California State Board of Equalization,
Legislative Division

LEGISLATIVE BULLETIN

PROPERTY TAX LEGISLATION
2000

PROPERTY TAX LEGISLATION

TABLE OF CONTENTS

CHAPTERED LEGISLATION ANALYSES

PROPERTY TAX LEGISLATION
TABLE OF CONTENTS
CONTINUED

CHAPTERED LEGISLATION ANALYSES

Assembly Bill 659 (Wiggins) Chapter 601
Welfare Exemption – Low-Income Housing
Historic Wooden Vessels
Indian Tribal Owned Low-Income Housing Projects

Tax levy; effective September 24, 2000. Amends Sections 214 and 237 of, and adds Section 230 to, the Revenue and Taxation Code.

This bill (1) reinstates eligibility for the welfare exemption to property qualifying on the sole basis that the property provides housing to low-income residents and is wholly owned by non-profits, as specified; (2) exempts a wooden vessel of historical significance meeting specific requirements; and, (3) modifies the exemption for low-income housing owned and operated by the housing entity of a federally designated Indian tribe to permit a partial exemption corresponding to that portion of the property occupied by lower income households.

Sponsor: Assembly Member Patricia Wiggins

Welfare Exemption - Low-Income Housing

Revenue and Taxation Code Section 214

Claimant Eligibility

This measure adds subparagraph (C) of paragraph (1) of subdivision (g) to reinstate eligibility for the welfare exemption on the sole basis of providing low-income housing for property that is wholly owned by an eligible non-profit corporation if 90 percent or more of the occupants of the property are lower income households whose rent does not exceed the rent prescribed by Section 50053 of the Health and Safety Code. This reinstatement applies to organizations claiming the exemption for the January 1, 2000 lien date. Property owned by a limited partnership in which the managing general partner is an eligible nonprofit corporation is specifically *excluded* from this reinstatement and to qualify for exemption, such property must either (1) be financed with tax-exempt bonds, or government provided loans or grants or (2) the owner must be eligible for and receive low-income housing income tax credits.

Additionally, this measure places an exemption cap of $20,000 of tax for non-profit organizations who qualify under 214(g)(1)(C). The total exemption amount allowed under Section 214(g) to a taxpayer, with respect to a single property or multiple properties for any fiscal on the sole basis of the application of this subparagraph, may not exceed twenty thousand dollars ($20,000) of tax.

Restricted Use Documentation

This bill reinstates the use of an "other legal document" as documentation that the project is restricted to use as low-income housing but only for property that is wholly owned by an eligible non-profit corporation. This bill adds Section 214(g)(1)(C)(ii) to specifically exclude property owned by a limited partnership in which the managing general partner is an eligible nonprofit corporation from this reinstatement. Property owned by limited partnerships must either have (1) a recorded deed restriction or (2) an enforceable and verifiable agreement with a public agency limiting its use to low-income housing.

Law Prior To Amendment:

Subdivision (g) of Section 214 extends the welfare exemption to property owned and operated by qualifying organizations and used exclusively for rental housing occupied by lower-income households. Qualifying organizations include limited partnerships in which the managing general partner is a qualified nonprofit corporation meeting the requirements of Section 214, as well as religious, hospital, scientific, or charitable funds, foundations or corporations. A partial exemption is available equal to the value of the portion of the property serving lower-income households

For a low-income housing project owned and operated by a qualifying organization to be eligible for the exemption, the project must meet *one* of the following criteria:

1. The acquisition, rehabilitation, development, or operation of the property, or any combination of these factors, is financed with tax-exempt mortgage revenue bonds or general obligation bonds, or is financed by local, state, or federal loans or grants and the rents of the occupants who are lower-income households do not exceed those prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance; or

2. The owner of the property is eligible for and receives low-income housing tax credits pursuant to section 42 of the Internal Revenue Code of 1986, as added by Public Law 99-514.

Claimant Eligibility

Legislation effective January 1, 2000, through Assembly Bill 1559 (Stats. 1999, Ch. 927), deleted a provision of law which permitted housing to qualify for the welfare exemption also on the basis that twenty percent or more of the occupants of the property are lower-income households. Consequently, for organizations claiming the exemption for the January 1, 2000 lien date, to qualify for the welfare exemption, low-income housing must either (1) be financed with tax-exempt bonds, or government loans or grants or (2) the owner must be eligible for and receive low-income housing income tax credits.

Restricted Use Documentation

In order to be eligible for the exemption provided by subdivision (g) of Section 214, the owner of the property must do both of the following:

1. Certify and ensure that there is documentation, as specified, that restricts the project's usage and that provides that the units designated for use by lower-income households are continuously available to or occupied by lower-income households at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or, to the extent that the terms of federal, state, or local financing or financial assistance conflicts with section 50053, rents that do not exceed those prescribed by the terms of the financing or financial assistance.
2. Certify that the funds that would have been necessary to pay property taxes are used to maintain the affordability of, or reduce rents otherwise necessary for, the units occupied by lower-income households.

With respect to the necessary documentation, prior to January 1, 2000, nonprofit organizations that own low-income housing projects qualifying for the welfare exemption were required, in part, to certify and ensure that there is a deed restriction, agreement, or "other legal document" that restricts the project's usage. For organizations claiming the exemption for the January 1, 2000 lien date, these provisions were made more restrictive by Assembly Bill 1559. Specifically, any deed restriction must be recorded, any agreement must be both enforceable and verifiable as well as be entered into with a public agency, and the use of an "other legal document" is no longer permitted to substantiate the restrictions. Some nonprofit organizations' pre-existing documents for these purposes did not meet the higher standards when the law change took place. Thus, unless these low income housing projects can obtain the necessary documentation, they will be ineligible for exemption for the 2000-01 fiscal year (July 1, 2000 – June 30, 2001).

Background:

The provisions of 1999's Assembly Bill 1559 (Wiggins) were designed to revoke the property tax exemption from properties owned by certain owners of substandard housing and were sponsored by the Los Angeles Housing Project. In the course of investigating various slum-housing projects, the organization was surprised to discover that these properties were receiving a property tax exemption under a provision which permits the property to qualify solely on the basis that the residents are low-income households. The organization also found a loophole permitting these particular properties to receive the exemption without being subject to a recorded deed restriction.

Comments:

1. **Purpose.** To ensure that projects providing safe and decent housing for low income persons are not unintentionally disqualified from receiving the exemption as a result of the adjustments made by AB 1559 to revoke the

exemption from organizations operating substandard housing. This bill reinstates the exemption for certain properties wholly owned by non-profits that do not receive income tax credits or government financing but who whose housing projects are at least 90% occupied by low income persons subject to a $20,000 exemption cap.

2. **The exemption cap does not apply to non-profit organizations that receive tax credits or government financing.** Organizations which receive tax credits or have governmental financing would be eligible for a 100% exemption under the provisions of Section 214(g)(1) or 214(g)(2) which does not impose an exemption cap.

3. **For nonprofit organizations that own property in more than one county, as well as organizations that own more than one property in a county, it may be difficult to track the $20,000 exemption cap.** The cap applies to all property used for rental to low income households owned by a taxpayer. Currently, claims for the welfare exemption reviewed by the Board of Equalization do not provide information on the assessed value of the property. It is not indicated who would be responsible for tracking this information. Moreover, many counties do not have available a current assessed value for these properties since the properties are exempt from property taxation. The assessors' staffs may be required to appraise the properties in order to determine the amount of property taxes owed on properties owned by the nonprofit organizations once the cap is exceeded.

4. **The phrase "$20,000 of tax" may be problematic to administer.** It may be more cumbersome to determine the proper amount of assessed value to exempt since tax rates vary. Therefore it may be preferable to cap the exemption at $2,000,000 of assessed value. Please note that the California Supreme Court has held that the welfare exemption does not provide an exemption from special assessments for local improvements, but only from property taxes. The property of nonprofit organizations remain subject to levies of special districts. (*Cedars of Lebanon* v. *County of Los Angeles* (1952) 35 Cal.2d 729, 747)

5. **The statute does not state how it will be determined which properties of a nonprofit owning multiple properties will get the exemption.**

Historic Wooden Vessels

Revenue and Taxation Code Section 230

This bill exempts from property taxation a refurbished original, wooden inland waters vessel of 47 feet or larger, built in California during or prior to 1910, that has continuously thereafter remained in California waters, and has been designated a California State Historical Landmark and that is part of a maritime museum. This bill also exempts any personal property on the vessel that is used in its operation.

Specifically, this bill exempts a particular historical vessel, the Madaket, which is owned by the Humboldt Bay Maritime Museum and located in Eureka, California.

Law Prior To Amendment:

Article XIII, Section 2 of the California Constitution provides that the Legislature may, two-thirds of the membership of each house concurring, classify any personal property for differential taxation or for exemption. Personal property may be exempt by reason of its ownership, use, and/or type.

Background:

The Humboldt Bay Maritime Museum, Inc. is a non-profit organization dedicated to preserving, protecting, promoting and sharing Northern California maritime history, primarily in the Humboldt Bay region. In addition to operating a museum, it also owns a vessel, the Madaket, a former ferry built in 1910. The Madaket was first used to ferry workmen to Woodley and Samoa Islands where lumber and pulp mills were located. Once bridges were constructed to these Islands, the Madaket was turned over to the City of Eureka as a tourist attraction and eventually acquired by the Museum. The Madaket is the oldest commercial passenger craft in the United States. It is currently used to take visitors on 75 minute narrated historical tours of the Humboldt Bay harbor. The cruises operate daily from May to October.

The Humboldt Bay Maritime Museum applied for a property tax exemption via the welfare exemption on the Madaket. However, the historical vessel was ineligible for the welfare exemption because of 1) the lack of an "irrevocable dedication" clause in their organization's articles of incorporation and 2) the use of the vessel as a "commercial venture" (e.g. fees for taking visitors on bay excursions). The income from these operations represent approximately 20% of the vessel's income and is used for the maintenance of the vessel and other expenses. While the Museum indicated that they could remedy the first issue (irrevocable dedication clause), they could not cease the "commercial" use of the vessel and keep the museum (vessel) solvent.

Comments:

1. **Purpose.** To obtain a property tax exemption for the Madaket as personal property, since it can not technically qualify for exemption under the welfare exemption.
2. **Unlike real property, which requires constitutional amendment for exemption, any personal property may be statutorily exempted by a 2/3 vote of the Legislature.** Existing law provides a variety of exemptions or preferential assessments for various types of vessels. (Sections 209, 209.5, 228, 227, 1) In addition, Section 220 exempts aircraft of historical significance, as specified, from taxation and Section 217.1 exempts aircraft in an aerospace museum, as specified.
3. **Annual Claim Form Required.** To qualify for the exemption the Museum would be required to file a claim each year by February 15.

Indian Tribal Owned Low-Income Housing Projects

Revenue and Taxation Code Section 237

This bill requires that at least 30%, rather than 100%, of the units in Indian Tribe low-income housing projects be continuously available for lower income households to be eligible for exemption under Section 237.

Law Prior To Amendment:

Last year, SB 2231 (SR&T) added Section 237 to the Revenue and Taxation Code to provide a 100% exemption for Indian Tribe low-income housing projects that was analogous to the welfare exemption available for low-income housing. However, unlike the welfare exemption which permits a partial exemption depending on the percentage of low income tenants, the tribal projects must be 100% occupied by lower income households.

