primarily on his appraisal staff's knowledge of current property value trends within their assigned geographic areas, taxpayers' requests for value reviews, and assessment appeals. The assessor's office also uses current listings and recent sales from the local realtor's multiple listing service to help discover declines in value.

The following table shows the number of decline-in-value assessments in Amador County for recent years:

<b>ROLL YEAR</b>	<b>NUMBER OF DECLINE-IN-VALUE ASSESSMENTS</b>
2009-10	4,068
2008-09	728
2007-08	730
2006-07	226
2005-06	300

Approximately 22 percent of the total assessments on the roll in Amador County are decline-in-value assessments. Due to the weakening of the local real estate market, the number of properties experiencing a decline in value below their FBV has increased dramatically. Residential properties make up the majority of the parcels with declining values.

The assessor tracks all properties experiencing a decline in value electronically. These properties are tax coded "800," are black tagged, and kept in a separate location in an effort to easily identify these properties for annual review.

**Valuation**

To determine current market values for comparison purposes, the assessor relies primarily on the income approach for commercial properties, and the comparative sales and cost approaches for residential or rural properties. The assessor analyzes historical market sales and tracks the average percentage decline in market value per year countywide, as well as in various specific areas of the county.

Amador County has only a few small subdivisions or homogeneous tracts. Most of the properties are rural homesites. When a decline in value is discovered, the appraiser will review and lower the property value in question. If other properties in the area have similar features and dates of sale, the appraiser will also review those assessments to determine if other declines in value have occurred to the surrounding properties. If it is apparent that a downward value adjustment is



warranted, such adjustments are made without requiring the taxpayer to request a review of value. Each property coded for a decline in value is annually reviewed, compared to its FBYV, and the lower of the two values is enrolled. Value notices are sent to property owners when the assessed value has changed due to a decline in value if the decline in value remains on the roll for the current assessment year or if the decline in value has been partially or fully restored.

In any given year, the property owner can initiate an informal assessment review by filling out a *Request For Assessment Review* form, which can be obtained at the assessor's office or on the assessor's website. While the request for review form allows the property owner to provide comparable sales or any other documentation that may be useful in the assessment of their property, it is not a requirement for a review of the property. In the event the property owner disagrees with the results of the assessor's review, the property owner may file an assessment appeal with the Amador County Clerk of the Board. An explanation of this process is included on the *Request For Assessment Review* form.

We reviewed several residential and commercial property records with decline-in-value assessments and found comparable sales and income analysis included in the records. The assessor's appraisals were well documented, complete, and had reasonable, well supported valuations. Pursuant to section 51(e), the assessor does not apply the annual inflation factor to decline in value assessments. We have no recommendations for this program.

### ***California Land Conservation Act Property***

Pursuant to the California Land Conservation Act (CLCA) of 1965, agricultural preserves may be established by a city or county for the purpose of identifying areas within which the city or county will enter into agricultural preserve contracts with property owners.

Property owners who place their lands under contract agree to restrict the use of such lands to agriculture and other compatible uses; in exchange, the lands are assessed at a restricted value. Lands under contract are valued for property tax purposes by a method that is based upon agricultural income-producing ability (including income derived from compatible uses, for example, hunting rights and communications facilities). Although such lands must be assessed at the lowest of the restricted value, current market value, or factored base year value, the restricted value typically is the lowest.

Sections 421 through 430.5 prescribe the method of assessment for land subject to agricultural preserve contracts. Assessors' Handbook Section 521, *Assessment of Agricultural and Open-Space Properties* (AH 521), provides guidance for the appraisal of these properties.

For the 2010-11 roll year, Amador County had 831 parcels encumbered by CLCA contracts encompassing approximately 94,000 acres. These parcels had a total taxable land and improvement value of \$42,685,958. There were 35 parcels in nonrenewal status and no contracts had been cancelled. Most of the agricultural property in Amador County consists of wine grapes, fruit and nut orchards, and grazing lands.

## Valuation

The valuation of CLCA property in Amador County, including associated changes in ownership and new construction, is the responsibility of the assistant assessor. The CLCA assessment program is computerized, including the annual recalculation of nonrenewal values and the annual comparison between current restricted values, factored base year values (FBYV), and current market values. The assessor compares the total restricted value of the appraisal unit to the FBYV of the same unit and the current market value as if unrestricted. The current market value is rarely the lowest value indicator and is presumed to set the upper limit of value.

When a restricted property that includes a residence sells, the assessor correctly establishes a new homesite value based on current market conditions, and correctly issues supplemental assessments for the homesite and non-restricted improvements.

The assessor calculates restricted values using a properly developed capitalization rate that includes the Board-supplied interest component, a risk component, and a property tax component. Rents are updated upon analysis of rental and expense information submitted with agricultural questionnaires and information from the county's annual crop report.

In our review of the Amador County CLCA program, we noted a number of positive practices. We found the assessor uses an inclining-stable-declining approach for living improvements as advised in AH 521. We also found that when a restricted property without a homesite changes ownership, the assessor proactively estimates a value for a homesite in the event that a residence is built in the future, thereby eliminating the problem of trying to determine this value at a later date. However, we did find an area where improvement can be made in the CLCA program.

**RECOMMENDATION 5:** Deduct a charge for the return *of* the well value when valuing CLCA properties.

We found the assessor fails to deduct a charge for the return *of* the well value from the income attributable to the real property. As previously stated in this report, wells should be classified as land. The value of land restricted by CLCA contract is established by capitalizing the net income to land at the prescribed open-space capitalization rate. In arriving at the net income, a charge for recapture of the investment in the well must be deducted from the gross income. The assessor should also deduct a charge for well maintenance when such an expense is applicable; however, no charge *on* the investment in a well should be taken.

The assessor's practice of not deducting an improvement charge for the return *of* the investment in a well has resulted in inaccurate assessments of CLCA lands.

### ***Taxable Possessory Interests***

A taxable possessory interest results from the possession, a right to possession, or a claim to a right to possession of publicly-owned real property, in which the possession provides a private benefit to the possessor and is independent, durable, and exclusive of rights held by others. The assessment of a taxable possessory interest in tax-exempt publicly-owned property is based on

the value of the rights held by the possessor; the value of the rights retained by the public owner is almost always tax exempt.

The assessor enrolled 190 taxable possessory interests for the 2010-11 roll year, with a total assessed value of \$5,843,845. The majority of taxable possessory interests in Amador County are privately owned cabins on U.S. Forest Service (USFS) land and unpatented mining claims. Other types of taxable possessory interests include private interests at the airport, grazing rights, cable television franchises, employee housing, marinas, and campgrounds.

Staff changes and inexperience in handling taxable possessory interests over the past several years have made it difficult for a dedicated person to maintain and monitor the taxable possessory interest program. Many files have not been reviewed in several years. Two years ago, a new auditor-appraiser was hired, and he and the assistant assessor have started to review some taxable possessory interest files with recent changes, making any necessary adjustments. Data provided by the reporting agencies is typically used if reflective of the market and, if not, historical data or data received from neighboring Calaveras County is considered. The assistant assessor is responsible for assessments of taxable possessory interests in marinas, campgrounds, and privately owned cabins on USFS land. The auditor-appraiser is responsible for all other taxable possessory interest assessments. Though many records have yet to be reviewed, the intent of the assessor is to eventually update all taxable possessory interest assessments.

The assessor does not utilize BOE-502-P, *Possessory Interests Annual Usage Report*, as a primary means of discovering taxable possessory interests. The assistant assessor created a questionnaire to send to agencies for the marinas and campgrounds. The questionnaire requests information on tenants, terms of the property usage, amount of consideration, income, and expenses. The auditor-appraiser annually contacts the airport manager at the Amador County Airport, Westover Field, and the California Department of Corrections at the Preston Youth Correctional Facility via email for tenant information.

