



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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September 28, 2012

No. 2012/043

TO COUNTY ASSESSORS, COUNTY COUNSELS,
AND OTHER INTERESTED PARTIES:

**Notice of Proposed Regulatory Action
By the
State Board of Equalization**

**Proposed to Adopt
Amendments to California Code of Regulations, Title 18,
Sections 101, *Board-Prescribed Exemption Forms*, 171, *Board-Prescribed
Forms for Property Statements*, 252, *Content of Assessment Roll*, and
1045, *Administration of the Annual Racehorse Tax***

NOTICE IS HEREBY GIVEN

The State Board of Equalization (Board), pursuant to the authority vested in it by Government Code section 15606 and Revenue and Taxation Code (RTC) section 5781, proposes to adopt amendments to California Code of Regulations, title 18, sections (Rules) 101, *Board-Prescribed Exemption Forms*, 171, *Board-Prescribed Forms for Property Statements*, 252, *Content of Assessment Roll*, and 1045, *Administration of the Annual Racehorse Tax*. Rules 101, 171, 252, and 1045 implement the provisions of Government Code section 15606 and RTC section 5781 by requiring county assessors to use Board-prescribed forms in the assessment of property for taxation, including the implementation of the annual racehorse tax imposed under part 12 (commencing with section 5701) of division 1, *Property Taxation*, of the RTC.

The proposed amendments revise the title of Rule 171 to better reflect its content, and revise the text of Rule 171 to reflect amendments made to RTC section 441.5, which permit county assessors to accept property statement information provided by alternative means. The proposed amendments to Rule 252 reflect the repeal of RTC section 75.30, which required county assessors to place a “notice of a pending supplemental billing” on the assessment roll. The proposed amendments to Rule 252 clarify the notation used to denote escape assessments on the assessment roll, clarify Rule 252’s cross reference to Rule 261, and clarify Rule 252’s provisions

regarding the entry of the assessed value of exempt property on the assessment roll. The proposed amendments to Rule 252 also provide county assessors with notice of Government Code section 6254.21's prohibitions against posting the home addresses and telephone numbers of appointed or elected officials and their residing spouses and children on the Internet.

In addition, the proposed amendments clarify the existing provisions in Rules 101, 171, and 1045 that require county assessors to use Board-prescribed property tax forms and prescribe the procedures county assessors are required to follow to ensure that their forms meet the applicable rule's requirements. The proposed amendments change the due dates for form checklists specified in Rules 101, 171, and 1045. The proposed amendments add provisions to Rules 101, 171, and 1045 that explain when current law permits county assessors to develop and use their own forms to request relevant information that is not requested in Board-prescribed forms, and encourage county assessors to develop uniform forms for use throughout the state, request that the Board revise its forms or create new forms when needed, and make their current property tax forms available on their websites. The proposed amendments also update the reference note to Rule 101 so that it refers to additional RTC sections that are implemented by Board-prescribed exemption forms, update the reference note to Rule 171 so that it refers to additional RTC sections that are implemented by Board-prescribed property tax forms, and update the reference note to Rule 252 so that it refers to Government Code section 6254.21 and reflects the repeal of RTC section 75.30.

PUBLIC HEARING

The Board will conduct a meeting in Room 121, at 450 N Street, Sacramento, California, on November 13-15, 2012. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board's Website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 9:30 a.m. or as soon thereafter as the matter may be heard on November 13, 14, or 15, 2012. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the proposed amendments to Rules 101, 171, 252, and 1045.

AUTHORITY

The amendments to Rules 101, 171, 252, and 1045 are proposed under the authority provided by Government Code section 15606. The amendments to Rule 1045 are also proposed under the authority provided by RTC section 5781.