In General:

Any property, real or personal, which is held in trust by the United States for an Indian Tribe or its members is immune from property taxation. Generally, California imposes property taxes on Indian-related property in three instances: (1) Indian tribal owned lands that are located outside the Indian reservation, (2) land owned by Indian tribal members that is located within the Indian reservation if it is owned in fee and (3) Indian lands that are used by non-Indians (possessory interests).

The welfare exemption applies to property owned and operated by qualifying organizations and used exclusively for rental housing for lower-income households. Qualifying organizations include limited partnerships in which the managing general partner is a qualified nonprofit corporation meeting the requirements of Section 214, as well as religious, hospital, scientific, or charitable funds, foundations or corporations. To qualify for the exemption, various organizational requirements must be met in addition to demonstrating the charitable uses of the property in question.

Prior to the enactment of Section 237, certain Indian Housing Authorities have been denied the welfare exemption on property located off-reservation and not otherwise immune from taxation. There were two organizational requirements which Indian Tribes and tribally established housing authorities could not satisfy to be eligible for the welfare exemption. Revenue and Taxation Code Section 214.01 requires that the applicant's Articles of Incorporation, its Bylaws, Articles of Association, Constitution, or Regulations contain a statement that the organization's property is irrevocable dedicated to religious, charitable, scientific, or hospital purposes. In addition, Section 214.8 requires that the welfare exemption not be granted to any organization unless that organization is qualified as an exempt organization under 23701(d) or Internal Revenue Code Section 501(c)(3). These conditions could not be met because tribally designated housing entities must be created under tribal law to receive block grants for low income housing under the United States Department of Housing and Urban Development.

Background:

Federal funds for financing low-income housing projects are available under a 1996 Congressional Act, the Native American Housing Assistance and Self-Determination Act. One condition of receiving these funds is that the tribe have a cooperation agreement with local governments exempting the housing project from taxation. Consequently without a property tax exemption, the tribes could not receive funds under this particular program.

Comments:

1. **Purpose.** To ensure that low-income housing projects owned by federally recognized Indian tribes will not be disqualified from receiving the exemption if some units are rented to households whose income exceeds the low income threshold level.
2. **These provisions permit the newly created exemption for tribal owned housing to receive a partial exemption in conformance with the partial exemption provided to low-income housing properties that qualify under the welfare exemption.** With respect to the welfare exemption, Revenue and Taxation Code Section 214(g)(1) provides that a low-income housing project "shall be entitled to a partial exemption equal to that percentage of the value of the property that the portion of the property serving lower income households represents of the total property in any year".

Assembly Bill 1790 (Wiggins) Chapter 272
Grapevines - Pierce's Disease and Phylloxera

Effective January 1, 2001. Amends Section 53 of the Revenue and Taxation Code.

This measure, with respect to the base year value transfer provisions for replanted grapevines due to Pierce's Disease or phylloxera, (1) deletes the requirement that the replacement grapevines be of the same type and (2) modifies the requirement that the replacement grapevines be planted at a similar density to allow a proportionate base year value transfer if the vines are planted at a greater density.

Sponsor: Assembly Member Patricia Wiggins

Law Prior To Amendment:

Section 53 of the Revenue and Taxation Code makes available property tax relief for grapevines planted to replace grapevines removed because of phylloxera and/or Pierce's Disease. The tax relief is limited to vineyards located in counties that have adopted an ordinance making the provisions of Section 53 applicable. The ordinance can provide relief for one or both conditions. The relief is provided by means of a "base year transfer." The factored base year value of the removed grapevines under Proposition 13 limitations is generally less than the current market of the newly planted grapevines. These provisions permit the replacement grapevines to assume the previous assessed value of the removed grapevines.

Existing law places conditions on both the removed grapevines and the replacement grapevines, as follows:

The removed grapevines must be:

- removed solely as a result of phylloxera infestation and/or Pierce's Disease, as certified by the county agricultural commissioner, and
- less than 15 years of age.

The replacement grapevines must be:

- "substantially equivalent" to the removed grapevines, defined as grapevines of a similar type that are planted at a similar density, and
- planted on the same parcel.

Existing law provides that all newly planted grapevines are exempt for the first three years after the season in which they are first planted. Thus, in practice, the base year value transfer would not take place until three years later (i.e. after the exemption period for new plantings).

In General:

Agricultural property is subject to the assessment rules of Proposition 13, in that it retains its base year value until new construction or a change in ownership takes place. Increases in assessment are limited to no more than two percent a year. At the time of a reassessable event, a new base year value is established for the entire property if there is a change in ownership, or for the new property in the case of new construction.

Generally, when a portion of a vineyard is pulled, the base year value of those grapevines is removed from the assessed value of that property as of the following lien date. When the grapevines are replanted, they receive a "new" three year exemption period. In the fourth year after replanting they will become taxable at the current market value as of the lien date.

Agricultural property may be preserved as such under the Williamson Act (California Land Conservation Act of 1965), whereby a landowner enters into a contract with the local government to maintain the agricultural use in exchange for valuation and taxation of the land as agricultural property. Property subject to a Williamson Act contract is generally valued based on its income stream, and is revalued annually. Each year, the property will be assessed at the lowest of the factored base year value, the Williamson Act value, or the current fair market value.

Similar Base Year Value Transfer Provisions. California property tax law provides for various situations where a Proposition 13 base year value is either retained or transferred to another property. Briefly, Section 70(c) of the Revenue and Taxation Code provides that where real property has been damaged or destroyed by a misfortune or calamity, the reconstructed property will maintain the assessed value of the pre-damaged property. Sections 69 and 69.3 provide that where property is destroyed in a Governor-declared disaster, a replacement property may be acquired and the replacement property will retain the Proposition 13 base year value of the damaged or destroyed property. Section 63.1 permits property to transfer between parents and children while maintaining the property's Proposition 13 base year value. Section 69.4 provides base year value transfers for property that suffers environmental contamination that makes the property uninhabitable. Finally, Section 69.5 permits persons over the age of 55 years or disabled persons to transfer their Proposition 13 base year value to another property. The base year value transfers listed here have been specifically provided for by constitutional amendments approved by the voters. The base year value transfer provisions provided by Section 53 have not been similarly made by constitutional authorization. The statutory provisions of Section 53 may raise issues that it has the effect of exempting real property from taxation without the benefit of constitutional authorization.

Background:

Chapter 413 of the Statutes of 1992 (AB 3303, Hansen) added subdivision (b) to Section 53 to provide for the special assessment procedures for grapevines infested by phylloxera. Chapter 607 of the Statutes of 1997 (AB 122, V. Brown) extended the provisions for Pierce's Disease.

Comments:

1. **Purpose.** To eliminate the requirement that replacement grapevines be of the same type. The number of grapevines affected with Pierce's Disease is on the rise. Since there is no remedy for infected vines, they must be pulled. Replanting the same *type* of grapevine, may be impractical because that type would also be susceptible to Pierce's Disease. This bill would ensure that growers who replant a different type of vine are not ineligible for this property tax relief. The base year value transfer would be available for any replanting of grapevines to grapevines.
2. **Replantings at a Greater Density would no longer Completely Forfeit A Base Year Value Transfer.** As introduced this bill deleted language related to substantial equivalency which included requirements of (1) same type (2) same parcel and (3) similar planting density. The July 5 amendment, restored and modified language relating to planting density. This amendment provides that, if grapevines are replanted at a greater density, a base year value transfer may be made, but limits the base year value transfer to an equivalent number of replacement grapevines. That portion in excess of a substantially equivalent amount would be assessed at current market value. The March 20 amendment restored language that specifically states that replacement vines must be planted on the same parcel to address the concerns of some county assessors over the deletion of this requirement.
3. **Benefits of a Base Year Value Transfer.** A base year value transfer permits the property owner to maintain the assessed value of the old vineyard after the new vineyard is replanted. Without the base year value transfer, the replanting would trigger a reassessment of the vineyard to reflect current fair market value. (Only the grapevines and improvements would be reassessed as "new construction", the underlying land retains its base year value.)
4. **Replanting Provides an Opportunity to Modify the Vineyard to Increase the Value and Productivity of the Property.** A replanted vineyard may be more economically productive, and thereby more valuable, either by planting a different variety that commands a higher price per ton, or a variety that produces greater tons per acre, or both. In addition, changing the spacing or training system could improve the production efficiency and grape quality.

5. **Vineyards May be Pulled for a Variety of Economic Based Reasons.** To ensure that tax relief was limited to property owners whose vineyards became infected, the original legislation, which was limited to phylloxera, was amended to specify that the grapevines must have been removed *solely* as a result of phylloxera. (Vineyards infected with phylloxera may still be economically productive for a period of time.) Further, the county agricultural commissioner was charged with the responsibility of certifying in writing that the grapevines were pulled solely because of the infestation or disease for purposes of receiving this tax benefit. Thus, a system of governmental oversight is in place to ensure that the benefits are not extended to grapevines that are pulled for other economic reasons.

6. **Optional County Participation.** The special assessment provisions authorized by this measure would be extended only to property located in a county where the board of supervisors adopts an ordinance making these provisions applicable. The Board is aware of four counties that have chosen to participate in this program for phylloxera: Napa, San Joaquin, Lake, and Riverside. For Pierce's Disease, we are aware of only one county with an ordinance, Riverside.

7. **Generally Base Year Value Transfers Do Not Provide Relief to Properties in the Williamson Act.** Property subject to a Williamson Act contract is assessed at the lowest of three values: the factored base year value, the Williamson Act value, or the current fair market value. This measure would not affect the assessed value of those vineyards affected by Pierce's Disease or phylloxera where the Williamson Act value is still the lowest of the three determined values. However, in those vineyards, the assessed value would, generally, be reduced the following year. This is because the Williamson Act value is determined according to a capitalization of income method. Since a nonproducing or pulled grapevine would produce little or no income, this loss in productive capacity would result in a reduced assessment of the property in the subsequent lien date (assuming that all other valuation factors remain constant from the previous year).

Assembly Bill 1966 (Wiggins) Chapter 406
Possessory Interests – Supplemental Assessments

Tax levy; effective September 12, 2000. Amends Section 75.5 of the Revenue and Taxation Code.

This bill excludes from supplemental assessment newly created taxable possessory interests, established by month-to-month agreements in publicly owned real property, having a full cash value of fifty thousand dollars ($50,000) or less.

Sponsor: Assembly Member Patricia Wiggins

Law Prior To Amendment:

Under existing law the person who owns or controls property on the lien date, January 1, is responsible for paying taxes on the property for the ensuing fiscal year (July 1 to June 30)[1] via the regular tax bill. Consequently, under existing law, situations occur in which taxpayers are responsible for payment of taxes for a fiscal year even though they do not own or control property for any period of that fiscal year (or, with respect to possessory interests, where they have vacated the property after January 1).

Also, under current law, a taxpayer who acquires a possessory interest created after the lien date is immediately assessed for the remainder of the tax year via a supplemental assessment. However, a taxpayer who terminates possession after the lien date is not given the benefit of a "negative" supplemental assessment to refund taxes for the remainder of the tax year. Unlike other types of real property and personal property, when a possessory interest is involved, it is possible that government can receive two streams of property tax revenue from two separate leases of the same physical piece of real property.[2] This is illustrated in the example below. Pilot A has rented an aircraft hanger, Hanger B-2, at a public airport for the last five years. On January 2, 2000, Pilot A terminates the month-to-month rental agreement on Hanger B-2 to move to a more desirable aircraft hanger, Hanger A-1, at the same airport. Hanger B-2 is immediately rented out to Pilot B. As noted in the table below, under existing law property taxes are collected from both Pilot A

[1] Tax bills on the secured roll are generally mailed to property owners at the end of October and tax bills for the unsecured roll are generally mailed at the end of July.