Amador County adopted and approved Resolution 08-040 in accordance with section 155.20 to exempt certain types of taxable property, including possessory interests, with a full value of less than \$2,000. The resolution is effective for assessments beginning July 1, 2009. Prior to this date, the assessor did not have a low value resolution for any property. The resolution does not provide for an increase in the exemption to \$50,000 for uses at the fairground.

We reviewed a number of taxable possessory interest records. Our review revealed several areas where improvements can be made. Our recommendations are meant to assist the assessor's staff in gaining knowledge and experience to correctly review, update, and process taxable possessory interest files.

**RECOMMENDATION 6:** Improve the taxable possessory interest program by:

- (1) periodically reviewing all taxable possessory interests with stated terms of possession for declines in value,
- (2) assessing all taxable possessory interests, (3) correctly classifying property as a taxable possessory interest,
- (4) properly identifying the name of the specific government agency controlling the use of a property,

(5) obtaining current copies of all lease agreements or permits for taxable possessory interests, (6) recognizing lessor expenses when valuing taxable possessory interests by the income approach, (7) adding the present worth of unpaid future contract rents to the sale price of a taxable possessory interest, (8) properly issuing supplemental assessments for taxable possessory interests upon a change in ownership or new construction, and (9) reappraising all taxable possessory interests upon a change in ownership as required by section 61(b).

**Periodically review all taxable possessory interests with stated terms of possession for declines in value.**

We reviewed several taxable possessory interest files indicating a stated term of possession. We found the taxable possessory interests are not reviewed periodically for declines in value. Instead, the assessor has enrolled the factored base year value (FBYV) over the years or the values have remained constant.

Rule 21(d)(1) provides the stated term of possession shall be deemed to be the reasonably anticipated term of possession unless there is clear and convincing evidence the lessor and lessee anticipate a different term is appropriate through a mutual agreement or understanding. Our review found no documentation to support such an agreement or understanding. Rule 21(a)(6) defines the stated term of possession for a taxable possessory interest as the remaining period of possession as of a specific date as stated in the lease, agreement, or permit, including any options to renew or extend the specified period of possession. Therefore, the stated term of possession of a taxable possessory interest declines each year, which may have a material effect on the market value of the taxable possessory interest. Thus, absent clear and convincing evidence of a mutual agreement or understanding as to a longer term of possession, the assessor must estimate the market value of the taxable possessory interest on lien date based on the remaining term of the contract, compare this value with the FBYV, and enroll the lower of the two.

Although the assessor is not required to reappraise all properties each year, the assessor should periodically review the assessments of all taxable possessory interests with stated terms of possession to ensure declines in value are consistently recognized. Failing to use a declining term when valuing taxable possessory interests with a stated term may result in overassessments.

**Assess all taxable possessory interests.**

We discovered the assessor is not assessing any taxable possessory interests at the Amador County Fairgrounds. We confirmed with the fairgrounds that the assessor has not requested vendor or concessionaire information in many years. We were able to obtain a list of concessionaires from the fairgrounds for the 2010 fair. It was determined that several of the concessions, including a carnival concession, were potential taxable possessory interests. As noted above, prior to July 1, 2009, the county did not have a low value ordinance. Therefore, all fair concessions prior to this date should have been assessed.

We also discovered that the assessor missed potential taxable possessory interests at the Amador County Airport, Westover Field. The list of tenants at the airport for 2010 indicates there are several potential taxable possessory interests not currently being assessed: two aircraft tie-downs and an office space.

Section 107 and Rule 20 define the requirements for a taxable possessory interest. Briefly stated, these requirements are that the right of possession be independent, exclusive, durable, and provide a private benefit. Several uses at the fairgrounds and at the airport appear to meet these requirements, and should be reviewed for possible assessment as taxable possessory interests. Failure to assess all potential taxable possessory interests results in escaped assessments.

**Correctly classify property as a taxable possessory interest.**

The assessor has improperly classified privately owned cabins on land owned by Pacific Gas and Electric Company (PG&E) as taxable possessory interests on taxable government owned land. PG&E is not a government or public entity; therefore, private uses on land owned by PG&E are not considered taxable possessory interests. The land is assessed by the state, and the privately owned cabins should be assessed either as foreign improvements or improvements on leased land.

At the same time, the assessor has improperly classified many of the ski lifts at Kirkwood Meadows Ski Resort as fixtures on privately owned land. The BOE contacted USFS and confirmed that most of the land at the resort is privately owned; however, most of the ski lifts are under permit and situated on USFS land. These ski lifts should be classified as taxable possessory interests.

Improper classification of property which should or should not be a taxable possessory interest may result in incorrect valuation and assessments.

**Properly identify the name of the specific government agency controlling the use of a property.**

We found records for several parcels owned by governmental agencies that do not identify which agency controls the use of the parcels. Most taxable possessory interests are given a parcel number beginning with "860" and the parcel number identifies the name of the possessor. The corresponding fee parcel is given a fictitious number beginning with "555," which is used for unsecured property. The roll identifies the possessor as both the owner and assessee.

To identify private uses of property that may warrant assessment as taxable possessory interests, the assessor must contact the specific federal or state agency controlling the property. Therefore, it is important to determine the specific governmental agency controlling each parcel and the designated uses.

**Obtain current copies of all lease agreements or permits for taxable possessory interests.**

The majority of the taxable possessory interest files we reviewed did not contain copies of leases for the interests being assessed. The assessor relies on tenant lists, historical information,

information obtained from Calaveras County, or a county-created questionnaire to value taxable possessory interests. Copies of leases are not typically requested.

Rule 21 describes the various approaches to value and how to determine the term of possession for the valuation of taxable possessory interests. Rule 21(d)(1) explains that the stated term of possession is deemed to be the reasonably anticipated term of possession except in certain situations. Rule 21(e)(3)(C) explains how to determine the net operating income for capitalization purposes.

These steps in the valuation process cannot be completed if the contract conveying the taxable possessory interest is not reviewed. For example, the assessor may have some information relating to the initial lease term, but may not know of any renewal options contained in the lease or know the lessor/lessee expense allocations.

By not obtaining copies of current leases or permits, the assessor is unable to determine what terms were agreed to between the parties and, therefore, would be unable to accurately value the taxable possessory interests.

**Recognize lessor expenses when valuing taxable possessory interests by the income approach.**

The assessor typically determines the fair market value of a taxable possessory interest using the direct income approach. We found the assessor is inconsistent with deductions for lessor's operating expenses. It is the assessor's practice to deduct expenses provided by the reporting agency. The BOE found the tenant report provided by the Amador County Airport did not list expense information. Therefore, the assessor has not deducted any expenses from the valuation of taxable possessory interests at the airport. We contacted the airport manager and determined that the airport pays all expenses except property taxes and rent, which are paid by the tenants.

Rule 21(e)(3)(A) prescribes the use of the direct income approach when valuing taxable possessory interests. In the direct approach, the amount to be capitalized to arrive at a value estimate is the future net income the taxable possessory interest is capable of generating under typical management during the term of possession. Rule 8(c) provides that it is appropriate to reduce a lessor's rental income for typical management and other operating expenses incurred by the lessor required to develop and maintain the estimated income. The written agreement creating the taxable possessory interest should be reviewed to determine which expenses pertain.

Failing to recognize appropriate lessor expenses may overstate the value of a taxable possessory interest.

**Add the present worth of unpaid future contract rents to the sale price of a taxable possessory interest.**

Upon the sale of some taxable possessory interests of privately owned cabins on USFS land, the assessor enrolled the sale price of the cabin as market value. The present value of unpaid future contract rent for the term of possession was not added to the reported sale price.

The direct method of the comparative sales approach is one of the generally accepted methods for valuing a taxable possessory interest and is described in Rule 21(e)(1)(A). In this method, an important adjustment to the reported sale price is the addition of the present value of the unpaid future contract rent over the remaining term of possession.