REFERENCE

Rule 101, as proposed to be amended, implements, interprets, and makes specific the provisions of RTC sections 251, 253.5 and 254. Rule 171, as proposed to be amended, implements, interprets, and makes specific the provisions of RTC sections 63.1, 69.3, 69.4, 69.5, 73, 74.3, 74.5, 74.6, 441, 441.5, 452, 480, 480.1, 480.4, and 1063. Rule 252, as proposed to be amended, implements, interprets, and makes specific, the provisions of Government Code section 6254.21

and RTC sections 75.31, 109, 109.5, 109.6, 601, 602, 618, 619, 1612, 1614, 1646, 2152, 2188.2, 2190, 2190.2, and 2601. Rule 1045, as proposed to be amended, implements, interprets, and makes specific, the provisions of Government Code section 15606 and RTC sections 469, 5701, 5721, 5765, 5768, 5781, and 5790.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing Laws and Regulations

Government Code section 15606, subdivision (c), authorizes the Board to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing, and county assessors when assessing. Government Code section 15606, subdivision (d), generally authorizes the Board to prescribe and enforce the use of forms for the assessment of property for taxation. In addition, RTC section 5781 authorizes the Board to adopt rules and regulations and prescribe forms to implement part 12 (commencing with § 5701) of division 1 of the RTC, which imposes an annual tax on the owners of racehorses for the privilege of breeding, training, caring for, or racing their racehorses in this state, in lieu of any other property tax that would otherwise be imposed on racehorses under division 1 (hereafter “annual racehorse tax”).

Rule 101 currently requires the use of Board-prescribed forms for claiming property tax exemptions. Rule 171 currently requires the use of Board-prescribed property statement and report forms for reporting interests in personal and real property for assessment purposes. Rule 252 currently prescribes the general content of local assessment rolls county assessors prepare to assess property taxes. Rule 1045 currently requires the use of Board-prescribed Annual Racehorse Tax Returns and Annual Report of Boarded Racehorses forms for reporting the annual racehorse tax. In addition, Rules 101, 171, and 1045 currently grant county assessors the discretion to reproduce Board-prescribed prototype forms or to produce their own forms from the Board-prescribed prototype forms after rearranging the content and altering the size and design of the prototype forms to meet the county assessors’ needs. However, if a county assessor chooses to rearrange the content or alter the size and design of a Board-prescribed prototype form, then Rules 101, 171, and 1045 currently require the county assessor to submit the revised form to the Board for approval that it conforms to the applicable rule’s requirements, along with a form checklist. The Board adopted Rules 101, 171, 252, and 1045, pursuant to Government Code section 15606. The Board also adopted Rule 1045 pursuant to Revenue and Taxation Code section 5781.

The date that property taxes for any fiscal year become a lien on property is referred to as the “lien date.” (RTC § 117.) The lien date was moved from March 1 to January 1 due to amendments made to RTC section 2192 by Statutes 1995, chapter 499. RTC section 5761 provides that the annual racehorse tax shall be determined as of “January 1 of the calendar year for which it is imposed and shall be immediately due and payable to the tax collector of the county in which the racehorse is domiciled.” RTC section 5761 has not been amended since 1972.

Government Code section 6254.21, subdivision (a), was enacted in 1998 (Stats. 1998, ch. 429) to prohibit state and local agencies from posting the home addresses and telephone numbers of

appointed or elected officials on the Internet without obtaining the officials' written permission. In addition, the legislature amended Government Code section 6254.21, subdivision (b), in 2002 (Stats. 2002, ch. 621) to also prohibit any person from knowingly posting the home addresses and telephone numbers of appointed or elected officials' residing spouses and children on the Internet under specified circumstances.

In 2003, RTC section 75.30 was repealed by the enactment of Senate Bill No. (SB) 1062 (Stats. 2003, ch. 471). Section 75.30 previously required county assessors to place a "notice of a pending supplemental billing" on the assessment roll, and Rule 252, subdivision (a)(16), currently contains provisions implementing that requirement.

In 2009, the enactment of SB 822 (Stats. 2009, ch. 204) amended RTC section 441.5 in order to permit county assessors to accept property statement information provided by alternative means, including electronic filing. However, Rule 171 does not currently reflect the 2009 amendments to RTC section 441.5.