[2] Personal property is not subject to supplemental assessment. Real property is subject to supplemental assessment, but taxes for the regular assessment roll are generally prorated between the buyer and seller in escrow, thus with the combination of the issuance of supplemental assessments and proration of the regular tax bill, each party pays only their proper share of taxes.

and Pilot B on Hanger B-2 for a nearly 18 month period from January 2, 2000 to June 30, 2001, thus giving rise to a perception of "double taxation." In addition, from the perspective of Pilot A, he is paying property taxes on two hangers from January 2, 2000 to June 30, 2001, although he only has use of one.

Hanger	**Pilot A**	**Pilot B**
B-2	Fiscal Year 1999-2000 (7/1/99 - 6/30/00) and Fiscal Year 2000-2001 (7/1/00 - 6/30/01) via the regular tax bills	Fiscal Year 1999-2000 (1/2/00 - 6/30/00) and Fiscal Year 2000-2001 (7/1/00 - 6/30/01) via two supplemental assessments
A-1	Fiscal Year 1999-2000 (1/2/00 - 6/30/00) and Fiscal Year 2000-2001 (7/1/00 - 6/30/01) via two supplemental assessments	N/A

In this example, this bill eliminates the tax bills noted in strike out.

Hanger	**Pilot A**	**Pilot B**
B-2	Fiscal Year 1999-2000 (7/1/99 - 6/30/00) and Fiscal Year 2000-2001 (7/1/00 - 6/30/01) via the regular tax bills	~~Fiscal Year 1999-2000~~ ~~(1/2/00 - 6/30/00)~~ ~~and~~ ~~Fiscal Year 2000-2001~~ ~~(7/1/00 - 6/30/01)~~ ~~via two supplemental assessments~~ Fiscal Year 2001-2002 (7/1/01 – 6/30/02) via the regular tax bill.
A-1	~~Fiscal Year 1999-2000~~ ~~(1/2/00 - 6/30/00)~~ ~~and~~ ~~Fiscal Year 2000-2001~~ ~~(7/1/00 - 6/30/01)~~ ~~via two supplemental assessments~~ Fiscal Year 2001-2002 (7/1/01 – 6/30/02) via the regular tax bill.	N/A

In General:

The Lien Date. The Revenue and Taxation Code provides that the county assessor must locate, describe, classify, estimate the value of, and identify the assessee of every locally-assessed taxable property in the county as of the lien date (January 1). This information must be listed on the assessment roll and delivered to the county auditor on or before July 1. Since it is impossible to do all of this work instantaneously, the Revenue and Taxation Code provides that the assessment will be made as of the lien date preceding the fiscal year for which the taxes are levied. Thus, the owner of property on January 1 is responsible for the property taxes on that property for the ensuing fiscal year July 1 - June 30. The owner of record on the lien date is responsible for the taxes even if the property owner sells or otherwise disposes of that property at anytime after the lien date. There is no provision in the code to prorate taxes if ownership of the property is terminated after the lien date. With real property, proration of an outstanding tax liability is usually handled in escrow. A transfer of real property, however, generally is a matter of agreement between private parties and involves only one transferred fee interest rather than the respective termination and creation of separate taxable possessory interests on a single property during the course of a year.

Possessory Interests. In certain instances, a property tax assessment may be levied when a person or entity possesses publicly-owned real property that, with respect to its public owner, is either immune or exempt from property taxation. These uses are commonly referred to as "taxable possessory interests" and are typically found when an individual or entity leases or otherwise takes possession of government-owned real property.

Background:

Under existing law, the person who owns or controls property on the lien date, January 1, is responsible for paying taxes on the property for the ensuing fiscal year (July 1 to June 30)[3]. Consequently, under existing law, situations occur in which taxpayers are responsible for payment of taxes for a fiscal year even though they do not own or control property for any period of the fiscal year (or with respect to possessory interests where they have vacated after January 1). This is not generally an issue with real estate sold between private parties since the escrow company involved in the transaction routinely prorates both current and pending property taxes between the buyer and the seller. But it can be an issue with personal property (i.e. boats, planes, and business personal property used in a trade, profession or business) and taxable possessory interests.

With respect to personal property sold between private parties, an agreement can be reached between the parties to either adjust the selling price to reflect property

[3] Tax bills on the secured roll are generally mailed to property owners at the end of October and tax bills for the unsecured roll are generally mailed at the end of July.

taxes, have the buyer assume responsibility for the upcoming tax bill, or prorate current outstanding property taxes. The issue of property taxes can often be overlooked, however, when private parties sell items of personal property subject to property tax. Sellers who fail to consider property taxes often have been unpleasantly surprised to receive a tax bill, for which they are legally responsible many months after the property has been sold.

With respect to taxable possessory interests, however, it generally is not possible to prorate property taxes when one terminates and another commences because (1) the agreement is not between the two property users but between a governmental entity and the users and (2) each taxable possessory interest is considered to be a separate interest in real property. In addition, although there are provisions of law which allow the county to assess a new possessory interest created after the lien date via a supplemental assessment, there is no provision that would permit the county to cancel the taxes on possessory interests terminated after the lien date, either via a "negative" supplemental assessment or a cancellation of the prior tax bill.

Comments:

1. **Purpose.** To address the perceived inequity that occurs when a possessory interest is terminated after the lien date.

2. **Tax liability for a new holder of a possessory interest would not commence until the following lien date (January 1) for the ensuing fiscal year (July 1 to June 30).** Delaying tax liability at the commencement of possession is meant to offset the taxes that will be owed in the final year of possession.

3. **Eliminating supplemental assessments upon these possessory interests ensures that government receives only one stream of tax revenue from each property subject to more than one exclusive possessory interest during a given year.** This addresses the perceived "double taxation" of these interests.

4. **Key Amendments.** The June 13 amendment recast the proposed solution to the problem of double taxation to eliminate certain possessory interests from supplemental assessment. Specifically, that amendment would exempt from supplemental assessment the creation of month-to-month possessory interests with a value of $50,000 or less. This alternative approach was taken to remove the opposition of Los Angeles County over the prior version of the bill, which would have required the cancellation of the tax bill. The June 29 amendment corrects a drafting error that would have inadvertently excluded mobilehomes from supplemental assessment.

<u>Assembly Bill 2092 (Reyes) Chapter 575</u>
Disabled Veterans' Exemption - Retroactive Exemptions

Effective January 1, 2001. Adds Section 890.3 to the Military and Veterans Code.

This bill adds Section 890.3 to the Military and Veterans Code, which with respect to property taxes, permits the disabled veterans' exemption to be granted retroactively for property for which the exemption would have been available but for the taxpayer's failure to receive a timely disability rating from the United States Department of Veterans Affairs (USDVA). The exemption, subject to the limitations on refunds, would be granted as of the effective date of the disability rating.

Sponsor: Assembly Member Sarah Reyes

Law Prior to Amendment:

The disabled veterans' exemption is generally available in two amounts[4]:

- $100,000 for qualified persons, hereafter referred to as the "basic exemption" which is provided on a <u>one time filing</u> basis, and
- $150,000 for qualified persons with low incomes, as specified, hereafter referred to as the "low income exemption" which requires <u>a first time filing and subsequent annual filings</u> to reaffirm income eligibility.

With respect to property tax exemptions that require claims, Article XIII, Sec. 6 of the California Constitution provides that the failure in any year to claim, in a manner required by the laws in effect at the time the claim is required to be made, an exemption which reduces a property tax shall be deemed a waiver of the exemption for <u>that</u> year.

For both levels of disabled veterans' exemption, first time filings for the basic exemption and first time filings or annual re-filings for the low income exemption, a claim must be filed between the lien date (January 1) and February 15 to receive the full amount of the exemption on the upcoming tax bill for the ensuing fiscal year (July 1 – June 30). If a claim is filed between February 16 and December 10, 80 percent of the exemption is available. If a claim is not made on or before December 10, which is the date the first installment of the property tax bill becomes delinquent, then the exemption may not be applied to taxes owing for that fiscal year. For

[4] In practice, despite the apparent distinction made in existing law that the amount of the exemption varies according to the type of disability, virtually all claimants meet the "totally disabled" classification. To simplify this discussion, the remainder of the analysis will refer to either the $100,000 basic exemption or the $150,000 low income exemption.

annual re-filings of the $150,000 low income exemption, where a claim is not made on or before December 10, the exemption would not be lost completely, but would instead be reduced to the basic exemption level of $100,000.

The following table summarizes the filing provisions for the disabled veterans' exemption under prior law.

Exemption	Amount of Exemption	Filing Reqs.	Current Tax Year			Prior Tax Year Refunds Available
			Claim Filed By 2/15	Claim Filed Between 2/16 and 12/10	Claim Filed After 12/10	
Basic	$100,000	One Time Only	$1,000	$800 (1000 x 80%)	$0	No
Low Income	$150,000	Annual Refiling	$1,500	$1,200 (1,500 x 80%)	$0	No

The following table summarizes the filing provisions for the disabled veterans' exemption under the new law.

Exemption	Amount of Exemption	Filing Reqs.	Current Tax Year			Prior Tax Year Refunds Available
			Claim Filed By 2/15	Claim Filed Between 2/16 and 12/10	Claim Filed After 12/10	
Basic	$100,000	One Time Only	$1,000	$1,000	$1,000	Yes, up to four prior tax years @ $1,000 per year
Low Income	$150,000	Annual Refiling	$1,500	$1,500	$1,500	Yes, up to four prior tax years @ $1,500 per year.

In General:

Section 4(a) of Article XIII of the California Constitution grants the Legislature the authority to exempt from property tax, in whole or in part, the home of a person (or a person's spouse) who is injured in military service. This exemption is commonly referred to as the "disabled veterans' exemption." Injuries that qualify a veteran for the exemption include: 1) total disability, 2) blindness and 3) lost use of two or more limbs. The spouse of a disabled veteran is able to maintain the exemption after the veteran's death as long as the spouse is unmarried. Additionally, since 1994, the unmarried spouse of a person who, as a result of a service-connected injury or disease, dies while on active duty is able to qualify for the disabled veterans' exemption.

Section 205.5 of the Revenue and Taxation Code implements the Legislature's authority to provide a property tax exemption for disabled veterans and/or their unmarried surviving spouses. As noted in the table below, the amount of the exemption depends upon 1) type of injury and 2) household income.

Current law establishes, until January 1, 2001, the following exemption amounts:

Disability Type	Basic Exemption	Low Income Exemption[5]
• Blind • Lost Two or More Limbs	$40,000	$60,000
• Totally Disabled • Active Duty Death	$100,000	$150,000

The following table summarizes the late filing provisions for various property tax exemptions where a claim must be filed to receive the exemption.

