



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

Date Amended:	Enrolled	Bill No:	SB 1777
Tax:	Property Administration	Author:	Committee on Revenue and Taxation
Related Bills:	AB 3080 (AR&T)	Position:	Support as Sponsor

BILL SUMMARY

This Board of Equalization (Board) sponsored bill contains Property Taxes provisions to:

- Amend Sections 69 and 69.3 of the Revenue and Taxation Code¹ to treat land and improvements as separate units in meeting the "substantially damaged or destroyed" threshold of 50% for purposes of qualifying for disaster relief via a base year value transfer.
- Amend Section 214.6 to clarify the filing procedures for obtaining a property tax exemption on property owned by a church or a nonprofit organization that is leased to a public school, community college, state college, or state university, including the University of California.
- Amend Section 276, related to the Disabled Veterans' Exemption, to delete obsolete references to prior exemption amounts that have since been increased, and to correct a transposition error within that section that intends a cross reference to Section 4985. (Housekeeping)
- Amend Section 441 to eliminate a requirement that owners of noncommercial boats with an initial cost of more than \$100,000 file a property statement every year.
- Amend Sections 480.3 and 480.4 to remove the specific detail of the Preliminary Change in Ownership Report from statute and instead authorize the Board to prescribe the form after consultation with the California Assessors' Association and interested parties.
- Amend Sections 670 and 671 to correct the name of the California Assessors' Association. (Housekeeping)
- Amend Section 671 and Section 15606.5 of the Government Code to allow the Board to deliver online continuing education training to certificated property tax appraisers through established web based systems maintained by community colleges that charge fees for online courses.
- Amend Section 15641 of the Government Code to clarify that a cross reference to "Section 408" refers to that section of code in the Revenue and Taxation Code rather than the Government Code. (Technical)

In addition, this bill amends Section 15609 of the Government Code to require the Members of the Board to meet monthly in the state but not exclusively in Sacramento so long as they hold at least one regular meeting in Sacramento each quarter.

¹ All code section references are to the Revenue and Taxation Code unless otherwise specified.

ANALYSIS**Base Year Value Transfers: Disaster Victims**
*Revenue and Taxation Code Section 69 & 69.3***CURRENT LAW**

California property tax law provides for various situations in which the base year value of a property can be transferred to another property, notwithstanding that the property has changed ownership. These special situations are provided pursuant to various constitutional amendments and serve to avoid the otherwise required reassessment of a property to its current market value when it changes ownership. Related to this bill, base year value transfers are available to disaster victims that choose to relocate and purchase a new property rather than rebuild on the same site.

Permitting a person to “transfer” his or her base year value from one property to another property provides that person with tax relief by allowing the property owner to continue to pay taxes on the replacement property equivalent to that paid on the property from which they were displaced. Without a base year value transfer, the taxes on the new property would likely be significantly more because under the general change in ownership laws the taxes would be based on the new property’s current fair market value. The rationale for providing a base year value transfer is that the tax laws should not further afflict disaster victims by imposing upon them higher property taxes. If the disaster had not occurred, those individuals would not have been compelled to relocate and thereby forfeit their Proposition 13 protected base year values.

Specifically, Section 69 of the Revenue and Taxation Code provides that persons who own property substantially damaged or destroyed in a governor-declared disaster may transfer the base year value of that property to a property acquired or constructed as a replacement if it is acquired within five years after the disaster. “Substantially damaged” means physical damage amounting to more than 50 percent of its current market value immediately prior to the disaster.

Base year value transfers are available for all property types with the limitation that the original property and the replacement property must be of the same property *type*: residential, commercial, agricultural, or industrial. The replacement property is “comparable” if it is similar in size, utility, and function to the destroyed property, and if the market value of the acquired property does not exceed 120% of the fair market value of the replaced property in its pre-damaged condition. Property owners may still, nevertheless, receive the disaster relief in cases where the value of the replacement property exceeds the 120% limitation. In such cases, the amount over this threshold is assessed at full market value and added to the transferred base year value. (Proposition 50 of 1986 authorized this base year value transfer provision.)