In addition, current law authorizes county assessors to request relevant tax information that is not required to be provided in Board-prescribed forms (see, e.g., RTC §§ 217, subd. (g), 441, subd. (d), and 5768) and, in some cases, expressly permits county assessors to develop and use their own forms with the Board's approval. (See, e.g., RTC §§ 75.31, subd. (g), and 534, subd. (d).)

Effect, Objectives, and Benefits of the Proposed Amendments

Board staff initiated a project to update Rules 101, 171, 252, and 1045. The objectives of the project were to:

- Revise the title of Rule 171 to reflect that Rule 171 applies to report forms, in addition to property statements forms, which are already referred to in the rule's title;
- Add provisions to Rule 171 to reflect the amendments made to RTC section 441.5 by SB 822, which permit county assessors to accept property statement information provided by alternative means, including electronic filing;
- Revise Rules 101, 171, and 1045 to further clarify the rules' provisions requiring the use of Board-prescribed property tax forms and prescribing the procedures county assessors are required to follow to ensure that their forms meet the applicable rule's requirements;
- Update the due dates for form checklists specified in Rules 101, 171, and 1045 to reflect the amendments made to RTC section 2192 by Statutes 1995, chapter 499, which moved the lien date from March 1 to January 1, and generally ensure that assessors provide their form checklists to the Board earlier in the year;
- Add provisions to Rules 101, 171, and 1045 that explain when current law permits county assessors to develop and use their own forms to request relevant information that is not requested in Board-prescribed forms, and encourage county assessors to develop uniform forms for use throughout the state, request that the Board revise its forms or create new forms when needed, and make their current property tax forms available on their websites;
- Revise Rule 252 to reflect the repeal of RTC section 75.30 by SB 1062, clarify the notation used to denote escape assessments on the assessment roll, clarify the rule's cross

reference to Rule 261, and clarify the provisions regarding the entry of the assessed value of exempt property on the assessment roll;

- Add provisions to Rule 252 to ensure that county assessors who post their local assessment rolls on the Internet are aware of Government Code section 6254.21's prohibitions against posting the home addresses and telephone numbers of appointed or elected officials and their residing spouses and children on the Internet; and
- Update the reference note to Rule 101 to refer to additional RTC sections that are implemented by Board-prescribed exemption forms, update the reference note to Rule 171 to refer to additional RTC sections that are implemented by Board-prescribed report forms or property statements, and update the reference note to Rule 252 to refer to Government Code section 6254.21 and reflect the repeal of RTC section 75.30.

As a result, Board staff issued Letter to Assessors No. (LTA) 2012/015 on April 9, 2012, which informed county assessors and interested parties about the project to amend Rules 101, 171, 252, and 1045. The LTA also included drafts of staff's proposed revisions to the rules and encouraged the county assessors and interested parties to review and comment on the drafts.

The counties generally approved of the draft language. However, a few counties noted that the word "furnished" was inadvertently replaced with the word "furnish" in the original text of Rule 171, subdivision (f), and that the draft language did not fully illustrate the renumbering of Rule 1045, subdivision (e), as subdivision (h). Also, one county suggested changing the word "question" to the word "questions" in subdivision (a) of Rules 101, 171, and 1045, changing the word "carriers" to the word "carries" in Rule 171, subdivision (d)(1), and reformatting Rules 101, subdivision (d)(2), 171, subdivision (g)(2), and 1045, subdivision (d)(2). As a result, staff made a few grammatical and formatting changes to each subdivision.

Subsequently, Board staff prepared Formal Issue Paper 12-008 and submitted it to the Board for consideration at its August 21, 2012, Property Tax Committee meeting. The issue paper recommended that the Board propose the adoption of staff's draft revisions to Rules 101, 171, 252, and 1045, with the grammatical and formatting changes noted above.