Summary of Late Filing Provisions For Various Exemptions

Exemption	Amount of Exemption	Filing	Due Date	Late Filing	Retroactive for Prior Tax Years
Disabled Veterans' Basic	$100,000	One Time	2/15	80%, if by 12/10	No
Disabled Veterans' Low Income	$150,000	Annual	2/15	80%, if by 12/10	No
Homeowners'	$7,000	One Time	2/15	80%, if by 12/10	No
Veterans'	$4,000	Annual	2/15	80%, if by 12/10	No
Welfare Church Cemetery Exhibition Veterans' Organizations Public Libraries Free Museums Schools, Colleges, Universities	Generally 100%, sometimes partial exemption provided where part of property is eligible.	Annual	2/15	90%, if filed on or before January 1 of the next calendar year.* 85%, if filed after January 1 of the next calendar year.* *But not more than $250 is to be charged for those years that taxes can be canceled or refunded.	Yes If taxes were <u>paid</u>; <u>four</u> years of refunds. If taxes were <u>not paid</u>; taxes may be canceled for an <u>unlimited</u> number of years.
Religious	Generally 100%.	One Time	2/15	Same as above.	Same as above.

[5] For persons who have qualified for the exemption in or before 1983, the income limit is $34,000; for persons who became qualified after 1983 the income limit is reduced to $24,000.

Background:

In 1998, the homes of 15,563 persons received the disabled veterans' exemption. The 10 counties with the most homes receiving the exemption include: San Diego (2,813), Los Angeles (1,359), Sacramento (1,136), Riverside (888), Orange (848), Solano (769), San Bernardino (734), Monterey (669), Contra Costa (501), and Alameda (466).

Comments:

1. **Purpose.** To permit retroactive exemptions in the specific instance where a veteran will eventually receive a 100% disability rating with a back dated effective date.

2. **Key Amendments.** The June 29 amendments reflect technical cleanup changes that were suggested in the prior analysis. The May 3 amendments reflect changes requested by the consultants to the Assembly Revenue and Taxation Committee to directly connect the provisions of the Military and Veterans Code, which this bill adds, to the pertinent sections of Revenue and Taxation Code that provide the disabled veterans' exemption for property tax purposes.

3. **This Bill Permits Retroactive Exemptions for Prior Tax Years.** Under current law, the disabled veterans' exemption can not be granted for any year unless a claim is filed on or before December 10 of that tax year. For those persons awaiting a disability rating, the exemption is available on a prospective basis once the rating is received. This bill effectively permits the disabled veterans' exemption to be retroactively granted, as specified, for prior tax years. If taxes on the property were <u>paid</u> prior to receiving the disability rating, the number of prior tax years for which the exemption could be granted retroactively would be generally limited to <u>four</u>. Revenue and Taxation Code Section 5096 provides that a claim for refund must be filed within four years after making the payment. Thus, in practice, the exemption may not always be granted to the effective date of the disability rating. There is no statute of limitation placed on the cancellation of unpaid taxes otherwise permitted by law. Consequently, if taxes were <u>not paid</u> in prior years, there would be <u>no limit</u> to the number of years that may be canceled[6].

4. **In practice, it can take many years for a veteran to receive a disability rating from the USDVA, especially where the veteran has appealed their rating.** Some disabled veterans are uninformed of the exemption until after their disability claim is approved by the USDVA and they receive educational material on the benefits available to disabled veterans. For those aware of the exemption, but awaiting their disability rating, some counties have adopted an administrative practice where they accept the filing of a "protective claim" each year. This administrative practice allows the county to grant the exemption once

[6] In practice, action would commence to sell tax-defaulted property after five years of non-payment.

the disability rating is received, since technically the claim for each tax year was filed "timely". But this remedy is only helpful for those persons who previously have consulted with their local county assessor. Other counties may not accept or suggest "protective" claims.

5. **Related Legislation.** SB 1362 (Poochigian) adds Section 276.1 to the Revenue and Taxation Code to similarly provide retroactive exemptions for disabled veterans who were awaiting their disability rating from the USDVA.

<u>Assembly Bill 2562 (Brewer) Chapter 922</u>
Disabled Veterans' Exemption
Late Filing
Portability

Tax levy; effective September 29, 2000. Adds Sections 276.2 and 276.3 to, and repeals and adds Section 276 of, the Revenue and Taxation Code.

This bill, with respect to the disabled veterans' exemption:

- **Permits retroactive exemptions for prior tax years for any eligible person who did not file a claim in that tax year, (§276)**
- **Increases the amount of the partial exemption granted on claims that are filed late, but on or before December 10th of the current tax year, from 80% to 90%, (§276) and**
- **Immediately terminates and transfers the exemption from one home to another. (§276.2, §276.3)**

Sponsor: Orange County Assessor

Late Filing
Revenue and Taxation Code Section 276

This bill repeals the current provisions related to the amount of the exemption granted to a disabled veteran who files a claim for a 100% exemption, after the final filing date which is February 15. In effect, the new provisions would permit a partial exemption, at 85%, to be granted for prior tax years, subject to the limitations on refunds, on property for which the exemption would have been available but for the taxpayer's failure to file a claim. Additionally, for a claim filed between February 16 and December 10, it would increase the amount of the partial exemption from 80% to 90%.

Law Prior To Amendment:

The disabled veterans' exemption is generally available in two amounts[7]:

- $100,000 for qualified persons, hereafter referred to as the "basic exemption" which is provided on a <u>one time filing</u> basis, and

[7] In practice, despite the apparent distinction made in existing law that the amount of the exemption varies according to the type of disability, virtually all claimants meet the "totally disabled" classification. To simplify this discussion, the remainder of the analysis will refer to either the $100,000 basic exemption or the $150,000 low income exemption.

- $150,000 for qualified persons with low incomes, as specified, hereafter referred to as the "low income exemption" which requires a first time filing and subsequent annual filings to reaffirm income eligibility.

With respect to property tax exemptions that require claims, Article XIII, Sec. 6 of the California Constitution provides that the failure in any year to claim, in a manner required by the laws in effect at the time the claim is required to be made, an exemption which reduces a property tax shall be deemed a waiver of the exemption for that year.

For both levels of disabled veterans' exemption, first time filings for the basic exemption and first time filings or annual re-filings for the low income exemption, a claim must be filed between the lien date (January 1) and February 15 to receive the full amount of the exemption on the upcoming tax bill for the ensuing fiscal year (July 1 – June 30). If a claim is filed between February 16 and December 10, 80 percent of the exemption is available. If a claim is not made on or before December 10, which is the date the first installment of the property tax bill becomes delinquent, then the exemption may not be applied to taxes owing for that fiscal year. For annual re-filings of the $150,000 low income exemption, where a claim is not made on or before December 10, the exemption would not be lost completely, but would instead be reduced to the basic exemption level of $100,000.

The following table summarizes the filing provisions for the disabled veterans' exemption under prior law.

Exemption	Amount of Exemption	Filing Reqs.	Claim Filed By 2/15	Claim Filed Between 2/16 and 12/10	Claim Filed After 12/10	Refund Prior Tax Years
Basic Exemption	$100,000	One Time Only	$1,000	$800 (1000 x 80%)	$0 for current tax year	No
Low Income Exemption	$150,000	Annual Refiling	$1,500	$1,200 (1,500 x 80%)	$0 for current tax year	No

The following table summarizes the late filing provisions under the new law.

Exemption	Amount of Exemption	Filing Reqs.	Claim Filed By 2/15	Claim Filed Between 2/16 and 12/10	Claim Filed After 12/10	Refund Prior Tax Years
Basic Exemption	$100,000	One Time Only	$1,000	$900 (1000 x 90%)	$850 (1,000 x 85%) for current tax year	Yes, refund up to four prior tax years @ $850 per year
Low Income Exemption	$150,000	Annual Refiling	$1,500	$1,350 (1,500 x 90%)	$1,275 (1,500 x 85%) for current tax year	Yes, refund up to four prior tax years @ $1,275 per year

In General:

Disabled Veterans' Exemption. Section 4(a) of Article XIII of the California Constitution grants the Legislature the authority to exempt from property tax, in whole or in part, the home of a person (or a person's spouse) who is injured in military service. This exemption is commonly referred to as the "disabled veterans' exemption." Injuries that qualify a veteran for the exemption include: 1) total disability, 2) blindness and 3) lost use of two or more limbs. The spouse of a disabled veteran is able to maintain the exemption after the veteran's death as long as the spouse is unmarried. Additionally, since 1994, the unmarried spouse of a person who, as a result of a service-connected injury or disease, dies while on active duty is able to qualify for the disabled veterans' exemption.

Section 205.5 of the Revenue and Taxation Code implements the Legislature's authority to provide a property tax exemption for disabled veterans and/or their unmarried surviving spouses. As noted in the table below, the amount of the exemption depends upon 1) type of injury and 2) household income.

Current law establishes, until January 1, 2001, the following exemption amounts:

Disability Type	Basic Exemption	Low Income Exemption[8]
• Blind[9] • Lost Two or More Limbs[10]	$40,000	$60,000
• Totally Disabled • Active Duty Death	$100,000	$150,000

Late Filing Provisions. For comparison purposes, the following table summarizes the late filing provisions for various property tax exemptions where a claim must be filed to receive the exemption.

Summary of Late Filing Provisions For Various Exemptions					
Exemption	**Amount of Exemption**	**Filing**	**Due Date**	**Late Filing**	**Retroactive for Prior Tax Years**
Disabled Veterans' Basic	$100,000	One Time	2/15	80%, if by 12/10	No
Disabled Veterans' Low Income	$150,000	Annual	2/15	80%, if by 12/10	No
Homeowners'	$7,000	One Time	2/15	80%, if by 12/10	No
Veterans'	$4,000	Annual	2/15	80%, if by 12/10	No

[8] For persons who have qualified for the exemption in or before 1983, the income limit is $34,000; for persons who became qualified after 1983 the income limit is reduced to $24,000.
[9] The Veterans' Administration defines these injured veterans as "totally disabled" thus they instead may qualify for the $100,000 or $150,000 exemption.
[10] The Veterans' Administration defines these injured veterans as "totally disabled" thus they instead may qualify for the $100,000 or $150,000 exemption.

Summary of Late Filing Provisions For Various Exemptions					
Welfare Church Cemetery Exhibition Veterans' Organization. Public Libraries Free Museums Schools, Colleges, Universities	Generally 100%; sometimes partial exemption provided where part of property is eligible.	Annual	2/15	90%*, if filed on or before January 1 of the next calendar year.* 85%*, if filed after January 1 of the next calendar year.* *But not more than $250 is to be charged for those years that taxes can be canceled or refunded.	Yes If taxes were <u>paid</u>; <u>four</u> years of refunds. If taxes were <u>not paid</u>; taxes may be canceled for an <u>unlimited</u> number of years.
Religious	Generally 100%.	One Time	2/15	Same as above.	Same as above.

Background:

In 1998, the homes of 15,563 persons received the disabled veterans' exemption. The 10 counties with the most homes receiving the exemption include: San Diego (2,813), Los Angeles (1,359), Sacramento (1,136), Riverside (888), Orange (848), Solano (769), San Bernardino (734), Monterey (669), Contra Costa (501), and Alameda (466).