When determining the value of a taxable possessory interest, appraisers must include the total consideration paid for the taxable possessory interest. To reach that amount, the appraiser must include future sums the purchaser has an obligation to pay. If this adjustment is not made, the value indicator will reflect only the buyer's equity value in the taxable possessory interest and not the full value of the taxable possessory interest, resulting in an underassessment.

**Properly issue supplemental assessments for taxable possessory interests upon a change in ownership or new construction.**

We discovered several taxable possessory interests where the assessor improperly calculated the supplemental assessment upon a change in ownership or new construction by offsetting the fair market value against the prior value on the roll and applying the difference.

Section 61(b) provides that the creation, renewal, extension, or assignment of a taxable possessory interest is a change in ownership. Section 75.11 provides that there shall be a supplemental assessment following a change in ownership or completed new construction. According to Assessors' Handbook Section 510, *Assessment of Taxable Possessory Interests* (AH 510), when a supplemental assessment is issued due to a change in ownership, the supplemental assessment amount for the newly created taxable possessory interest should be based on its fair market value without offset for a prior value on the regular assessment roll when one taxable possessory interest is terminated during an assessment year and a second (but distinct) taxable possessory interest is created involving the same land and improvements during the same assessment year.

The assessor's practice results in a loss of revenue.

**Reappraise all taxable possessory interests upon a change in ownership as required by section 61(b).**

We found several taxable possessory interest files where the assessor failed to reappraise taxable possessory interests at the end of the anticipated term of possession for agreements which were renewed or extended, or as the result of an assignment of interest. We also confirmed with the USFS that all cabin permits expired on December 31, 2008. This fact has not been addressed in the assessor's records.

Section 61(b) provides that a change in ownership includes, but is not limited to, the creation, renewal, extension, or assignment of a taxable possessory interest in tax exempt real property. Section 61(b)(2) provides that any renewal or extension of a taxable possessory interest during the reasonably anticipated term of possession used to value that interest causes a change in ownership at the end of that term, at which time a new base year value, based on a new reasonably anticipated term of possession, shall be established for the taxable possessory interest.

To assist with the discovery of taxable possessory interests with expired terms, the BOE suggests that the assessor establish a tracking system to flag such occurrences as notification of when a possible reappraisal is required. By not revaluing taxable possessory interests at the end of the anticipated term of possession for a renewal or extension of an agreement or due to an assignment of an interest, the assessor is enrolling inaccurate assessments.

### **Mineral Property**

By statute and case law, mineral properties are taxable as real property. They are subject to the same laws and appraisal methodology as all real property in the state. However, there are three mineral-specific property tax rules that apply to the assessment of mineral properties. They are Rule 468, *Oil and Gas Producing Properties*, Rule 469, *Mining Properties*, and Rule 473, *Geothermal Properties*. These rules are interpretations of existing statutes and case law with respect to the assessment of mineral properties.

Petroleum, mining, and geothermal properties comprise the three main categories of mineral properties in Amador County. The county has no assessable petroleum or high temperature geothermal properties.

### **Mining Property**

The Amador County Assessor uses the services of a contract mineral appraiser to value the majority of the mineral properties located in the county. Most of the mineral property in the county involves lands held by the Howard Properties Trust.

The mineral rights assessment in the county is atypical because the mineral right owner, not the lessee, has retained the obligation for payment of property taxes. There are four operators with leases on lands owned by the Howard Properties Trust. Typically, such properties would be valued as if the lessee owned the property in fee and property taxes would be billed to the operator. In Amador County, however, the mineral right owner is sent a property tax bill for the mineral rights, and the operator-lessee is billed separately for improvements and fixtures in place on the property. This method of assessment does occur in other counties, though not frequently.

Three of the four mining properties are valued using the royalty appraisal method. The fourth property is valued using a full discount cash flow analysis and the mineral right value is determined by a residual analysis.

**RECOMMENDATION 7:** Treat settling ponds and tailings facilities as separate appraisal units.

Based on discussions with the county's consultant and a review of the assessor's files, we found that settling ponds and tailings facilities have not been treated as separate appraisal units as required by section 53.5.

Most mining operations will include some area designated as a location for waste material produced by the mining operation. These settling ponds and tailings facilities are typically used to collect water used for washing the gravel to provide a clean product that meets customer's specifications and needs. The wash water is then collected to allow the small particulate matter to



settle before the water is recycled. Section 53.5 requires that each settling pond and tailings facility be considered a separate appraisal unit with a separate base year value for purposes of determining its taxable value.

Documentation in the consultant's files provide detailed discussion about various settling ponds and tailings facilities on one of the larger mining properties in the county. Often-times the existence of these waste areas also can be determined by looking at satellite photos available on the Internet. An acceptable method to value these components would be the following:

(1) determine the cost to construct the improvement and establish a base year value, and (2) each year thereafter, value each settling pond and tailings facility based upon the remaining capacity of the improvement to dispose of waste.

Failure to value these waste areas as a separate appraisal unit is contrary to statute.

### Unpatented Mining Claims

**RECOMMENDATION 8:** Review unpatented mining claim valuation procedures to ensure compliance with Rule 21 regarding the addition of the present worth of future rental payments to the comparable sale price of unpatented mining claims.

There are approximately 45 unpatented mining claims located in Amador County. We found that these claims are assessed based on a uniform value of \$55 per acre. This value has been used for a number of years and has not been indexed by the inflation factor. This practice is not in accordance with the valuation methods for taxable possessory interests prescribed in Rule 21.

The current BLM maintenance fee for unpatented mining claims is \$140 per year. Claims can range from 20 acres (single claims) up to 160 acres (association claims), depending upon the number of individuals holding the claim. One individual is required for every twenty acres. The advantage of association claims is that they only require the same \$140 maintenance fee as individual claims. Because of this alone, the strict application of a "per acre" valuation is not appropriate.

Unpatented mining claims have no stated term of possession. As such, the assessor must make a determination of a reasonably anticipated term of possession under the provisions of Rule 21. To properly value unpatented mining claims using the comparative sales approach – direct method prescribed in Rule 21, the following steps should be performed: (1) a reasonably anticipated term of possession needs to be estimated, (2) the present value of future maintenance payments (in effect, the contract rent necessary to maintain the claim) over the term of possession needs to be estimated using the proper discount rate, and (3) this present value needs to be added to the comparable sale price of the unpatented mining claim. Alternatively, a claim could be valued using the income approach – direct method also prescribed in Rule 21.

The assessor's current practice of valuing unpatented mining claims at a uniform amount per acre does not follow a prescribed valuation method for taxable possessory interests and results in the overassessment of unpatented mining claims.

## **ASSESSMENT OF PERSONAL PROPERTY AND FIXTURES**

The assessor's program for assessing personal property and fixtures includes the following major elements:

- Discovery and classification of taxable personal property and fixtures.
- Mailing and processing of annual property statements and questionnaires.
- Annual revaluation of taxable personal property and fixtures.
- Auditing taxpayers whose assessments are based on information provided in property statements.

In this section of the survey report, we review the assessor's programs for conducting audits, processing business property statements, valuing business property equipment, and assessing manufactured homes, aircrafts, and vessels. The assessor's staff assigned to the business property program consists of one auditor-appraiser.

### ***Audit Program***

A comprehensive audit program is essential to the successful administration of any tax program that relies on information supplied by taxpayers. A good audit program discourages deliberate underreporting, helps educate those property owners who unintentionally misreport, and provides the assessor with additional information to make fair and accurate assessments.

Prior to January 1, 2009, section 469 required county assessors to audit at least once every four years the books and records of any taxpayer engaged in a profession, trade, or business if the taxpayer had assessable trade fixtures and business tangible personal property valued at \$400,000 or more. These statutorily required audits are commonly referred to as mandatory audits. Additionally, a county assessor may audit the books and records of taxpayers with holdings below \$400,000 in value under the authority of section 470. These audits are referred to as nonmandatory audits. Generally, county assessors perform both mandatory and nonmandatory audits to ensure that their audit program includes a representative sample of all sizes and types of property taxpayers with personal property holdings subject to the property tax.