During its August 21, 2012, Property Tax Committee meeting, the Board determined that staff's recommended amendments to Rules 101, 171, 252, and 1045 are reasonably necessary to: (1) ensure that the title of Rule 171 reflects the rule's content and that the text of Rule 171 reflects the amendments made to RTC section 441.5 by SB 822, which permit county assessors to accept property statement information provided by alternative means, including electronic filing; (2) ensure that Rule 252 reflects the repeal of RTC section 75.30, which required county assessors to place a "notice of a pending supplemental billing" on the assessment roll, clarify the notation required by Rule 252 to denote escape assessments on the assessment roll, clarify Rule 252's cross reference to Rule 261, clarify Rule 252's provisions regarding the entry of the assessed value of exempt property on the assessment roll, and ensure that county assessors who post their local assessment rolls on the Internet do not violate the prohibitions set forth in Government Code section 6254.21; (3) clarify the provisions in Rules 101, 171, and 1045 requiring the use of Board-prescribed property tax forms; (4) clarify the procedures in Rules 101, 171, and 1045 that county assessors are required to follow to ensure that their forms meet the applicable rule's requirements; (5) update the due dates for form checklists specified in Rules 101, 171, and 1045

to reflect the amendments made to RTC section 2192 by Statutes 1995, chapter 499, which moved the lien date from March 1 to January 1, and generally ensure that assessors provide their form checklists to the Board earlier in the year; (6) explain when current law permits county assessors to develop and use their own forms to request relevant information that is not requested in Board-prescribed forms, and encourage county assessors to develop uniform forms for use throughout the state, request that the Board revise its forms or create new forms when needed, and make their current property tax forms available on their websites; and (7) update the reference notes to Rules 101, 171, and 252. Therefore, the Board unanimously voted to propose the adoption of the recommended amendments.

The proposed amendments are anticipated to provide the following specific benefits:

- Ensure that Rule 171 is consistent with the amendments made to RTC section 441.5 by SB 822;
- Ensure that Rule 252 is consistent with the repeal of the requirements previously imposed by RTC section 75.30, and clearly explains how to denote an escape assessment on the assessment roll and how to enter of the assessed value of exempt property on the assessment roll;
- Provide county assessors with additional notice regarding the prohibitions in Government Code section 6254.21;
- Clarify the provisions in Rules 101, 171, and 1045 requiring county assessors to use Board-prescribed forms, and prescribing the procedures that county assessors must follow to ensure that they are complying with the applicable rule's requirements;
- Ensure that Rules 101 and 171 reflect the amendments made to RTC section 2192 by Statutes 1995, chapter 499, which moved the lien date to January 1;
- Provide guidance to county assessors regarding their authority, under current law, to develop and use their own forms to request relevant information that is not requested in Board-prescribed forms, and help encourage county assessors to develop uniform forms for use throughout the state;
- Help encourage county assessors to request that the Board revise its forms or create new forms when needed;
- Help encourage county assessors to make their current property tax forms available on Internet; and
- Promote fairness by helping to ensure the uniformity of property tax forms used throughout the state.

The Board has performed an evaluation of whether the proposed amendments to Rules 101, 171, 252, and 1045 are inconsistent or incompatible with existing state regulations and determined that the proposed amendments are not inconsistent or incompatible with existing state regulations. This is because Rules 101, 171, and 1045 are the only existing state regulations prescribing the requirements that county assessors use Board-prescribed exemption forms, report forms and property statements, and annual racehorse tax forms, respectively, the proposed amendments to all three rules are consistent, and the proposed amendments to each rule are internally consistent. This is also because article 6 (commencing with Rule 251) of chapter 2 of division 1 of title 18 of the California Code of Regulations contains all of the regulations prescribing the content of assessment rolls and the proposed amendments to Rule 252 are not