Comments:

1. **Purpose.** To permit retroactive exemptions for prior tax years, which is not permitted under existing law.
2. **Key Amendments.** The June 29 amendments conforms the changes made to Section 276 with those made by SB 1362 (Poochigian), which also makes similar changes to Section 276 with respect to permitting a partial exemption for late filing for prior tax years.
3. **Under current law, the disabled veterans' exemption cannot be granted unless a claim is filed on or before December 10 of the <u>current</u> tax year.** Article XIII, Section 6 provides that failure to file a claim for an exemption is deemed a wavier of the exemption for *that* year. Generally the filing deadline for the disabled veterans' exemption is relevant only when a claim is made for the *first* time, since a claim for the basic exemption need only be filed once to receive the exemption for all future tax years. (For the low income exemption of $150,000, claimants must file annually to verify income. If a timely claim is not made, they

do not lose the exemption completely, but they drop down to the basic exemption amount of $100,000.)

4. **This bill conforms, in essence, the late filing provisions for the disabled veterans' exemption with those provided for various non-profit agencies and governmental properties.** The current late-filing provisions for disabled veterans' exemptions are identical to those for the homeowners' exemption and the veterans' exemption. These exemptions may not be granted retroactively for prior tax years if a claim was not filed for those years. However, statutory law does permit retroactive exemptions for prior years for other exemptions. Specifically, the welfare, church, religious, public schools, colleges, community colleges, state colleges, state universities, free public libraries, exhibition, free museums, veterans' organizations, and cemeteries exemption. The mechanism for granting the exemption retroactively is by means of a "partial exemption" for "late-filing." This bill establishes similar provisions for the disabled veterans' exemption.

5. **This bill effectively permits the disabled veterans' exemption to be retroactively granted, at 85%, for up to four prior tax years, generally by means of refunding taxes previously paid.** Because of the pre-existing statute of limitations on making refunds, the number of prior tax years where the partial exemption could be granted would be limited. Revenue and Taxation Code Section 5096 provides that a claim for refund must be filed within four years after making the payment. There is no statute of limitations placed on the cancellation of taxes otherwise permitted by law. Consequently, if taxes were not paid in prior years, there would be no limit to the number of years that may be canceled[11].

6. **This measure provides relief to those persons who were eligible for the exemption, but were unaware of the program.** Some homeowners, particularly the unmarried surviving spouses of persons who died while on active duty, are unaware that they are eligible for this exemption. These spouses were not eligible for the exemption until a 1992 constitutional amendment (Proposition 160). In addition, in practice it can take many years for a veteran to receive a disability rating from the USDVA, especially when the veteran has appealed their rating. Some disabled veterans are uninformed of the exemption until after their disability claim is approved by the USDVA and then receive educational material on the benefits available to disabled veterans. (Other bills in this legislative session address this specific instance, of delayed disability ratings, AB 2092 (Reyes) and SB 1362 (Poochigian).

[11] In practice, action would commence to sell tax-defaulted property after five years of non-payment.

7. **This bill would increase the amount of the exemption for claims filed late, but in the current tax year, by 10 percent.** This bill would increase the partial exemption amount by 10 percent (from 80% to 90%) for claims filed after February 15 but on or before December 10.

Portability

Revenue and Taxation Code Section 276.2, 276.3

This provision allows a disabled veteran to receive the full amount of the exemption in any year in which they move from one home to another.

Sponsor: Assembly Member Marilyn Brewer

Law Prior To Amendment:

Under current law, if a disabled veteran changes their principal place of residence on or after the lien date (January 1), the exemption does not terminate on the first home for the ensuing fiscal year (July 1 – June 30). The exemption is not allowed on the new residence until a claim is filed on the new residence or before February 15 or within 30 days of notice of supplemental assessment for the new residence, whichever occurs first.

In General:

There are two alternatives by which a disabled veterans' exemption may be granted:

Alternative 1: The exemption is available to an eligible owner of a dwelling which is occupied as the owner's place of residence as of 12:01 a.m. January 1 each year. The full exemption is available if a claim is filed on or before February 15, or

Alternative 2: The exemption is available to an eligible owner of a dwelling subject to Supplemental Assessment(s) resulting from a change in ownership or new construction on or after January 1 provided,

(a) The owner occupies or intends to occupy the property as his or her principal place of residence with 90 days after the change in ownership or completion of new construction and,

(b) The property is not already receiving the disabled veterans' exemption or another property tax exemption of greater value. If the property received an exemption of a lesser value on the current roll (most often the case, the property is receiving a $7,000 homeowners' exemption), the difference in the amount between the two exemptions shall be applied to the Supplemental Assessment.

The full exemption (up to the amount of the supplemental assessment)[12], if any, is available if a claim is filed by the 30th day following the Notice of Supplemental Assessment issued as a result of a change in ownership or completed new construction. If a claim is filed after the 30th day following the Notice of Supplemental Assessment, but on or before the date which the first installment of the supplemental tax bill becomes delinquent, 80 percent of the available exemption may be allowed.

An exemption under Alternative 2 will apply to the Supplemental Assessment(s), if any, and the full exemption will be allowed for the following fiscal year(s).

Comments:

1. **Purpose.** To ensure that a person qualified for the disabled veterans' exemption can immediately receive the full amount of exemption on the new residence.
2. **Key Amendments.** The June 29 amendment renumbers Section 276.1 to Section 276.2 and adds Section 276.3 to clarify that the exemption immediately terminates on the vacated property in conformity to similar amendments made by SB 1362 (Poochigian), which also makes similar changes with respect to portability of the exemption.
3. **This measure ensures that a person who qualifies for the disabled veterans' exemption may immediately transfer the exemption from one home to another.** Under current law, it is possible that a person who purchases a home previously owned by a person who was receiving the disabled veterans' exemption will enjoy the property tax exemption for the remainder of the tax year, whereas the disabled veteran is unable to obtain the full amount of the exemption on their new residence the first year of its purchase. This measure corrects this possibility.
4. **This measure provides that in the event that property receiving a disabled veterans' exemption as described in Section 205.5 is sold or otherwise transferred to a person who is not eligible for that exemption, the exemption shall cease to apply on the date of that sale or transfer.** Thus the new owner will no longer benefit from the disabled veterans exemption.

[12] For example, although the person would be entitled to a $100,000 exemption, the supplemental assessment may be for an amount less than $100,000.

Assembly Bill 2612 (Brewer) Chapter 607
Intercounty Pipeline Rights-of-Way

Effective January 1, 2001. Amends Section 401.10 of the Revenue and Taxation Code.

Extends, from January 1, 2001 to January 1, 2011, specified property tax assessment procedures for intercounty pipeline rights-of-way.

Sponsor: California Manufacturers and Technology Association

Law Prior To Amendment:

Commencing in 1993, assessors were required to begin to assess intercounty pipeline rights-of-ways after a court ruling held that the prior assessment of these rights by the Board of Equalization was outside of its jurisdiction. The property tax collected on the Board assessments were to be refunded and county assessors were to instead levy escape assessments retroactively to the 1984-85 tax year based on their own determinations as to the value of these interests. Existing law, Section 401.10 of the Revenue and Taxation Code, reflects an agreement reached in 1996 between county assessors and intercounty pipeline rights-of-way owners to set forth the assessment methodology for this assessment transition. These procedures have been used to determine the assessed value of intercounty pipeline rights-of-way for the 1984-85 through 2000-01 tax years. When this methodology is followed, the value so determined is rebuttably presumed to be correct. Section 401.10 is repealed by its own provisions on January 1, 2001. The agreement also sets forth, in Section 401.11, the treatment of tax refunds and escape assessments, as applicable for purposes of the assessment transition. Section 401.11 was repealed by its own provisions on January 1, 2000.

In General:

Intercounty pipeline rights-of-way, for tax years 1984-85 through 2000-01, may be assessed according to a prescribed dollars-per-mile schedule that determines value according to the "density classification" of the property as follows: $20,000 per mile for high density, $12,000 per mile for transitional density, and $9,000 per mile for low density. When a county assessor uses this methodology to value pipeline rights-of-way the property owner is precluded from challenging the legality of the assessment. If the methodology is not followed, then the property owner may challenge the legality of the assessment and the assessor's presumption of correctness is negated.

Background:

Intercounty pipeline rights-of-way were assessed by the Board from 1982 until 1993. In 1993 an appellate court ruled that, while the pipelines themselves are properly assessed by the Board, the rights-of-way through which the pipelines run were outside of the Board's assessment jurisdiction. Instead, county assessors were directed to make these assessments. (*Southern Pacific Pipe Lines, Inc.* v. *State Board of Equalization* 14 Cal.App.4th 42) A pivotal issue giving rise to this litigation is that property assessed by the Board is not subject to the assessment limitations of Proposition 13. Board assessed property is reassessed each year at current fair market value, whereas property assessed by the county assessor is assessed at the base year value (year of acquisition), increased by the annual 2%-maximum inflation factor. Pipeline operators naturally preferred assessment at the local level.

As a result of the court case, taxes collected based on Board assessments were to be refunded. County assessors were to value these interests and levy escape assessments for the tax years 1984-85 and forward. (In practice, whether the property is valued by the Board or the county assessor, the county collects the taxes as well as distributes the resulting revenue to other local governments.) The intercounty nature of these interests made the valuation process difficult under traditional local assessment procedures. In addition, uniform valuation of these interests by the 58 local counties was lacking. To avoid protracted litigation over these assessments, pipeline owners and counties negotiated the assessment methodology outlined in Section 401.10 and escape assessment/refund process of 401.11, which was subsequently codified by AB 1286 (Ch. 801, Takasugi, Stats. 1998).

Comment:

Purpose. To extend the assessment methodology provision for intercounty pipeline rights of way which has been proven to work well.

Assembly Bill 2891 (Committee on Revenue & Taxation) Chapter 646
Property Tax Omnibus Bill

Effective January 1, 2001. Amends Sections 75.11, 75.21, 532, 731, 732, 733, 746, 748, 749, 758, and 759 of the Revenue and Taxation Code.

This Board of Equalization sponsored bill contains provisions to:

1. **Restore a limitation on the number of escape assessments that may be levied for prior tax years, except in cases of fraud or changes in ownership involving property owned by a legal entity if a change in ownership statement is not filed. (§§75.11 and 532).**
2. **Restore language that was inadvertently deleted by SB 2237 (Stats. 1998, Chap. 591) related to permitting a partial exemption to be granted on late filed claims for the veterans', homeowners', and disabled veterans' exemptions on a supplemental assessment. (§75.21)**
3. **Simplify the petition filing deadlines for appeals of assessments and allocations of state-assessed properties. (§§731, 732, 733, 746, 748, 749, 758, and 759)**

These provisions are also contained in, and were chaptered out by, Senate Bill 2170 (Committee on Revenue and Taxation) Chapter 647. **See page 64 for details on the provisions of that bill.**

<u>Assembly Bill 2898 (Committee on Revenue & Taxation) Chapter 1052</u>
Private Railroad Car and Timber Yield Taxpayers Bill of Rights

Effective January 1, 2001. Amends Sections 11253, 11597, 38452, and 38504, and adds Sections 11253.5, 11453, 11553.5, 11656, 11657, 38503.5, 38504.5, 38602.5, 38707, and 38708, to, the Revenue and Taxation Code.