Effective January 1, 2009, county assessors are no longer required to audit all taxpayers with trade fixture and business tangible personal property holdings of \$400,000 or more at least once every four years. Instead, the county assessor is required to annually audit a significant number of audits as specified in section 469. The significant number of audits required is at least 75 percent of the fiscal year average of the total number of mandatory audits the assessor was required to have conducted during the 2002-03 fiscal year to the 2005-06 fiscal year, with at least 50 percent of those to be selected from a pool of those taxpayers with the largest assessments. Thus, while section 469 still mandates a certain level of audits that must be performed annually, assessors now have some flexibility in determining which accounts will comprise this mandated workload.

The Amador County Assessor's Office completed eight audits during the 2008-09 roll year; however, no audits were completed for the 2009-10 roll year. We have the following recommendations for the assessor to improve the audit program:

**RECOMMENDATION 9:** Improve the audit program by: (1) timely auditing the books and records of professions, trades, and businesses pursuant to section 469, and (2) removing incorrect language from county-generated audit letters.

**Timely audit the books and records of professions, trades, and businesses pursuant to section 469.**

As noted above, effective January 1, 2009, section 469 specifies a minimum audit workload equal to 75 percent of a statutorily defined base level. According to the Letter To Assessors No. 2009/049, the amended statute requires the assessor to complete six audits annually hereafter. Despite the recent change to section 469, we found no audits were completed for the 2009-10 roll year.

An effective audit program verifies the reporting of the largest business property accounts and helps to prevent any potentially large errors or escape assessments. Section 469 provides that the assessor shall annually conduct a significant number of audits. For Amador County, the significant number of audits has been determined to be six audits per year. The recent changes to section 469 allows assessors greater flexibility in choosing business property accounts to audit and allow for a more varied range of values to audit.

It should be emphasized that errors and escapes not discovered and rectified during the audit process can represent a permanent loss of revenue to the county and special tax districts. This is a significant deficiency in the assessor's business property program. By failing to get audits completed timely, the assessor is not in compliance with section 469 and risks the possibility of allowing taxable property to permanently escape assessment.

**Remove incorrect language from county-generated audit letters.**

The assessor uses a county-generated letter for the audit program that refers to mandatory audits for businesses with an assessed value of \$400,000 or more. This language citing section 469 is obsolete. Section 469 was amended to delete the "mandatory audit" language and replace it with guidelines for "significant number of audits." To avoid confusing or misleading taxpayers, this language should be corrected.

**Audit Quality**

An audit should follow a standard format so that the auditor-appraiser may easily determine whether the property owner has correctly reported all taxable property. Audit narratives and summaries should include adequate documentation, full value calculations, reconciliation of the fixed assets totals to the general ledger and financial statements, review of asset invoices, reconciliation between reported and audit amounts, an analysis of expense accounts, and an analysis of depreciation and obsolescence factors that may affect the value of the business property.

The audits available for review were well documented, and supported by an audit narrative and cost summaries. We found the audit results were communicated to the taxpayer properly and the roll corrections applied to reflect the audit findings.

### ***Business Property Statement Program***

Section 441 requires that each person owning taxable personal property (other than a manufactured home) having an aggregate cost of \$100,000 or more annually file a business property statement (BPS) with the assessor; other persons must file a BPS if requested by the assessor. Property statements form the backbone of the business property assessment program. Several variants of the BPS address a variety of property types, including commercial, industrial, agricultural, vessels, and certificated aircraft.

#### **General Statement Processing**

BPS processing begins with the auditor-appraiser reviewing the statement for completeness and making any necessary corrections, such as changing or correcting the owner's name, the name under which the business is conducted, or the situs or mailing address. If a statement is unsigned, a copy is made and the original is returned to the taxpayer. If a statement is received late, the date-stamped envelope is retained and a penalty is added as prescribed by section 463. If a statement reports any additions or deletions to real property items, those changes are referred to the real property division for review.

We reviewed the assessor's property statement processing procedures and files to ensure they conform to statutory and regulatory guidelines. A sampling of BPSs was reviewed to verify the use of Board-prescribed forms, processing by certified staff, completeness of the property statements, application of penalties, coordination with the real property division, record storage, and retention. We found the assessor properly processes BPSs.

#### **Discovery**

The assessor utilizes a wide range of tools for discovering taxable business property. For example, city and county business licenses, fictitious business name filings, real property appraiser referrals, and business directory services are reviewed. We found the assessor employs effective methods for discovering business personal property.

#### **Filing Procedures**

Under section 441.5, in lieu of completing the BPS, information required of the taxpayer may be furnished to the assessor as attachments to the BPS provided the attachments are in the format specified by the assessor, and a copy of the actual BPS is signed by the taxpayer and carries appropriate references to the data attached. The assessor allows taxpayers to submit attachments in lieu of completing a BPS as provided in section 441.5 only if the taxpayer or the taxpayer's assignee submits the signed original of the BPS.

Our review included verifying the assessor's procedures for processing late-filed and non-filed BPSs. We found the assessor properly applies the late filing penalty as required by section 463.

Habitual non-filers are contacted in an attempt to collect accurate assessment information. If no information is available, the assessor will add a penalty to the prior year's value.

### **Direct Billing**

Many California assessors utilize an assessment procedure called "direct billing" or "direct assessment." It is a method of assessing qualified lower-value business accounts without the annual filing of a BPS. The assessor establishes an initial value and continues it for several years. A BPS is sent to the participating business every four years to update assessment information. Examples of businesses suitable for direct billing include apartments, barber shops, beauty parlors, coin-operated laundrettes, small cafes, restaurants, and professional firms with small equipment holdings.

The assessor maintains a direct billing program for the 2010 lien date. The program is well regulated and appropriate controls are in place to reduce the chance of escape assessments. Overall, we found the assessor's BPS processing program to be effectively administered. The procedures in place are well structured and compliant with existing law.

### **Business Equipment Valuation**

Assessors value most machinery and equipment using business property valuation factors. Some valuation factors are derived by combining price index factors with percent good factors, while other valuation factors result from valuation studies. A value indicator is obtained by multiplying a property's historical cost by an appropriate value factor.

Section 401.5 provides that the BOE shall issue information that promotes uniformity in appraisal practices and assessed values. Pursuant to that mandate, the BOE annually publishes Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors* (AH 581).

The assessor uses standardized economic life codes to classify business property accounts by industry type in the computer system.

### **Application of Board-Recommended Index Factors**

The assessor has adopted the price indices and percent good factors recommended by the California Assessors' Association (CAA), with the exception of those dedicated to the valuation of agricultural mobile equipment. The assessor utilizes appropriate factor tables for new and used construction, and agricultural mobile equipment in accordance with the instructions of Table 5 and Table 6 in AH 581. We found the assessor's application of price indices and percent good factors to be both consistently and accurately applied.

### **Manufactured Homes**

A "manufactured home" is defined in Health and Safety Code sections 18007 and 18008, and statutes prescribing the method of assessing manufactured homes are contained in sections 5800 through 5842. A manufactured home is subject to local property taxation if sold new on or after July 1, 1980, or if its owner requests conversion from the vehicle license fee to local property

taxation. Manufactured homes should be classified as personal property and enrolled on the secured roll.

### General Program Elements

For the 2010-11 roll year, the assessor enrolled 700 taxable manufactured homes and related accessories, with a total assessed value of \$30,722,776. The assessor does not separately track the number of manufactured homes located in parks or on fee land. There are 25 mobilehome parks in Amador County; however, only 18 of the parks have manufactured homes subject to local property taxation. The remaining parks consist of manufactured homes subject to the vehicle license fee, with no assessable accessories.