inconsistent or incompatible with any of the current provisions of the other rules in article 6. In addition, there is no federal property tax and there are no comparable federal regulations or statutes to Rules 101, 171, 252, and 1045.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Rules 101, 171, 252, and 1045 will not impose a mandate on local agencies or school districts, including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES, AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Rules 101, 171, 252, and 1045 will result in no direct or indirect cost or savings to any state agency, any cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, other non-discretionary cost or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The proposed amendments to Rules 101, 171, 252, and 1045: (1) make Rule 171 consistent with the amendments made to RTC section 441.5 by SB 822; (2) make Rule 252 consistent with the repeal of RTC section 75.30; (3) clarify the notation assessors use to denote escape assessments on assessment rolls; (4) clarify the procedures for entering the assessed value of exempt property on the assessment roll; (5) provide county assessors with additional notice regarding the prohibitions in Government Code section 6254.21; (6) clarify the provisions in Rules 101, 171, and 1045 requiring county assessors to use Board-prescribed forms in accordance with Government Code section 15606 and RTC section 5781, and prescribing the procedures that county assessors must follow to ensure their forms comply with the applicable rule's requirements; (7) Update the due dates for form checklists specified in Rules 101, 171, and 1045 to reflect the January 1 lien date, and generally ensure that assessors provide their form checklists to the Board earlier in the year; (8) provide guidance to county assessors regarding their authority, under current law, to develop and use their own forms to request relevant information that is not requested in Board-prescribed forms; (9) encourage county assessors to develop uniform forms for use throughout the state; (10) encourage county assessors to request that the Board revise its forms or create new forms when needed; (11) encourage county assessors to make their property tax forms available on the Internet; and (12) generally help promote the use of uniform property tax forms throughout the state. The proposed amendments do not impose any obligations on businesses or change any requirements previously imposed on businesses. Therefore, the Board has made an initial determination that the adoption of the proposed amendments to Rules 101, 171, 252, and 1045 will not have a significant, statewide

adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The adoption of the proposed amendments to Rules 101, 171, 252, and 1045 may affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The Board has prepared the economic impact analysis required by Government Code section 11346.3, subdivision (b)(1), and included it in the initial statement of reasons. The Board has determined that the adoption of the proposed amendments to Rules 101, 171, 252, and 1045 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California. Furthermore, the Board has determined that the adoption of the proposed amendments to Rules 101, 171, 252, and 1045 will not affect the health and welfare of California residents, worker safety, or the state's environment.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

Adoption of the proposed amendments to Rules 101, 171, 252, and 1045 will not have a significant effect on housing costs.

DETERMINATION REGARDING ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Bradley M. Heller, Tax Counsel IV, by telephone at (916) 323-3091, by e-mail at Bradley.Heller@boe.ca.gov, or by mail at State Board of Equalization, Attn: Bradley M. Heller, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action

should be directed to Mr. Rick Bennion, Regulations Coordinator, by telephone at (916) 445-2130, by fax at (916) 324-3984, by e-mail at Richard.Bennion@boe.ca.gov, or by mail at State Board of Equalization, Attn: Rick Bennion, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0080.

WRITTEN COMMENT PERIOD

The written comment period ends at 9:30 a.m. on November 13, 2012, or as soon thereafter as the Board begins the public hearing regarding the proposed amendments to Rules 101, 171, 252, and 1045 during the November 13-15, 2012, Board meeting. Written comments received by Mr. Rick Bennion at the postal address, email address, or fax number provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the proposed amendments to Rules 101, 171, 252, and 1045. The Board will only consider written comments received by that time.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared underscored and strikethrough versions of the text of Rules 101, 171, 252, and 1045 illustrating the express terms of the proposed amendments and an initial statement of reasons for the adoption of the proposed amendments, which includes the economic impact analysis required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed amendments and the initial statement of reasons are also available on the Board's Website at www.boe.ca.gov.

SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8

The Board may adopt the proposed amendments to Rules 101, 171, 252, and 1045 with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the proposed amendments, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting amendments will be mailed to those interested parties who commented on the original proposed amendments orally or in writing or who asked to be informed of such changes. The text of the resulting amendments will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting amendments that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the proposed amendments to Rules 101, 171, 252, and 1045, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's Website at www.boe.ca.gov.

Sincerely,

/s/ Joann Richmond

Joann Richmond, Chief
Board Proceedings Division

JR:reb