For the Private Railroad Car Tax program and the Timber Yield Tax program, this Board of Equalization-sponsored bill:

- **Authorizes the Board to establish criteria to provide relief of the late payment penalty in a more efficient manner.**
- **Provides relief to a taxpayer whose employer withheld delinquent taxes or fees from the taxpayer's pay, but failed to remit the amounts to the Board.**
- **Provides relief of the late payment penalty in cases where the taxpayer enters into and successfully complies with an installment payment agreement.**
- **Prohibits the disclosure of confidential taxpayer information by tax preparers.**
- **Changes the effective date for which reimbursement of fees and expenses may be awarded so that taxpayers may claim reimbursement commencing from the date the notice of determination, jeopardy determination, or denial of claim for refund is issued.**
- **Suspends the statute of limitations on filing refund claims during periods of disability.**
- **Requires the Board to provide annual statements summarizing the payment and liability information to taxpayers who have entered into installment payment agreements.**

Background:

The Harris-Katz California Taxpayers' Bill of Rights was enacted in 1988 (Ch. 1574), effective January 1, 1989, to place certain guarantees in the California Sales and Use Tax Law to ensure that the rights, privacy, and property of California taxpayers are adequately protected during the process of the assessment and collection of taxes. The Katz-Harris Taxpayers' Bill of Rights, also enacted in 1988, placed similar guarantees in the California Personal Income Tax Law and the Bank and Corporation Tax Law. Conforming taxpayer rights were added to the Board-administered Special Taxes programs in 1992 by Chapter 438.

On July 30, 1996, Congress enacted the federal Taxpayer Bill of Rights 2 to provide an additional set of taxpayer protections under the federal income tax laws. As a conformity measure, the Franchise Tax Board sponsored AB 713 (Ch. 600, Stats. 1997) to conform many of its bill of rights provisions to the 1996 federal changes.

In 1998, the Board sponsored Assembly Bill 821 (Ch. 612, Takasugi) to conform California sales and use tax laws to the Franchise Tax Board's AB 713. Effective January 1, 1999, AB 821 expanded, modified and supplemented the Katz-Harris Taxpayers' Bill of Rights Act with respect to relief of interest, installment payment agreements, interest on erroneous refunds, education and information programs, reimbursement of certain fees and expenses, return of levied property, and release of liens to facilitate collection or when it is in the best interest of the state and taxpayer.

Also in 1998, Congress enacted the Internal Revenue Service Restructuring and Reform Act of 1998. In addition to providing for a massive reorganization of IRS and the way it does business, this Act included various taxpayer rights protections, including greater relief of liability for innocent spouses, statute of limitations relief for financially disabled taxpayers, increased tax agency notification requirements, and many others.

In 1999, California conformed its Sales and Use Tax and Personal Income and Bank and Corporation Tax Laws to several of the taxpayer rights provisions in the IRS Act through the enactment of AB 1638 (Chapter 929, Statutes of 1999) and SB 94 (Chapter 931, Statutes of 1999).

Late Payment Penalties

Revenue and Taxation Code Section 11597, 38452

Authorizes the Board to establish criteria to provide relief of the late payment penalty in a more efficient manner.

Law Prior To Amendment:

Under Section 6592 of the Sales and Use Tax Law, and similar statutes in the Board's special taxes and fees program, the Board is authorized to relieve persons of the penalty imposed for a person's failure to make a timely return or payment, when the Board finds that the failure was due to a reasonable cause. To be relieved of the penalty, the law requires that the person seeking relief file a statement under penalty of perjury setting forth the facts upon which his or her claim for relief is based.

Comment:

This provision enables the Board to establish criteria that would allow for a more efficient process to provide relief of penalty, by for example, eliminating the requisite statement under penalty of perjury from the person seeking relief under the established criteria.

Employer Withheld Taxes

Revenue and Taxation Code Section 11453, 38503.5

Provides relief to a taxpayer whose employer withheld delinquent taxes or fees from the taxpayer's pay, but failed to remit the amounts to the Board.

Law Prior To Amendment:

Under Section 6703 of the Sales and Use Tax Law, and similar statutes in the Board's other tax and fee programs, if a retailer or other person liable for the tax is delinquent in his or her payment of amounts due, the Board is authorized to take administrative collection action. One such action is the issuance of earnings withholding orders for taxes or fees pursuant to the Code of Civil Procedure. These orders require employers to withhold delinquent taxes or fees from an employee's earnings and remit the withheld amount to the Board. This situation arises when the taxpayer, at the time of this action, is employed by another, as for example, a purchaser of an aircraft who is delinquent in his or her payment of use tax to the Board. In cases where the employer fails to remit the withheld amount to the Board, the employee continues to remain liable to the Board for the amounts withheld and, other than obtaining a civil action against the employer, the Board has no authority to take administrative collection action against the employer. Under existing law, the Board has no authority to credit the account of the tax or feepayer for the amount the employer withheld and failed to remit. In addition, the Board does not have authority to stop collection action against the tax or feepayer.

Comment:

This provision, which is consistent with the authority granted to the Franchise Tax Board by SB 94 (Ch. 931, Stats. 1999), provides relief to a tax or feepayer whose employer withheld delinquent taxes or fees from the tax or feepayer's pay pursuant to an earnings withholding order, but failed to remit the amounts to the Board. Specifically, this provision:

- Eliminates the tax or feepayer's liability for the unremitted amount by allowing the Board to credit the taxpayer's account for the unremitted amount.
- Holds the employer liable for the unremitted amount by allowing the Board to administratively assess an amount equal to the unremitted amount against the employer.
- Stops collection action against the tax or feepayer for the amount.

Installment Payment Agreements – Late Payment Penalties

Revenue and Taxation Code Section 11253, 38504

Provides relief of the late payment penalty in cases where the taxpayer enters into and successfully complies with an installment payment agreement.

Law Prior To Amendment:

Under current law, the Board may enter into a written installment payment agreement with a person for the payment of any taxes or other amounts due over an agreed period. Generally, if a taxpayer is late in payment of those taxes, a penalty of 10% of the tax is added.

Comment:

This proposal provides that, if a person entered into a written installment payment agreement with the Board within 45 days of the date of the Board's notice of determination or redetermination becomes final, the taxpayer may be relieved of the late payment penalty, provided the taxpayer satisfactorily completes the installment payment proposal.

Confidential Taxpayer Information – Tax Preparers

Revenue and Taxation Code Section 11656, 38707

Prohibits the disclosure of confidential taxpayer information by tax preparers.

Law Prior To Amendment:

Among the inalienable personal rights listed in Article I of the California Constitution, is the right to privacy. Consistent with this provision, current law prohibits the Board and its employees from divulging confidential information about the business affairs of taxpayers registered with the Board. Any violation of these laws is a misdemeanor, punishable by a fine of not less than $1,000 and not more than $5,000, or imprisonment not to exceed one year in the county jail, or both a fine and imprisonment, at the discretion of the court. Current law does not prohibit tax preparers from divulging tax or fee information relating to taxes and fees collected by the Board.

Comment:

This provision, which is consistent with Section 7216 of the United States Code for purposes of the Federal Income Tax Law, and Section 17530.5 of the Business and Professions Code for purposes of federal or state income tax returns, makes it a misdemeanor for any person who is engaged in the business of preparing or providing services in connection with the preparation of Board-administered tax or fee returns, to disclose any information furnished to him or her for, or in connection with the preparation of any such return, or to use any such information for any purpose other than to prepare, or assist in preparing, any such return.

Fee and Expense Reimbursement

Revenue and Taxation Code Section 11657, 38708

Changes the effective date for which reimbursement of fees and expenses may be awarded.

Law Prior To Amendment:

Under current law, a taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the Board if the Board finds that the action taken by the Board staff was unreasonable. Under existing provisions, the amount of reimbursed fees and expenses is limited to the fees and expenses incurred after the date of the filing of the petitions for redetermination and claims for refund.

Comment:

This provision, which conforms to the Franchise Tax Board's SB 94 (Ch. 931, Stats. 1999), changes the effective date from which reasonable fees and expenses may be granted, from the date the petition or claim for refund is *filed* to the date the notice of determination is *issued*.

Refund Claims - Disability

Revenue and Taxation Code Section 11553.5, 38602.5

Suspends the statute of limitations on filing refund claims during periods of disability.

Law Prior To Amendment:

Under both the IRS Restructuring and Reform Act of 1998 and the Sales and Use Tax Law, as added by AB 1638 (Stats. 1999, Ch. 929), a taxpayer is allowed equitable tolling of the statute of limitations for refund claims during any period in which the individual is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment expected to result in death or to last for a continuous period of not less than 12 months. However, tolling does not apply for periods in which the taxpayer's spouse or another person is authorized to act on the taxpayer's behalf on financial matters.

Current law specifies the period in which claims for refund are required to be filed for any overpayments. The Board's tax programs require a claim for refund to be filed no later than three years from the due date of the return (four years under the Private Railroad Car Tax Law), or six months from the date of the overpayment, whichever period expires later. Current law does not provide for equitable tolling under any circumstances.

Comment:

The Board's conformance to the Act provides equitable relief for those taxpayers that qualify, and would not likely result in a significant increase in staff workload or loss in revenues.

Installment Payment Agreements – Annual Statement
Revenue and Taxation Code Section 11253.5, 38504.5

Requires the Board to provide annual statements to taxpayers who have entered into installment payment agreements.

Law Prior To Amendment:

Under both the IRS Restructuring and Reform Act of 1998 and the Sales and Use Tax Law, as added by AB 1638 (Stats. 1999, Ch. 929), the IRS and Board are required to provide an annual statement to every taxpayer with an installment agreement indicating the initial balance at the beginning of the year, the payments made during the year, and the remaining balance at the end of the year.

AB 1638 also granted authorization to the Board to enter into installment payment agreements with taxpayers under the Special Taxes, Private Railroad Car Tax, and the Timber Yield Tax programs. Statutory conformance with the Act and the Sales and Use Tax Law would enhance the Board's services to taxpayers who have entered into these agreements by requiring the Board to provide clear explanations of accrued interest and penalties on their respective tax liabilities. It would also allow taxpayers to clearly track their remaining outstanding liabilities with the Board of Equalization.

Comment:

Although the Board intends to provide taxpayers with this type of information on their installment payment plans without a statutory requirement, it is necessary to add these provisions to the law in order to provide taxpayers with legal certainty. It should be noted that these provisions do not apply to taxes due under the Motor Vehicle Fuel License Tax Law, since those taxes are collected by the State Controller and not the Board.

Senate Bill 383 (Haynes) Chapter 693
Erroneously Granted Proposition 110 Claims

Tax levy, effective September 27, 2000. Amends Section 69.5 of the Revenue and Taxation Code.

Prohibits escape assessments for prior years taxes when intercounty base year value transfers are erroneously granted by the assessor.

Sponsor: Senator Ray Haynes

Law Prior To Amendment:

Revenue and Taxation Code Section 69.5 provides generally that any person over the age of 55 years, or any person who is severely and permanently disabled, may qualify for relief from provisions of law that would otherwise require a reassessment of a newly acquired residence to current market value. Section 69.5 provides such relief by allowing an eligible claimant to transfer, one time only, the existing base year value of a sold residence ("original property") to the new residence ("replacement dwelling") as long as both residences are located in the same county and the new residence is of equal or lesser value. The law permits that a claimant may transfer their base year value to a newly acquired residence that is located in *another* county, but only if the county board of supervisors of the receiving county has adopted an ordinance accepting such base year value transfers. Currently, only 10 of the 58 counties have opted to grant intercounty base year value transfers: Alameda, Kern, Los Angeles, Modoc, Monterey, Orange, San Diego, San Mateo, Santa Clara, and Ventura. Four other counties have had ordinances which are no longer in effect: Contra Costa (repealed 11-8-93), Inyo (repealed 10-13-94), Riverside (repealed 7-1-95), and Marin (repealed 1-16-97).

