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No. 2020/051

October 8, 2020

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

**CALIFORNIA CODE OF REGULATIONS**  
**TITLE 18, PUBLIC REVENUES**  
**EMERGENCY ACTION**  
**PROPERTY TAX RULE 202**

Following a public hearing on August 18, 2020, the State Board of Equalization (BOE) readopted Property Tax Rule (Rule) 202, *Allocation of Aircraft of Certificated Air Carriers and Scheduled Air Taxi Operators*, as an emergency action under Government Code section 11346.1. The emergency regulatory action was approved by the Office of Administrative Law. The readopted amendment extends the existing emergency amendment that became effective on January 1, 2020. The readopted amendment will expire on May 25, 2021.<sup>1</sup>

Rule 202 implements, interprets, and makes specific Revenue and Taxation Code sections 441, 1152, 1153.5, and 1157, as amended by Senate Bill 791 (Stats. 2019, ch. 333), relating to the assessment of certificated aircraft.<sup>2</sup> The BOE has commenced the formal rulemaking procedure to make permanent the emergency amendments to Rule 202.<sup>3</sup>

Enclosed is a copy of the readopted rule. In addition, all documents regarding this emergency action and the process to formalize the amendments to Rule 202 may be viewed on the project webpage at <https://www.boe.ca.gov/proptaxes/valuation-of-certificated-aircraft.htm>. If you have any questions regarding the content of this rule, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David Yeung

David Yeung  
Deputy Director  
Property Tax Department

DY:gs  
Enclosure

<sup>1</sup> See Letters To Assessors No. [2019/043](#), [2020/005](#), and [2020/038](#).

<sup>2</sup> See Letter To Assessors No. [2019/034](#).

<sup>3</sup> See Letter To Assessors No. [2020/045](#).

BOARD OF EQUALIZATION  
PROPERTY TAX RULES

Division 1. State Board of Equalization-Property Tax  
Chapter 2. Assessment  
Article 5. Situs

**Rule 202. Allocation of Aircraft of Certificated Air Carriers and Scheduled Air Taxi Operators.**

*Authority:* Section 15606, Government Code.

*Reference:* Sections 1150, 1151, 1152, 1153, 1154, 1155, 1156 and 1157, Revenue and Taxation Code.

**(a) AIR TAXIS.** An aircraft whose owner on the lien date used it in scheduled air taxi service at any time during the 12-month period from January 1 through December 31 of the previous year immediately preceding the lien date, or which has been purchased for scheduled air taxi service but not yet put into such service and not yet used in any other service, is assessable under sections 1150 to 1157 of the Revenue and Taxation Code and not under Part 10, Division 1, or under other situs provisions of Part 2, Division 1, of the Revenue and Taxation Code.

**(b) SITUS.** Aircraft of United States registry operated by certificated air carriers (within the meaning of section 1150 of the Revenue and Taxation Code) or scheduled air taxis (within the meaning of subdivisions (a) and (b) of section 1154 of the Revenue and Taxation Code) and flown in intrastate, interstate, or foreign commerce shall be deemed to be situated only in those taxing agencies (within the meaning of section 404 of the Revenue and Taxation Code) in which the aircraft normally make physical contact. The physical contact must be intentional rather than by accident or as the result of an emergency, and it must involve embarking or disembarking of crew, passengers, or freight.

(1) Aircraft flying over the state without landing do not acquire situs for property tax purposes. Conversely, the situs of aircraft that depart from a taxing agency within the state, fly out of the state, and return to the same or another taxing agency within the state without landing outside the state is within the state's taxing jurisdiction throughout the flight.

(2) Situs for property tax purposes is not affected by the legal or commercial domicile of the operator of the aircraft, except that foreign-owned and-based aircraft operated solely in foreign commerce do not acquire a situs within the state for property tax purposes.

**(c) ALLOCATION FORMULA.** The allocation formula to be used by each assessor is the proportionate amount of time, both in the air and on the ground, that certificated aircraft have spent within the state during the 12-month period from January 1 through December 31 of the previous year immediately preceding the lien date as compared to the total time during that 12-month period.

(1) Time in the air consists of flight time and taxi time within California's borders.

(A) Time in the air shall be based on the State Board of Equalization's "California Standard Flight Times" table in the most recently published Letter To Assessors that address intrastate and interstate standard flight times.

(B) These standard times shall be multiplied by the number of departures to and from the airports listed in the Letter To Assessors.

(C) Absence of a flight on the State Board of Equalization's "California Standard Flight Times" table in the most recently published Letter To Assessors that addresses intrastate and interstate standard flight times does not preclude the inclusion of that flight in the allocation formula.

(D) Commercial air carriers shall notify, in writing, the lead county for that air carrier of any missing flights not listed in the "California Standard Flight Times" table in the most recently published Letter To Assessors that address intrastate and interstate standard flight times.

- (2) Time on the ground is all time in the state that is not flight or taxi time.
  - (A) Time on the ground at each airport shall be reported on a summary basis by fleet type pursuant to subdivision (m) of section 441 of the Revenue and Taxation Code.
  - (B) Time on ground allocated to heavy maintenance that requires a certificated aircraft or scheduled air taxi to be removed from revenue service shall be excluded.
    - i. An air carrier claiming such exclusion shall identify such maintenance and supply sufficient documentation that will enable the assessor to confirm the amount of time the aircraft was not in revenue service.
    - ii. Routine line maintenance that does not require removal from revenue service shall not be excluded from time allocable to the airport.
- (3) Time allocable to each airport is the amount of time a certificated aircraft or scheduled air taxi is on the ground at the airport computed pursuant to subdivision (c)(2) of this rule, plus the portion of incoming and outgoing flight time computed pursuant to subdivision (c)(1) of this rule.
- (4) All time, both in the air and on the ground, that certificated aircraft have spent within the state prior to the aircraft's first entry into the revenue service of the air carrier in control of the aircraft on the current lien date shall be excluded from the time-in-state factor.