Section 69.3 provides similar disaster base year value transfer provisions but, unlike Section 69 which applies to all property types, it is limited to principal places of residences purchased in another county and only applies to homes purchased in counties where the board of supervisors has adopted an ordinance making this benefit available. Currently, only eight counties extend this relief to displaced homeowners who previously lived in another county: Contra Costa, Los Angeles, Modoc, San Francisco, Santa Clara, Solano, Sutter and Ventura. (Proposition 171 in 1995 authorized this base year value transfer provision.)

PROPOSED LAW

This bill amends Sections 69 and 69.3 to treat land and improvements as separate units in meeting the "substantially damaged or destroyed" threshold of 50% for purposes of qualifying for disaster relief via a base year value transfer.

COMMENT

Specifically related to the issue, this bill addresses cases in which the scarcity of land in some locations has driven up land values to the point that land comprises more than 50% of a property's total value. For example, assume a home that is worth \$800,000 is completely destroyed in a wildfire. If the now empty lot is worth \$450,000 – i.e., more than 50% of the total value, the homeowner would not be eligible for a base year value transfer even though the home itself (the improvement) was 100% destroyed and the homeowner purchases a replacement dwelling that is no more than \$800,000. In this scenario, if the home's Proposition 13 protected base year value was \$350,000 and a replacement home is purchased at \$800,000 then without a base year value transfer, property taxes would increase from \$3,500 ($\$350,000 \times 1\%$) to \$8,000 ($\$800,000 \times 1\%$). The issue of land values comprising more than 50% of a property's total value is an emerging issue that recently came to light as a result of the 2007 fires in San Diego County.

Sections 51(b) and 170(b) and Rule 461(e) treat land and improvements as separate appraisal units for calamity purposes. Using these provisions of law as a guide, Sections 69 and 69.3 should be similarly amended to provide that for purposes of measuring the 50 percent loss in value, land and improvements should be considered as separate appraisal units. For purposes of comparing values of the original and replacement properties' values, within the 120% value limitation, land and improvements would continue to be considered as one appraisal unit.

This bill would ensure that for those disaster victims that ultimately decide to relocate rather than rebuild a base year value transfer will be available to them in those locations where land values compromise more than 50% of the property's value.

The April 23 amendments deleted a proposed definition of "property" by cross reference to Revenue and Taxation Code Section 104 which was found to be unnecessary.

Property Leased To Schools: Filing Requirements
Revenue and Taxation Code Section 214.6

CURRENT LAW

Existing law provides property tax exemptions for public schools and colleges directly owned by the school (public schools exemption) and privately owned property when it is leased to public schools and colleges, but only if the property is exclusively used for school purposes (lessor's exemption). The law also provides property tax exemptions for property owned and used by qualifying nonprofit organizations (the welfare exemption) and for property owned by churches (the church and religious exemptions).

Revenue and Taxation Code Section 214.6 expressly provides that property owned by nonprofit organizations and churches and leased to public schools, including those of collegiate grade, are exempt from property tax under the welfare exemption provided the rents charged do not exceed the ordinary and usual expenses in maintaining and operating the property.

An emerging trend to maximize the use of facilities is for nonprofit organizations and churches to lease their properties to public schools and colleges in a shared or joint use arrangement. Sharing and joint use of facilities can reduce costs and maximize the usage of existing or new physical facilities, and provide better services to the community. Existing law allows an exemption in the case where the facilities are shared by both parties.

However, because of the numerous types of exemptions available, on occasion, both the public school and the nonprofit, or both the church and public school, file different types of exemption claims on the same property. This leads to confusion due to the various exemptions possible (i.e., the welfare exemption, the religious exemption, and the lessor's exemption) and the differing requirements for each exemption.

PROPOSED LAW

The bill amends Revenue and Taxation Code Section 214.6 to clarify the filing procedures for obtaining a property tax exemption on property owned by a church or a nonprofit organization that is leased to a public school.

COMMENTS

This bill updates the filing procedures and requirements to claim the welfare exemption in these shared use scenarios which has lead to confusion for both property tax administrators and claimants.