In General:

California's system of property taxation under Article XIIIA of the State Constitution (Proposition 13) values property at its 1975 fair market value, with annual increases limited to the amount of inflation or 2%, whichever is less, until the property changes ownership or is newly constructed. At the time of the ownership change or new construction, the value of the property for property tax purposes is redetermined based on current market value. The value initially established, or redetermined where appropriate, is referred to as the "base year value." Thereafter, the base year value is subject to annual increases for inflation. This value is referred to as the "factored base year value."

Proposition 60 (1986) amended the constitution to authorize the Legislature to provide an exception to the general requirement that property be reassessed to current market value by providing for a one-time transfer of base year value from a former principal place of residence to a replacement dwelling, under certain conditions, by qualified persons who are over the age of 55 years. Proposition 90 (1988) further amended the constitution to authorize such base year value transfers to replacement dwellings located in another county, provided the county board of supervisors of that county adopts an ordinance accepting such transfers. Proposition 110 (1990) extended these base year value provisions to persons who are severely and permanently disabled.

Comments:

1. **Purpose.** To alleviate potentially serious hardship facing disabled homeowners, many of whom live on a low, fixed income in Riverside County, and who will have to pay up to four years of additional property taxes, via escape assessments, because the assessor's office erroneously granted them an intercounty base year value transfer under a previously repealed Proposition 90 ordinance.
2. **This measure is intended to address a specific instance in Riverside County.** Riverside County's Proposition 90 ordinance accepting intercounty base year value transfers was repealed effective July 1, 1995. However, some staff members believed that the repeal of the county's ordinance only affected intercounty transfers, available to persons who are over the age of 55 years, and that intercounty transfers, available to disabled persons regardless of age under Proposition 110, were still permitted. The county recently discovered this error and contacted those taxpayers to inform them that the previously granted base year value transfers would be revoked and that escape assessments would be levied for prior years.
3. **This bill ensures that taxpayers mistakenly granted base year value transfers will not have to pay additional property taxes for <u>prior</u> tax years prohibiting escape assessments in these limited circumstances.** This measure holds these taxpayers harmless for such back taxes. However, the assessed values of these homes will be corrected on a prospective basis beginning with the January 1, 2000 lien date.

Senate Bill 1362 (Poochigian) Chapter 1085

Disabled Veterans' Exemption

Low Income Threshold

Exemption Amount Simplification – Disability Type

Late Filings

Generally

Delayed Disability Rating

Portability

Tax levy, effective September 30, 2000. Amends and repeals Section 205.5 of, adds Sections 276.1, 276.2, and 276.3 to, and repeals and adds Section 276 of, the Revenue and Taxation Code.

This bill, with respect to the disabled veterans' exemption:

- **raises the income threshold and provides for automatic annual increases for the low income exemption, (§205.5)**
- **deletes the multiple levels of exemption for disability type, (§205.5)**
- **permits partial retroactive exemptions for any eligible person who did not file a claim, (§276)**
- **permits full retroactive exemptions for veterans awaiting a disability rating, (§276.1) and**
- **immediately terminates and transfers the exemption from one home to another. (§276.2, §276.3)**

Sponsor: Senator Charles Poochigian

Low Income Threshold
Exemption Amounts Simplification - Disability Type

Revenue and Taxation Code Section 205.5

This bill deletes the current income threshold reference to Section 20585, which provides limits of either $24,000 or $34,000, and instead provide an income limit of $40,000. The income limits would be annually increased, beginning in 2002, by an inflation factor, as measured by the California Consumer Price Index for all items.

Law Prior To Amendment:

The disabled veterans' exemption applies to the home of a qualified veteran or their surviving unmarried spouse. Depending on the nature of the disability and also the veteran's income, the law provides for an exemption in the amount of $40,000, $60,000, $100,000, or $150,000 of the full cash value of the property, as noted in the table below. In practice, the disabled veterans' exemption is generally granted in either $100,000 or $150,000 amounts. This is because, although the law specifies a different exemption amount for veterans who are blind or who have lost the use of two or more limbs, the Veterans' Administration classifies these injuries as total disability, qualifying the veteran for the higher exemption amount.

Exemption amounts are higher for claimants who have a household income below the amounts specified in Revenue and Taxation Code Section 20585, which sets forth the maximum income levels for eligibility in the Senior Citizens and Disabled Citizens Property Tax Postponement program administered by the State Controller's Office. For persons who have qualified for the program in 1983, Section 20585 sets an income limit of $34,000; for persons who became qualified after 1983 the income limit is reduced to $24,000.

Previously the law established, until January 1, 2001 the following exemption amounts:

Disability Type	Basic Exemption	Low Income Exemption ($24,000 or $34,000)
• Blind[13] • Lost Two or More Limbs	$40,000	$60,000
• Totally Disabled • Active Duty Death	$100,000	$150,000

Beginning January 1, 2001, the exemption amount for virtually all persons who are receiving the exemption will be reduced to $40,000, or to $60,000 for persons with household incomes below either $24,000 or $34,000, as specified.

Disability Type	Basic Exemption	Low Income Exemption 24,000 or $34,000)
• Blind • Lost Two or More Limbs • Totally Disabled • Active Duty Death	$40,000	$60,000

[13] In practice, despite the apparent distinction made in existing law that the amount of the exemption varies according to the type of disability, virtually all claimants meet the "totally disabled" classification. To simplify this discussion, the remainder of the analysis will refer to either the $100,000 basic exemption or the $150,000 low income exemption.

Under the new law the exemption amounts and income threshold will be:

Disability Type	Basic Exemption	Low Income Exemption ($40,000 + CPI)
• Blind • Lost Two or More Limbs • Totally Disabled • Active Duty Death	$40,000*	$60,000*

(*This bill is double joined to SB 2195 (Soto), which permanently extended the current exemption amounts of $100,000 and $150,000.)

In General:

Section 4(a) of Article XIII of the California Constitution grants the Legislature the authority to exempt from property tax, in whole or in part, the home of a person (or a person's spouse) who is injured in military service. This exemption is commonly referred to as the "disabled veterans' exemption." Injuries that qualify a veteran for the exemption include: 1) total disability, 2) blindness or 3) lost use of two or more limbs. The spouse of a disabled veteran is able to maintain the exemption after the veteran's death as long as the spouse is unmarried. Additionally, since 1994, the unmarried spouse of a person who, as a result of a service-connected injury or disease, dies while on active duty is able to qualify for the disabled veterans' exemption.

Section 205.5 of the Revenue and Taxation Code implements the Legislature's authority to provide a property tax exemption for disabled veterans and/or their unmarried surviving spouses. As noted in the table above, the amount of the exemption depends upon 1) type of injury and 2) household income.

Comments:

1. **Purpose.** To increase the income threshold for the higher exemption amount provided to low income persons qualifying for the disabled veterans' exemption.
2. **Key Amendments.** The April 25 amendments, in effect, delete from SB 1362 amendments to Section 205.5 which would have made permanent the current property tax exemption amounts scheduled to sunset on January 1, 2001 and instead double joins this bill to SB 2195 (Soto), which makes identical provisions with respect to making the exemption amounts permanent. (See SB 2195 analysis for detail on this provision.)
3. **The income threshold has not changed for over 16 years.** The income threshold for the low-income exemption is keyed to the threshold set for eligibility in

Property Tax Postponement Program. This income threshold has not changed since 1983.

4. **This bill provides for annual automatic increases in the income threshold level.** This bill increases the income threshold to $40,000 for the year 2001. For the 2002 calendar year and each year thereafter the income threshold for the prior year would be adjusted by an inflation factor that is the percentage change from October of the prior fiscal year to October of the current fiscal year, in the California Consumer Price Index for all items as determined by the California Department of Industrial Relations. This is the same measurement period that is used for purposes of factoring base year values for purposes of Proposition 13 under Section 51 of the Revenue and Taxation Code, except that the actual percentage change would be used (there is a 2% cap on the inflation factor for base year values).
5. **Disability Types.** In practice, virtually all claimants qualify for the basic exemption level of $100,000 or the low-income exemption level of $150,000. The $40,000 and $60,000 levels are obsolete. Eliminating the varying amounts of the exemption for disability type conforms the statute to existing practice with the added benefit of streamlining this section of law and protecting disabled veterans who could unknowingly claim the lower exemption amount.
6. **Definition of Blindness.** According to the California Department of Veterans' Administration, the definition of "blind" in existing law is outdated. The March 15 amendment reflects the current definition used by the Veterans' Administration. However, this provision was amended out by AB 2562.

Late Filings

Revenue and Taxation Code Section 276, 276.1

This bill 1) revises and recast the partial exemption provisions for late filings for all claimants and 2) creates a separate statute for the specific case involving a disability rating issued by the federal government with a retroactive effective date.

Late Filings – Generally

This bill repeals the current provisions related to the amount of the exemption granted to a disabled veteran who files a claim after the final filing date for a 100% exemption, which is February 15. In effect, the new provisions permit a partial exemption, at 85%, to be granted for prior tax years, subject to the limitations on refunds, on property for which the exemption would have been available but for the taxpayer's failure to file a claim. Additionally, for a claim filed between February 16 and December 10, it increases the amount of the partial exemption from 80% to 90%. The following table summarizes the late filing provisions under the new law.

Exemption	Amount of Exemption	Filing Reqs.	Claim Filed By 2/15	Claim Filed Between 2/16 and 12/10	Claim Filed After 12/10	Refund Prior Tax Years
Basic Exemption	$100,000	One Time Only	$1,000	$900 (1000 x 90%)	$850 (1,000 x 85%) for current tax year	Yes, refund up to four prior tax years @ $850 per year
Low Income Exemption	$150,000	Annual Refiling	$1,500	$1,350 (1,500 x 90%)	$1,275 (1,500 x 85%) for current tax year	Yes, refund up to four prior tax years @ $1,275 per year.

Late Filings - Delayed Disability Ratings

This bill permits the full amount of the disabled veterans' exemption (rather than a partial exemption as provided above) to be granted retroactively for property for which the exemption would have been available but for the taxpayer's failure to receive a timely disability rating from the United States Department of Veterans Affairs (USDVA). The exemption, subject to the limitations on refunds, would be granted as of the effective date of the disability rating.

Exemption	Amount of Exemption	Filing Reqs.	Claim Filed By 2/15	Claim Filed Between 2/16 and 12/10	Claim Filed After 12/10	Refund Prior Tax Years
Basic Exemption	$100,000	One Time Only	$1,000	$1,000	$1,000	Yes, refund up to four prior tax years @ $1,000 per year
Low Income Exemption	$150,000	Annual Refiling	$1,500	$1,500	$1,500	Yes, refund up to four prior tax years @ $1,500 per year.

Law Prior To Amendment:

The disabled veterans' exemption is generally available in two amounts[14]:

- $100,000 for qualified persons, hereafter referred to as the "basic exemption" which is provided on a one time filing basis, and
- $150,000 for qualified persons with low incomes, as specified, hereafter referred to as the "low income exemption" which requires a first time filing and subsequent annual filings to reaffirm income eligibility.

With respect to property tax exemptions that require claims, Article XIII, Sec. 6 of the California Constitution provides that the failure in any year to claim, in a manner required by the laws in effect at the time the claim is required to be made, an exemption which reduces a property tax shall be deemed a waiver of the exemption for that year.