The assessor typically assigns each locally assessed manufactured home and each manufactured home subject to the vehicle license fee with assessable accessories a fictitious parcel number beginning with "910." The underlying land is assigned a parcel number, which corresponds to the assessor's map book where the fee parcel or mobilehome park is located. All manufactured home assessments are assigned to and valued by one real property appraiser. In compliance with sections 5801(b)(2) and 5830, the assessor enrolls manufactured homes as personal property on the secured roll, with the exception of manufactured homes affixed to approved permanent foundations.

The assessor requires a manufactured home affixed to a permanent foundation meet the conditions of Health and Safety Code section 18551. A copy of the building permit and recorded HCD Form 433A, *Notice of Manufactured Home (Mobilehome) or Commercial Coach, Installation on a Foundation System*, are kept in the appraisal file. Once a manufactured home has met the conditions, the 910 fictitious parcel number is replaced with a parcel number corresponding to the property location and the home is classified and assessed as a real property improvement.

### Discovery and Valuation

The assessor's office discovers taxable manufactured homes by reviewing periodic reports from the Department of Housing and Community Development (HCD), building permits, dealer reports of sale, and notifications from the Amador County Code Enforcement. Taxable manufactured home accessories are typically discovered by site visits initiated by building permits.

Information regarding a change in ownership or new construction of a manufactured home is forwarded to the appraiser. The assistant assessor created a spreadsheet to assist the appraiser in the valuation of each property. Each manufactured home has its own spreadsheet and all of the spreadsheets are kept together in a binder. The spreadsheet compares the current market value to the factored base year value (FBYV) to determine the lower of the two values. The spreadsheet allows the appraiser to easily review all manufactured homes annually for decline-in-value purposes.

Assessors' Handbook Section 531.35, *Residential Building Costs – Manufactured Housing* (AH 531.35), is the published value guide used to determine current market value. Data from

AH 531.35 and the California Consumer Price Index (CCPI) is updated annually in tables within the spreadsheet. The only data not taken from the AH 531.35 is the percent good table. The assessor believes newer homes do not depreciate as quickly, therefore, he adjusts these percentages to reflect what is appropriate for the area. The spreadsheet includes the manufactured home quality class, square footage, any accessories included in the home value, and any accessories classified as improvements, along with the appropriate cost factors in the total calculation of market value. In addition, the spreadsheet includes the appropriate base year, base year value, and CCPI factor (not to exceed 2 percent) to be applied for each item in order to calculate the total factored base year value.

Once the lower of the current market value and the FBV is determined, it is highlighted and routed to the administrative supervisor to enroll. We commend the assessor for creating an effective and useful tool in the valuation of manufactured homes.

The assessor correctly applies supplemental assessments to new and transferred manufactured homes. Exemptions are correctly handled for the assessment of manufactured homes held in dealer's inventory and those owned by financial institutions.

We found an area in need of improvement when assessing manufactured homes.

**RECOMMENDATION 10:** When depreciating manufactured homes for valuation purposes, use an in-house percent good table only when supported by a valid study.

We found the assessor does not use the recommended percent good table as provided in AH 531.35. Instead, the assessor uses an in-house percent good table for depreciating manufactured homes. We found no supporting documentation or study to validate the assessor's depreciation schedule.

According to AH 531.35, the depreciation or percent good table in the handbook is merely suggested as a guide for appraisers. If the assessor believes this percent good table to be inaccurate for depreciating manufactured homes in Amador County, it is not inappropriate for the assessor to use his own in-house percent good table. However, the assessor should have a study or other documentation to support the depreciation used in Amador County. Without a recent and valid study or some other supporting data, the assessor's percent good table is not an acceptable depreciation schedule and should not be used when depreciating manufactured homes for valuation purposes.

By using unsupported percent good tables to depreciate manufactured homes, the assessor may be enrolling incorrect assessments.

### **Resident-Owned Mobilehome Parks**

Amador County has two resident-owned mobilehome parks (ROP). Both ROPs were established several years ago. It was determined in our prior survey that proper requirements were met for each park to become an ROP, and base year values of transfers occurring between January 1, 1989 and January 1, 2002 were corrected. Each participant owns one or more lots within the park and a percentage of interest in the common areas. Transferees of spaces in ROPs record deeds

and typically complete BOE-502-A, *Preliminary Change of Ownership Report (PCOR)*, or BOE-502-AH, *Change in Ownership Statement (COS)*, which are received by the assessor.

We found an area in need of improvement when assessing manufactured homes in ROPs.

**RECOMMENDATION 11:** Properly allocate the sale price of a manufactured home in a resident-owned mobilehome park (ROP) between the value of the manufactured home and the value of the interest in the park.

The assessor does not properly allocate the sale price of a manufactured home in an ROP. The assessor incorrectly applies a value to the land or underlying interest in the park first, with the remainder of the sale price being allocated to the manufactured home and other improvements.

Letter To Assessors No. 99/87 and Assessors' Handbook Section 511, *Assessment of Manufactured Homes and Parks (AH 511)*, describes the change in ownership procedure for residents' interests in spaces. AH 511 recommends that if the purchase price was negotiated in the open market at arm's length, the assessor should enroll the entire amount of the combined assessments of the manufactured home and the underlying interest in the park. The most reasonable way of allocating the value between the two assessments is to extract from the purchase price the value of the manufactured home, using one of the recognized value guides, and then assign the remainder of the purchase price to the interest in the park. This method of allocation ensures that the market value attributable to the location of the space being transferred is recognized.

The assessor's current practice may cause values to be incorrectly distributed between the manufactured home and the interest in the park, which may reflect incorrect assessments on the roll. Enrolling an equalized or standard value to the property owner's share or interest in the park overvalues some shares, while undervaluing others.

## **Aircraft**

### **General Aircraft**

General aircraft are privately owned aircraft that are used for pleasure or business, but that are not authorized to carry passengers, mail, or freight on a commercial basis. Section 5363 requires the assessor to determine the market value of all aircraft according to standards and guidelines prescribed by the Board. Section 5364 requires the Board to establish such standards. On January 10, 1997, the Board approved the *Aircraft Bluebook-Price Digest (Bluebook)* as the primary guide for valuing aircraft with the *Vref Aircraft Value Reference (Vref)* as an alternative guide for aircraft not listed in the *Bluebook*.



The 2010-11 roll year includes 77 general aircraft, with a total assessed value of \$2,626,911. The following table provides a breakdown of aircraft currently enrolled in Amador County:

AIRCRAFT TYPE	NUMBER OF ASSESSMENTS	VALUE
General Aircraft	77	\$2,626,911
Historical Aircraft Exemptions	33	\$1,217,670
Total Aircraft Assessments	110	\$3,844,581

The assessor's auditor-appraiser is responsible for all aspects of general aircraft valuation, as well as the administration of the historical aircraft exemption. The assessor discovers aircraft by reviewing airport operators' reports, other county referrals, and FAA reports.

Each year the assessor requests current information by mailing a county-generated aircraft property statement, *Aircraft Owner's Report*, to the known owner of each aircraft in the county. The form requests the owner to report engine information, air hours since the last major overhaul, airframe time, avionics equipment, current situs information, and transfer information if applicable. The aircraft statement indicates a filing due date of February 15. The form contains an official request for information, citing sections 5365 and 441(d). However, section 5367 is not cited to inform the aircraft owner of the assessor's obligation to enroll a penalty assessment should the aircraft statement not be filed by the stated deadline. This issue is addressed in the Assessment Forms section of this report.

Upon receipt of the completed aircraft property statements, the auditor-appraiser uses the computerized version of the *Aircraft Bluebook-Price Digest* to prepare a valuation worksheet for each aircraft to be appraised. The auditor-appraiser is responsible for setting up assessment accounts, processing aircraft statements, and follow-up with aircraft owners.

We reviewed several general aircraft records for valuation methodology, legal signatures, adherence to legally mandated procedures, and the application of late or failure to file penalties pursuant to section 5367. We found the assessor's procedures for the discovery, valuation, and assessment of general aircraft largely conform to statutory provisions and guidelines set forth in Assessors' Handbook Section 577, *Assessment of General Aircraft (AH 577)*, and Letter To Assessors No. 97/03, with the following exceptions.