- **Nonprofits Leasing to Schools - Filing Requirements.** This bill specifies the annual filing procedure when a welfare exemption claimant leases property to public schools. The claimant would attach a copy of the lease agreement with the annual welfare exemption claim otherwise required to be filed. Current law is silent as to the administrative filing requirements under this situation.
- **Churches Leasing to Schools – Filing Requirements.** This bill clarifies that the exemption granted in the situation where a church leases property to a school is the welfare exemption. It provides that the filing procedure for a church receiving the religious exemption (which requires a one time filing with simplified postcard return filings thereafter) would be to annually file a church lessor's exemption. With this bill, the Board would prescribe a customized claim form for churches to file – the “church lessor's exemption claim.” Existing law specifies that churches are to file the

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“lessor’s exemption claim.” But, that particular claim does not work well in joint use situations because it refers to “exclusive” use of the property which has added to the confusion and uncertainty for claimants and tax practitioners.

- **Public Schools and the UC System - Technical.** Adds language to include "public school district" and "the University of California" to be consistent with Section 202.2. Case law (*Regents of the University of California v. State Board of Equalization* (1977), 73 Cal App.3d 660; 140 Cal.Rptr. 857) resulted in an amendment to Section 202.2 to include the UC system as a qualifying college for the exemption; however, corresponding changes to Section 214.6 at that time was overlooked.

The April 23 amendments expressly state that the church lessor’s exemption claim is to be filed annually. The purpose of adding the word “annually” is to be explicitly clear since some churches are accustomed to different filing requirements under the religious exemption. The amendment also adds the word “church” to describe the exemption. The purpose of this amendment is to create a clear distinction between the traditional lessor’s exemption, which requires exclusive use of the property as a school, and a lessor’s exemption in the case of a church, which allows a dual use of the property as both a church/religious and a school. The Board will prescribe a customized claim form for the church lessor’s exemption.

<p>Disabled Veterans’ Exemption: Technical Amendment <i>Revenue and Taxation Code Section 276</i></p>

CURRENT LAW

Existing law provides a “disabled veterans’ exemption” to reduce the property tax assessed value of the home of qualified veterans or their surviving unmarried spouse. The disabled veterans' exemption is also available to the surviving spouse of a person who has died as a result of a service connected injury or death while on active duty in military service.

The amount of the exemption depends upon the claimant’s income:

- The basic exemption amount is \$100,000 with annual increases for inflation. For 2008, the exemption is \$111,296.
- The low-income exemption is \$150,000 with annual increases for inflation. For 2008, the exemption is \$166,944 for those with a household income below \$49,969.

A claim must be filed with the local county assessor to receive the exemption. If filing for the basic exemption, a claim need only be applied for once. The low-income exemption requires a claim to be filed each year to verify income eligibility. The annual filing period is between January 1 and February 15. However if a claim is filed after the deadline, the exemption can still be received at a reduced level as outlined in Revenue and Taxation Code Section 276.

In 1989, the exemption amounts were increased from \$40,000 and \$60,000 to \$100,000 and \$150,000, respectively, but with a sunset clause that would have automatically reduced the exemption amounts to the prior levels. However, the increased exemption amounts were made permanent through SB 320 (Stats. 1989, Ch. 1077) and SB 2195 (Ch. 1086, SB 2195).

PROPOSED LAW

This bill amends Section 276 to delete a reference to outdated exemption amount levels as a housekeeping measure.

This bill also corrects a transposition error in Section 276 intending a cross reference to Section 4985, rather than Section 4895, relating to the provisions of law for cancelling taxes due. In some cases, to grant a disabled veterans' exemption for a late filed claim, a cancellation of property taxes outstanding is necessary.

<p style="text-align: center;">Noncommercial Boats: Annual Property Statements <i>Revenue and Taxation Code Section 441</i></p>
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CURRENT LAW

Generally, privately owned boats held for personal use are assessable each year for property tax purposes as taxable personal property. While the Department of Motor Vehicles (DMV) or the Coast Guard is responsible for collecting registration fees on vessels, local county assessors are responsible for the annual property tax assessment of vessels (boats) whether trailered or on the water that have situs in their county. Taxable personal property is annually reassessed at its current fair market value as of the January 1 lien date and the resulting taxes are due on August 31.