**(d) ALLOCATION OF FLIGHT TIME.** For aircraft flying from one California airport to another California airport, the flight time attributable to each airport is one-half the flight time between the airports. For aircraft arriving from an airport outside the state or leaving for an airport outside the state, the flight time from or to the state boundary shall be allocated to the California airport in which the aircraft first lands or last takes off, as the case may be. The flight time to the state boundary shall be computed as follows: (1) determine the mileage from the airport to the state boundary crossing point on a great circle flight to the first landing point outside the state; (2) divide this mileage by the total great circle mileage from the airport to the first landing point outside the state; (3) multiply this percentage by the total flight time from the airport to the first landing point outside the state. The same procedure shall be used for inbound flights from outside the state. To allow for differences in take-off, landing, and cruising speeds and for varying take-off and landing patterns, the time allocated to an airport shall not be less than five minutes for an incoming or an outgoing flight. In lieu of the actual flight time for a single flight, the average flight time between two ports, or between a port and the state line, for two or more flights of a single carrier or of more than one carrier shall be used when such an average is promulgated by the board unless the assessor has documented evidence which justifies departure from such average time.

**(e) SOURCES OF ALLOCATION DATA.** For all operations, including, but not limited to, overhaul, pilot training, charter, military contract flights, and standby services, ground time and departures shall be derived from the carrier's recorded operations.

**(f) LEAD COUNTY ASSESSOR'S OFFICE.**

- (1) After consulting with commercial air carriers in the state, the Aircraft Advisory Subcommittee of the California Assessors' Association shall do both of the following:
  - (A) On or before March 1, 2020 and on or before each March 1 thereafter, designate a lead county assessor's office for each commercial air carrier operating certificated aircraft in California.
  - (B) Every third year thereafter, redesignate a lead county assessor's office for each of these air carriers, unless an air carrier and its existing lead county assessor's office concur to waive this redesignation.
- (2) The lead county assessor's office shall do all of the following:
  - (A) Calculate an unallocated value of the certificated aircraft of each commercial air carrier to which that assessor is designated.
  - (B) Electronically transmit to the assessor of each county in which the property described in subdivision (f)(1) of this rule has situs for the assessment year the values determined by the lead county assessor's office under subdivision (f)(1) of this rule.

- (C) Receive the property statement, as described in subdivision (m) of section 441 of the Revenue and Taxation Code, of each commercial air carrier to which the assessor is designated.
  - (D) Receive and electronically transmit to the assessor of each affected county flight data received pursuant to paragraph (3) of subdivision (m) of section 441 of the Revenue and Taxation Code.
  - (E) Lead the audit team described in subdivision (f)(4) of this rule when that team is conducting an audit of a commercial air carrier to which the assessor is designated.
  - (F) Notify, in writing, each commercial air carrier for which the assessor has been designated of this designation on or before the first March 15 that follows that designation.
  - (G) Notify, in writing, the State Board of Equalization, of any missing flights not listed in the "California Standard Flight Times" table in the most recently published Letter To Assessors that addresses intrastate and interstate standard flight times.
- (3) The county assessor of each county in which the personal property of a commercial air carrier has situs for an assessment year is solely responsible for assessing that property, applying the allocation formula set forth above and enrolling the value of the property in that county, but, in determining the allocated fleet value for each make, model, and series of certificated aircraft of a commercial air carrier, the assessor may consult with the lead county assessor's office designated for that commercial carrier.
- (4) An audit of a commercial air carrier shall be conducted once every four years on a centralized basis by an audit team of auditor-appraisers from one to three counties, as determined by the Aircraft Advisory Subcommittee of the California Assessors' Association. Such audit shall encompass all of the California personal property and fixtures of the air carrier and is deemed to be made on behalf of each county for which an audit would otherwise be required under section 469 of the Revenue and Taxation Code.
- (A) The audit team shall be the point of contact for all aircraft-related questions to or from each county and the commercial air carrier.
  - (B) The audit team shall also ensure that all aircraft-related concerns regarding the taxable value of the aircraft and aircraft parts are resolved with each county before finalizing the audit.

**(g) APPLICATION OF ALLOCATION FORMULA.** The aircraft of certificated air carriers and scheduled air taxi operators shall be segregated by subfleet type, and a separate allocation ratio shall be computed for each subfleet type that has established a taxable situs within the state, excluding those makes within a type that have not established a taxable situs within the state. Each allocation ratio shall then be applied to the total value of the carrier's aircraft of each subfleet type to which the allocation ratio applies.

*History:* Adopted March 9, 1967, effective March 10, 1967.  
Amended January 8, 1969, effective February 12, 1969.  
Amended December 12, 1969, effective January 11, 1970.  
Amended February 16, 1970, effective March 26, 1970.  
Amended December 15, 1971, effective January 19, 1972.  
Amended February 21, 1974, effective February 26, 1974.  
Amended December 17, 1975, effective January 25, 1976.  
Amended July 31, 1980, effective November 19, 1980.  
Amended July 27, 1982, effective February 10, 1983.  
Amended September 26, 1983, effective October 31, 1983.  
Amended February 25, 1998, effective June 12, 1998.  
Emergency amendments approved November 19, 2019, effective January 1, 2020.  
Emergency readoption approved August 18, 2020, effective October 27, 2020