**RECOMMENDATION 12:** Modify the aircraft assessment program by: (1) applying adjustments to the average retail price as outlined in Assessors' Handbook Section 577, *Assessment of General Aircraft (AH 577)*, and (2) adjusting aircraft value estimates to reflect reported optional equipment.

**Apply adjustments to the average retail price as outlined in Assessors' Handbook Section 577, *Assessment of General Aircraft (AH 577)*.**

The assessor uses the *Aircraft Bluebook-Price Digest* to value general aircraft. We found the assessor applies the Board-prescribed 10 percent average condition adjustment to the derived

value indicator after making adjustments to reflect engine and airframe hours, as well as other condition adjustments.

The Board-prescribed average condition adjustment was intended to be applied to the base value indicator only. Other air time and condition adjustments should not be reduced by 10 percent. When calculating a market value indicator, the assessor should first adjust the indicated value by 10 percent for overall condition, and then modify this value for other adjustments to reflect additional condition adjustments, engine hours, airframe time, and avionics. Sales tax should be applied to the final adjusted value. The assessor's current practice either understates or overstates market derived value adjustments and likely leads to erroneous value indicators. Furthermore, this practice does not conform to the BOE valuation guidelines contained in the AH 577 and Letter To Assessors No. 97/03.

**Adjust aircraft value estimates to reflect reported optional equipment.**

The assessor does not adjust aircraft value calculations to reflect optional equipment reported by aircraft owners. This practice was confirmed through both observations of processed aircraft statements and interviews with staff. We found further cases where the applicable section was left blank by the taxpayer and there was no documented evidence the assessor's staff attempted to follow up in order to obtain the information.

The importance of adjusting aircraft values to reflect optional avionics and navigation equipment is emphasized in Letter To Assessors No. 97/03 and AH 577. Published value indicators provide a starting point in calculating a value conclusion. Adjustments reflecting the unique characteristics of the subject property must be made in order to reach an accurate value estimate. Failure to do so jeopardizes the validity of the value conclusion.

**Historical Aircraft**

Aircraft of historical significance can be exempted from taxation if they meet certain requirements. Section 220.5 defines "aircraft of historical significance" as: (1) an aircraft that is an original, restored, or replica of a heavier than air powered aircraft 35 years or older; or (2) any aircraft of a type or model of which there are fewer than five such aircraft known to exist worldwide.

The historical aircraft exemption is not automatic. Each year, the owner of a historical aircraft must submit an affidavit on or before 5:00 p.m., February 15, paying a filing fee of \$35 upon the initial application for exemption. Along with these requirements, aircraft of historical significance are exempt only if the following conditions are met: (1) the assessee is an individual owner who does not hold the aircraft primarily for purposes of sale; (2) the assessee does not use the aircraft for commercial purposes or general transportation; and (3) the aircraft was available for display to the public at least 12 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

In Amador County, there were 33 aircraft that were granted a historical aircraft exemption for the 2010-11 roll year, with a total value of \$1,217,670. The assessor properly obtains signed affidavits in the format prescribed by the BOE and certification of attendance for historical aircraft exemptions claimed within the county pursuant to section 220.5(c). We reviewed several

historical aircraft assessments and exemption claims. We found the assessor has properly granted the exemption when the legal conditions are met. We also were able to confirm the assessor correctly denied the exemption when the statutory requirements were not met, and allowed the partial exemption when merited in accordance with section 276.5. We did find one deficiency in the assessor's historical aircraft exemption procedures.

**RECOMMENDATION 13:** Collect the required fee when accepting the initial claim for the historical aircraft exemption in accordance with section 220.5(e).

The assessor does not collect the \$35 fee when accepting the initial application for the historical aircraft exemption. During our review, we found no evidence this fee had been collected for any of the records examined. According to the assessor's staff, small fees are not collected due to the cost of processing their receipt. Section 220.5 requires the collection of this fee when processing the exemption claim. The assessor's policy is not in compliance with statutory provisions and results in lost revenue.

### **Vessels**

The primary sources used for the discovery of assessable vessels include reports from the State Department of Motor Vehicles (DMV), referrals from other counties, information provided by the vessel owners themselves, certificates of documentation issued by the United States Coast Guard, harbor masters' reports, and field canvassing.

Amador County is a sparsely populated county, located in California's gold county. Taxable vessels consist largely of personal watercraft and other fresh water recreational vessels. There were 2,080 taxable vessels enrolled in Amador County for the 2010-11 roll year.

Vessels include every description of watercraft used for pleasure, transportation, scientific research, and commercial activities. For the purposes of California property taxation, vessels are valued at their fair market value every year as of the January 1 lien date. Sections 401 and 401.3 require the assessor to appraise boats at market value each year. In Amador County, the assessor values vessels upon transfer or when first enrolled in the county. He then applies a fixed annual depreciation rate of 5 percent for vessels and 10 percent for personal watercraft to estimate current market values for subsequent lien dates. Amador County has a low value ordinance exempting property valued at less than \$2,000. Vessels with values below the low value ordinance are either not enrolled upon discovery or removed from the assessment roll.

An auditor-appraiser is responsible for all duties related to the administration of the assessor's vessel program. The assessor values newly enrolled vessels predominately with the aid of the National Automobile Dealers Association *Marine Appraisal Guide* (NADA) and the *BUC Used Boat Price Guide*. However, the assessor will utilize other sources of market evidence when appropriate. The assessor makes adjustments for vessel condition, motor and motor condition, accessories, and deductions for trailers as appropriate. The assessor utilizes only DMV reports and referrals from other counties as methods of discovery. During our review, we discovered some areas in need of improvement.

**RECOMMENDATION 14:** Improve the vessel assessment program by: (1) using market derived factors to value vessels, (2) adding sales tax as a component of market value, and (3) sending a marina report form to all marinas.

**Use market derived factors to value vessels.**

After an initial vessel assessment is made, the assessor annually applies one of two fixed depreciation factors to all vessels and personal watercraft to calculate current market value. While the practice of using fixed depreciation adjustments simplifies the assessment process, it may or may not reflect market value. In addition, there is no current market study or research supporting the depreciation factors used by the assessor.

According to Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures* (AH 504), the use of valuation factors should be supported by a recognized sampling method. To utilize sampling of current market evidence, assessors must develop and use recognized methods that will be accepted with confidence by the BOE and property owners.

The assessor may also use the recently developed vessel valuation factors provided by the BOE. In order to promote uniformity of vessel assessments among counties within California, the BOE developed market derived depreciation tables available for use by assessors since the 2009 lien date. These depreciation factors were developed with the assistance of many county assessors to be used in the mass appraisal of vessels when determining a value for property taxation purposes.

**Add sales tax as a component of market value.**

The assessor initially values vessels by referring to widely recognized value guides. However, because these vessel guides have national application, their listed values do not include California sales tax, which must be included to obtain the full market value. We found numerous cases where the assessor developed a value conclusion derived from these guides, which did not include a sales tax component over and above the published value indicator.

Generally, the addition of sales or use tax to a value estimate is required to approximate the market value to the consumer. Assessors' Handbook Section 576, *Assessment of Vessels* (AH 576), provides that the addition of taxes, freight, and transportation charges to the list price of a vessel is consistent with an appraisal approach that gives consideration to the consumer's total cost in arriving at market value. Furthermore, the court case of *Xerox Corp. v. Orange County* (1977), 66 Cal.App.3d 746, established that under the market value concept, where price is the basis of value, the sales tax and freight charges are elements of value. Without including all the elements of the cost, the assessor's values are understated.