Under current law, each person owning a boat with an initial cost of \$100,000 or more is subject to an *annual* reporting requirement. Other boat owners are required to file a report only upon the request of the assessor. Specifically, Revenue and Taxation Code Section 441 requires property owners (*other than* manufactured home owners) with taxable personal property holdings with an initial cost of more than \$100,000 to file a "property statement" with the county assessor every year. In connection with this provision, Property Tax Rule 171 in turn requires the assessor to mail a property statement to any person required by law to file one, in order to prompt taxpayers to complete and file the annual statements. These provisions of law apply to all taxable personal property and are not specific to boats.

The Board has prescribed a special property statement called the "Vessel Property Statement" that is specific to boats for purposes of Section 441. The vessel statement requests a variety of information on the vessel -- such as the type, size, vessel number, builder, model, length, engine type, year built, equipment, cost, etc.

In the annual assessment of noncommercial vessels, many counties use various mass appraisal procedures in determining the annual assessed value. For instance, when a noncommercial vessel establishes tax situs in a county for the first time, the assessor will request that the vessel owner file a property statement and determine an initial value. In subsequent years, the assessor adjusts that value applying a depreciation schedule developed by the county that reflects depreciation trends for various classes of noncommercial vessels. Thereafter, on a three or four year cycle, the assessor resets the value using nationally published value guides (i.e., blue books). Owners are annually sent a notice of the new value and instructed to contact the assessor if the condition of the vessel has changed or new equipment has been added.

An impediment to using these administratively practical and cost effective techniques occurs because of the *annual* statement requirement for certain boats. The statement must be mailed out by the assessor, completed and filed by the taxpayer, and then processed when returned. Moreover, while current law limits the annual filing to boats that *initially* cost more than \$100,000, the annual filing requirement remains in play even after the value of the boat has since depreciated below that amount.

Some counties, in recognition of the inefficiency of the annual reporting requirement and given their limited resources, do not mail the property statements every year and, thus, are not in compliance with existing law. Likewise, boat owners are not in compliance with the law.

PROPOSED LAW

This bill amends Section 441 to provide that a person who owns a boat that initially costs more than \$100,000 and that is not used for any commercial purpose is not required to annually file a property statement with the county assessor. Currently, only a person that owns a manufactured home is excluded from this annual filing requirement. An owner of a noncommercial boat would only be required to file a property statement if the assessor makes a written request. This is because Section 441 specifies that every person not required by law to file a statement, must, nevertheless, file one if the assessor makes a written request. A vessel used or held for *commercial* purposes would continue to be subject to annual reporting.

COMMENTS

This bill would reduce the cost associated with mailing and processing vessel property statements every year and in other counties it would reflect actual administrative practices. It would also give county assessors more flexibility. For example, assessors could then make annual requests at a higher threshold level, at a level appropriate for the county, or make requests on a periodic rather than annual basis. For affected taxpayers, this would eliminate the need to file a statement every year that seeks information previously provided and the associated risk of a 10% penalty if the statement is not returned timely.

Modifying the annual reporting requirement should not have an impact on the discovery or assessment of boats. The primary discovery method for boats does not result from the property statement as few boat owners independently file an initial vessel property statement. Rather, they are first prompted to file a statement by the assessor. The assessor's discovery program includes:

- **Coordination with the DMV.** Vehicle Code Section 9869 requires the DMV to transmit information to assessors which typically occurs on a monthly basis. In addition, most assessor's offices have a computer terminal with a direct link to DMV boat registration records.
- **Certificates of Documentation issued by the United States Coast Guard.** A data base of these vessels is available online and can be used to extract vessel characteristic, documentation, and ownership data and is updated monthly.
- **Harbor Master Reports.** Annual harbor master reports filed with the assessor identifying boats kept at the facility whether in the water or in dry storage.
- **Inspections.** On-site inspections of docks and marinas.
- **Referrals.** Referrals from other counties.