**Send a marina report form to all marinas.**

We found the assessor is not mailing marina report forms to the marinas located in Amador County. Furthermore, annual canvasses of the marinas are not being conducted. These procedures can be an effective and productive means of discovery. Section 601 requires the assessor to discover and inventory all property within the county. Without open channels of

communication and a periodic inspection of local marinas, there is a likelihood vessels berthed in Amador County waterways are not being assessed.

## APPENDIXES

### A. County-Assessed Properties Division Survey Group

#### Amador County

*Chief*

Dean Kinnee

*Survey Program Director:*

Benjamin Tang

Principal Property Appraiser

*Survey Team Supervisor:*

Pamela Bowens

Supervising Property Appraiser

*Survey Team Leader:*

Glenn Danley

Senior Specialist Property Appraiser

*Survey Team:*

James McCarthy

Senior Petroleum and Mining Appraisal Engineer

Dale Peterson

Senior Specialist Property Auditor-Appraiser

Tammy Aguiar

Associate Property Appraiser

Bryan Bagood

Associate Property Appraiser

Angie Berry

Associate Property Appraiser

Charles Matura

Associate Property Appraiser

Brian Salmon

Associate Property Appraiser

Jeff Arthur

Associate Property Auditor-Appraiser

***B. Relevant Statutes and Regulations***

***Government Code***

**15640. Survey by board of county assessment procedures.**

- (a) The State Board of Equalization shall make surveys in each county and city and county to determine the adequacy of the procedures and practices employed by the county assessor in the valuation of property for the purposes of taxation and in the performance generally of the duties enjoined upon him or her.
- (b) The surveys shall include a review of the practices of the assessor with respect to uniformity of treatment of all classes of property to ensure that all classes are treated equitably, and that no class receives a systematic overvaluation or undervaluation as compared to other classes of property in the county or city and county.
- (c) The surveys may include a sampling of assessments from the local assessment rolls. Any sampling conducted pursuant to subdivision (b) of Section 15643 shall be sufficient in size and dispersion to insure an adequate representation therein of the several classes of property throughout the county.
- (d) In addition, the board may periodically conduct statewide surveys limited in scope to specific topics, issues, or problems requiring immediate attention.
- (e) The board's duly authorized representatives shall, for purposes of these surveys, have access to, and may make copies of, all records, public or otherwise, maintained in the office of any county assessor.
- (f) The board shall develop procedures to carry out its duties under this section after consultation with the California Assessors' Association. The board shall also provide a right to each county assessor to appeal to the board appraisals made within his or her county where differences have not been resolved before completion of a field review and shall adopt procedures to implement the appeal process.

**15641. Audit of records; appraisal data not public.**

In order to verify the information furnished to the assessor of the county, the board may audit the original books of account, wherever located, of any person owning, claiming, possessing or controlling property included in a survey conducted pursuant to this chapter when the property is of a type for which accounting records are useful sources of appraisal data.

No appraisal data relating to individual properties obtained for the purposes of any survey under this chapter shall be made public, and no state or local officer or employee thereof gaining knowledge thereof in any action taken under this chapter shall make any disclosure with respect thereto except as that may be required for the purposes of this chapter. Except as specifically provided herein, any appraisal data may be disclosed by the board to any assessor, or by the board or the assessor to the assessee of the property to which the data relate.

The board shall permit an assessee of property to inspect, at the appropriate office of the board, any information and records relating to an appraisal of his or her property, including "market data" as defined in Section 408. However, no information or records, other than "market data," which relate to the property or business affairs of a person other than the assessee shall be disclosed.

Nothing in this section shall be construed as preventing examination of that data by law enforcement agencies, grand juries, boards of supervisors, or their duly authorized agents, employees, or representatives conducting an investigation of an assessor's office pursuant to Section 25303, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine that data.

**15642. Research by board employees.**

The board shall send members of its staff to the several counties and cities and counties of the state for the purpose of conducting that research it deems essential for the completion of a survey report pursuant to Section 15640 with respect to each county and city and county. The survey report shall show the volume of assessing work to be done as measured by the various types of property to be assessed and the number of individual assessments to be made, the responsibilities devolving upon the county assessor, and the extent to which assessment practices are consistent with or differ from state law and regulations. The report may show the county assessor's requirements for maps, records, and other equipment and supplies essential to the adequate performance of his or her duties, the number and classification of personnel needed by him or her for the adequate conduct of his or her office, and the fiscal outlay required to secure for that office sufficient funds to ensure the proper performance of its duties.

**15643. When surveys to be made.**

- (a) The board shall proceed with the surveys of the assessment procedures and practices in the several counties and cities and counties as rapidly as feasible, and shall repeat or supplement each survey at least once in five years.
- (b) The surveys of the ten largest counties and cities and counties shall include a sampling of assessments on the local assessment rolls as described in Section 15640. In addition, the board shall each year, in accordance with procedures established by the board by regulation, select at random at least three of the remaining counties or cities and counties, and conduct a sample of assessments on the local assessment roll in those counties. If the board finds that a county or city and county has "significant assessment problems," as provided in Section 75.60 of the Revenue and Taxation Code, a sample of assessments will be conducted in that county or city and county in lieu of a county or city and county selected at random. The ten largest counties and cities and counties shall be determined based upon the total value of locally assessed property located in the counties and cities and counties on the lien date that falls within the calendar year of 1995 and every fifth calendar year thereafter.
- (c) The statewide surveys which are limited in scope to specific topics, issues, or problems may be conducted whenever the board determines that a need exists to conduct a survey.



(d) When requested by the legislative body or the assessor of any county or city and county to perform a survey not otherwise scheduled, the board may enter into a contract with the requesting local agency to conduct that survey. The contract may provide for a board sampling of assessments on the local roll. The amount of the contracts shall not be less than the cost to the board, and shall be subject to regulations approved by the Director of General Services.

**15644. Recommendations by board.**

The surveys shall incorporate reviews of existing assessment procedures and practices as well as recommendations for their improvement in conformity with the information developed in the surveys as to what is required to afford the most efficient assessment of property for tax purposes in the counties or cities and counties concerned.

**15645. Survey report; final survey report; assessor's report.**

(a) Upon completion of a survey of the procedures and practices of a county assessor, the board shall prepare a written survey report setting forth its findings and recommendations and transmit a copy to the assessor. In addition the board may file with the assessor a confidential report containing matters relating to personnel. Before preparing its written survey report, the board shall meet with the assessor to discuss and confer on those matters which may be included in the written survey report.

(b) Within 30 days after receiving a copy of the survey report, the assessor may file with the board a written response to the findings and recommendations in the survey report.

The board may, for good cause, extend the period for filing the response.

(c) The survey report, together with the assessor's response, if any, and the board's comments, if any, shall constitute the final survey report. The final survey report shall be issued by the board within two years after the date the board began the survey. Within a year after receiving a copy of the final survey report, and annually thereafter, no later than the date on which the initial report was issued by the board and until all issues are resolved, the assessor shall file with the board of supervisors a report, indicating the manner in which the assessor has implemented, intends to implement or the reasons for not implementing, the recommendations of the survey report, with copies of that response being sent to the Governor, the Attorney General, the State Board of Equalization, the Senate and Assembly and to the grand juries and assessment appeals boards of the counties to which they relate.

**15646. Copies of final survey reports to be filed with local officials.**

Copies of final survey reports shall be filed with the Governor, Attorney General, and with the assessors, the boards of supervisors, the grand juries and assessment appeals boards of the counties to which they relate, and to other assessors of the counties unless one of these assessors notifies the State Board of Equalization to the contrary and, on the opening day of each regular session, with the Senate and Assembly.

## **Revenue and Taxation Code**

### **75.60. Allocation for administration.**

(a) Notwithstanding any other provision of law, the board of supervisors of an eligible county or city and county, upon the adoption of a method identifying the actual administrative costs associated with the supplemental assessment roll, may direct the county auditor to allocate to the county or city and county, prior to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) and prior to the allocation made pursuant to Section 75.70, an amount equal to the actual administrative costs, but not to exceed 5 percent of the revenues that have been collected on or after January 1, 1987, due to the assessments under this chapter. Those revenues shall be used solely for the purpose of administration of this chapter, regardless of the date those costs are incurred.

(b) For purposes of this section:

- (1) "Actual administrative costs" includes only those direct costs for administration, data processing, collection, and appeal that are incurred by county auditors, assessors, and tax collectors. "Actual administrative costs" also includes those indirect costs for administration, data processing, collections, and appeal that are incurred by county auditors, assessors, and tax collectors and are allowed by state and federal audit standards pursuant to the A-87 Cost Allocation Program.
- (2) "Eligible county or city and county" means a county or city and county that has been certified by the State Board of Equalization as an eligible county or city and county. The State Board of Equalization shall certify a county or city and county as an eligible county or city and county only if both of the following are determined to exist:
  - (A) The average assessment level in the county or city and county is at least 95 percent of the assessment level required by statute, as determined by the board's most recent survey of that county or city and county performed pursuant to Section 15640 of the Government Code.
  - (B) For any survey of a county assessment roll for the 1996-97 fiscal year and each fiscal year thereafter, the sum of the absolute values of the differences from the statutorily required assessment level described in subparagraph (A) does not exceed 7.5 percent of the total amount of the county's or city and county's statutorily required assessed value, as determined pursuant to the board's survey described in subparagraph (A).

- (3) Each certification of a county or city and county shall be valid only until the next survey made by the board. If a county or city and county has been certified following a survey that includes a sampling of assessments, the board may continue to certify that county or city and county following a survey that does not include sampling if the board finds in the survey conducted without sampling that there are no significant assessment problems in the county or city and county. The board shall, by regulation, define "significant assessment problems" for purposes of this section, and that definition shall include objective standards to measure performance. If the board finds in the survey conducted without sampling that significant assessment problems exist, the board shall conduct a sampling of assessments in that county or city and county to determine if it is an eligible county or city and county. If a county or city and county is not certified by the board, it may request a new survey in advance of the regularly scheduled survey, provided that it agrees to pay for the cost of the survey.

### ***Title 18, California Code of Regulations***

#### **Rule 370. Random selection of counties for representative sampling.**

- (a) SURVEY CYCLE. The board shall select at random at least three counties from among all except the ten largest counties and cities and counties for a representative sampling of assessments in accordance with the procedures contained herein. Counties eligible for random selection will be distributed as equally as possible in a five-year rotation commencing with the local assessment roll for the 1997–98 fiscal year.
- (b) RANDOM SELECTION FOR ASSESSMENT SAMPLING. The three counties selected at random will be drawn from the group of counties scheduled in that year for surveys of assessment practices. The scheduled counties will be ranked according to the size of their local assessment rolls for the year prior to the sampling.
  - (1) If no county has been selected for an assessment sampling on the basis of significant assessment problems as provided in subdivision (c), the counties eligible in that year for random selection will be divided into three groups (small, medium, and large), such that each county has an equal chance of being selected. One county will be selected at random by the board from each of these groups. The board may randomly select an additional county or counties to be included in any survey cycle year. The selection will be done by lot, with a representative of the California Assessors' Association witnessing the selection process.
  - (2) If one or more counties are scheduled for an assessment sampling in that year because they were found to have significant assessment problems, the counties eligible for random selection will be divided into the same number of groups as there are counties to be randomly selected, such that each county has an equal chance of being selected. For example, if one county is to be sampled because it was found to have significant assessment problems, only two counties will then be randomly selected and the pool of eligible counties will be divided into two groups. If two counties are to be sampled because they were found to have significant assessment problems, only one county will be randomly selected and all counties eligible in that year for random selection will be pooled into one group.

- (3) Once random selection has been made, neither the counties selected for an assessment sampling nor the remaining counties in the group for that fiscal year shall again become eligible for random selection until the next fiscal year in which such counties are scheduled for an assessment practices survey, as determined by the five-year rotation. At that time, both the counties selected and the remaining counties in that group shall again be eligible for random selection.

(c) **ASSESSMENT SAMPLING OF COUNTIES WITH SIGNIFICANT ASSESSMENT PROBLEMS.** If the board finds during the course of an assessment practices survey that a county has significant assessment problems as defined in Rule 371, the board shall conduct a sampling of assessments in that county in lieu of conducting a sampling in a county selected at random.

(d) **ADDITIONAL SURVEYS.** This regulation shall not be construed to prohibit the Board from conducting additional surveys, samples, or other investigations of any county assessor's office.

**Rule 371. Significant assessment problems.**

(a) For purposes of Revenue and Taxation Code Section 75.60 and Government Code Section 15643, "significant assessment problems" means procedure(s) in one or more areas of an assessor's assessment operation, which alone or in combination, have been found by the Board to indicate a reasonable probability that either:

- (1) the average assessment level in the county is less than 95 percent of the assessment level required by statute; or
- (2) the sum of all the differences between the board's appraisals and the assessor's values (without regard to whether the differences are underassessments or overassessments), expanded statistically over the assessor's entire roll, exceeds 7.5 percent of the assessment level required by statute.

(b) For purposes of this regulation, "areas of an assessor's assessment operation" means, but is not limited to, an assessor's programs for:

- (1) Uniformity of treatment for all classes of property.
- (2) Discovering and assessing newly constructed property.
- (3) Discovering and assessing real property that has undergone a change in ownership.
- (4) Conducting mandatory audits in accordance with Revenue and Taxation Code Section 469 and Property Tax Rule 192.
- (5) Assessing open-space land subject to enforceable restriction, in accordance with Revenue and Taxation Code Sections 421 et. seq.

- (6) Discovering and assessing taxable possessory interests in accordance with Revenue and Taxation Code Sections 107 et. seq.
  - (7) Discovering and assessing mineral-producing properties in accordance with Property Tax Rule 469.
  - (8) Discovering and assessing property that has suffered a decline in value.
  - (9) Reviewing, adjusting, and, if appropriate, defending assessments for which taxpayers have filed applications for reduction with the local assessment appeals board.
- (c) A finding of "significant assessment problems," as defined in this regulation, would be limited to the purposes of Revenue and Taxation Code Section 75.60 and Government Code Section 15643, and shall not be construed as a generalized conclusion about an assessor's practices.

## **ASSESSOR'S RESPONSE TO BOE'S FINDINGS**

Section 15645 of the Government Code provides that the assessor may file with the Board a response to the findings and recommendations in the survey report. The survey report, the assessor's response, and the BOE's comments on the assessor's response, if any, constitute the final survey report.

The Amador County Assessor's response begins on the next page. The BOE has no comments on the response.

## AMADOR COUNTY ASSESSOR

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James B. Rooney, Assessor  
810 Court Street  
Jackson, California 95642  
Phone (209) 223-6351



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MAY 23 2012

County-Assessed Properties Division  
State Board of Equalization

May 21, 2012

Dean R. Kinnee, Chief  
County Assessed Properties Division  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0064

Subject: Amador County Assessment Practices Survey Response

Dear Mr. Kinnee:

Please consider this our response to the recommendations included in the State Board of Equalization Assessment Practices Survey of Amador County. This response was prepared in accordance with Section 15645 of the California Government Code.

Generally, we concur with the recommendations and have already taken the appropriate steps to implement changes to our current procedures. In other instances, the impact on the overall assessment program is so minor, or costly, that the recommendation will be prioritized and addressed as time and budget permit.

I want to express appreciation to the survey team for the professional manner in which the survey was conducted, especially considering our tight workspace and high work volumes. I strongly feel that the periodic, independent survey of Assessors' assessment practices is a valuable tool that serves our office well.

Finally, I want to thank the employees of the Amador County Assessors Office for their dedication and professionalism. It is the hard work and conscientious efforts of staff members that enable this office to maintain high standards of quality and efficiency in an evolving environment.

Sincerely,

Jim Rooney  
Amador County Assessor