For both levels of disabled veterans' exemption, first time filings for the basic exemption and first time filings or annual re-filings for the low income exemption, a claim must be filed between the lien date (January 1) and February 15 to receive the full amount of the exemption on the upcoming tax bill for the ensuing fiscal year (July 1 – June 30). If a claim is filed between February 16 and December 10, 80 percent of the exemption is available. If a claim is not made on or before December 10, which is the date the first installment of the property tax bill becomes delinquent, then the exemption may not be applied to taxes owing for that fiscal year. For annual re-filings of the $150,000 low income exemption, where a claim is not made on or before December 10, the exemption would not be lost completely, but would instead be reduced to the basic exemption level of $100,000.

The following table summarizes the filing provisions for the disabled veterans' exemption under previous law.

Exemption	**Amount of Exemption**	**Filing Reqs.**	**Claim Filed By 2/15**	**Claim Filed Between 2/16 and 12/10**	**Claim Filed After 12/10**	**Refund Prior Tax Years**
Basic Exemption	$100,000	One Time Only	$1,000	$800 (1000 x 80%)	$0 for current tax year	No
Low Income Exemption	$150,000	Annual Refiling	$1,500	$1,200 (1,500 x 80%)	$0 for current tax year	No

[14] In practice, despite the apparent distinction made in existing law that the amount of the exemption varies according to the type of disability, virtually all claimants meet the "totally disabled" classification. To simplify this discussion, the remainder of the analysis will refer to either the $100,000 basic exemption or the $150,000 low income exemption.

In General:
The following table summarizes the late filing provisions for various property tax exemptions where a claim must be filed to receive the exemption.

Summary of Late Filing Provisions For Various Exemptions					
Exemption	**Amount of Exemption**	**Filing**	**Due Date**	**Late Filing**	**Retroactive for Prior Tax Years**
Basic Disabled Veterans'	$100,000	One Time	2/15	80%, if by 12/10	No
Low Income Disabled Veterans'	$150,000	Annual	2/15	80%, if by 12/10	No
Homeowners'	$7,000	One Time	2/15	80%, if by 12/10	No
Veterans'	$4,000	Annual	2/15	80%, if by 12/10	No
Welfare Church Cemetery Exhibition Veterans' Organizations Public Libraries Free Museums Schools, Colleges, Universities	Generally 100%, sometimes partial exemption provided where part of property is eligible.	Annual	2/15	90%, if filed on or before January 1 of the next calendar year.* 85%, if filed after January 1 of the next calendar year.* *But not more than $250 is to be charged for those years that taxes can be canceled or refunded.	Yes If taxes were <u>paid</u>; <u>four</u> years of refunds. If taxes were <u>not paid</u>; taxes may be canceled for an <u>unlimited</u> number of years.
Religious	Generally 100%.	One Time	2/15	Same as above.	Same as above.

Comments:

1. **Purpose.** To permit retroactive exemptions for prior tax years, which is prohibited under existing law.

2. **Key Amendments.** The April 6 amendments reflect language suggested to the author by the Board to 1) change the treatment of claims filed *on* December 10, 2) modify language intended to alert taxpayers that refunds for prior years taxes would be subject to the statute of limitations on refunds and thus a refund may not be issued for every tax year the claimant may have otherwise been qualified, and 3) delete provisions relating to granting the exemption less $250, a concept taken from the late filing provisions for other exemptions found in Section 270, which does not translate well because those exemptions generally exempt the entire property (regardless of value) whereas the disabled veterans' exemption is for a set amount.

3. **Under current law, the disabled veterans' exemption can not be granted for any year unless a claim is filed on or before December 10 of that tax year.** The exemption is available on a prospective basis once a claim is filed. This bill effectively permits the disabled veterans' exemption to be retroactively granted, as specified, for prior tax years. If taxes on the property were <u>paid</u> prior to receiving the disability rating, the number of prior tax years for which the exemption could be granted retroactively would be generally limited to <u>four</u>. Revenue and Taxation Code Section 5096 provides that a claim for refund must be filed within four years after making the payment. Thus, in practice, the exemption may not always be granted for every year the claimant may have been eligible. There is no statute of limitation placed on the cancellation of unpaid taxes otherwise permitted by law. Consequently, if taxes were <u>not paid</u> in prior years, there would be <u>no limit</u> to the number of years that may be canceled[15].

Late Filing - Generally

1. **This provision conforms, in essence, the late filing provisions for the disabled veterans' exemption to those provided for various non-profit agencies and governmental properties.** These provisions are similar to the late filing provisions for the following exemptions: welfare, church, religious, public schools, colleges, community colleges, state colleges, state universities, free public libraries, exhibition, free museums, veterans' organizations, and cemeteries. (The current late-filing provisions for disabled veterans' exemptions are identical to those for the homeowners' exemption and the veterans' exemption.) The partial exemption amount would increase from 80% to 90% for claims filed after February 15 but on or before December 10 and refunds for prior years would be granted at 85% of the exemption amount.
2. **This measure provides relief to those persons who were eligible for the exemption, but were unaware of the program.** Some homeowners, particularly the unmarried surviving spouses of persons who died while on active duty, are unaware that they are eligible for this exemption. The spouses of persons who died in active duty were not eligible for the exemption until after a 1992 constitutional amendment (Proposition 160).

Late Filing – Disability Ratings

1. **In practice, it can take many years for a veteran to receive a disability rating from the USDVA, especially where the veteran has appealed their rating.** Some disabled veterans are uninformed of the exemption until after their disability claim is approved by the USDVA and they receive educational material on the benefits available to disabled veterans. For those aware of the exemption,

[15] In practice, action would commence to sell tax-defaulted property after five years of non-payment.

but awaiting their disability rating, some counties have adopted an administrative practice where they accept the filing of a "protective claim" each year. This administrative practice allows the county to grant the exemption once the disability rating is received, since technically the claim for each tax year was filed "timely". But this remedy is only helpful for those persons who previously have consulted with their local county assessor. Other counties may not accept or suggest "protective" claims.

2. **Other types of situations with "back dated" effective dates would fall under the general provisions for "late filing" in proposed Section 276**. For instance, it is possible that a surviving spouse of a person who dies of a disease incurred in active duty will receive a back dated effective date that the disease was "service connected."

3. **As currently drafted, the filing provisions for back dated disability ratings may be overly restrictive.** For instance, in the worst case scenario, if a person receives their rating in the mail on December 31, they would have until the next day, January 1 (the lien date), to file a claim with the assessors office. To correct this, the following amendments are suggested:

   276.1 (b) The claimant subsequently files an appropriate claim for the disabled veterans' exemption described in Section 205.5 ~~on or before the next following lien date~~.

4. **Related Legislation.** AB 2092 (Reyes) added Section 890.3 to the Military and Veterans Code, which with respect to property taxes, permits the disabled veterans' exemption to be granted retroactively for property for which the exemption would have been available but for the taxpayer's failure to receive a timely disability rating from the United States Department of Veterans Affairs (USDVA).

Portability

Revenue and Taxation Code Section 276.2, 276.3

This provision allows a disabled veteran to receive the full amount of the exemption in any year in which they move from one home to another.

Law Prior To Amendment:

Under current law, if a disabled veteran changes their principal place of residence on or after the lien date (January 1), the exemption does not terminate on the first home for the ensuing fiscal year (July 1 – June 30). The exemption is not allowed on the new residence until a claim is filed on the new residence or before February 15 or within 30 days of notice of supplemental assessment for the new residence, whichever occurs first.

In General:

There are two alternatives by which a disabled veterans' exemption may be granted:

Alternative 1: The exemption is available to an eligible owner of a dwelling which is occupied as the owner's place of residence as of 12:01 a.m. January 1 each year. The full exemption is available if a claim is filed on or before February 15, or

Alternative 2: The exemption is available to an eligible owner of a dwelling subject to Supplemental Assessment(s) resulting from a change in ownership or new construction on or after January 1 provided,

(a) The owner occupies or intends to occupy the property as his or her principal place of residence with 90 days after the change in ownership or completion of new construction and,

(b) The property is not already receiving the disabled veterans' exemption or another property tax exemption of greater value. If the property received an exemption of a lesser value on the current roll (most often the case, the property is receiving a $7,000 homeowners' exemption), the difference in the amount between the two exemptions shall be applied to the Supplemental Assessment.

The full exemption (up to the amount of the supplemental assessment)[16], if any, is available if a claim is filed by the 30th day following the Notice of Supplemental Assessment issued as a result of a change in ownership or completed new construction. If a claim is filed after the 30th day following the Notice of Supplemental Assessment, but on or before the date which the first installment of the supplemental tax bill becomes delinquent, 80 percent of the available exemption may be allowed.

An exemption under Alternative 2 will apply to the Supplemental Assessment(s), if any, and the full exemption will be allowed for the following fiscal year(s).

Comments:

1. **Purpose.** To ensure that a person qualified for the disabled veterans' exemption can immediately receive the full amount of exemption on the new residence.

2. **This measure ensures that a person who qualifies for the disabled veterans' exemption may immediately transfer the exemption from one home to another.** Under current law, it is possible that a person who purchases a home previously owned by a person who was receiving the disabled veterans' exemption will enjoy the property tax exemption for the remainder of the tax year, whereas the disabled veteran is unable to obtain the full amount of the exemption on their

[16] For example, although the person would be entitled to a $100,000 exemption, the supplemental assessment may be for an amount less than $100,000.

new residence the first year of its purchase. This measure corrects this possibility.

3. **This measure provides that in the event that property receiving a disabled veterans' exemption as described in Section 205.5 is sold or otherwise transferred to a person who is not eligible for that exemption, the exemption shall cease to apply on the date of that sale or transfer.** Thus the new owner will no longer benefit from the disabled veterans exemption.

<u>Senate Bill 1417 (Wright) Chapter 417</u>
Proposition 60/90/110 Base Year Value Transfers
Rescissions
Intercounty Ordinances – Effective Date

Effective January 1, 2001. Amends Section 69.5 of the Revenue and Taxation Code.

This measure 1) requires the assessor, upon a taxpayer's request, to rescind the once in a lifetime base year value transfer for a person over the age of 55 years if the home was vacated within 90 days after the claim is filed, and 2) permits intercounty base year value transfers to be granted prospectively in counties that change the effective date of their ordinance where the period for filing a timely claim would have otherwise expired.

Sponsor: Senator Cathie Wright

Rescissions
Revenue and Taxation Code Section 276.2, 276.3

This bill amends Section 69.5 of the Revenue and Taxation Code to require, notwithstanding any other provision of law, the assessor to grant a property owner's request to rescind a base year value transfer in the case where the new home was vacated as the claimant's principal place of residence within 90 days after the date the original claim for a base year value transfer was filed. The request to rescind the transfer must be made within six years after the transfer was granted.

Law Prior To Amendment:

Pursuant to Propositions 60, 90, and 110, persons who are over the age of 55 years or who are severely and permanently disabled are permitted to transfer, *once in a lifetime,* their Proposition 13 base year value from one home to another of equal or lesser value. Existing law provides that, in certain instances, a claimant may rescind their previously filed claim for a base year value transfer. To qualify for a rescission, the request must be made before property taxes on the new home are delinquent, or before any property tax refund is issued. The assessor may levy a fee to cover the costs of processing the base year value transfer rescission.

In General:

California's system of property taxation under Article XIIIA of the State Constitution (Proposition 13) values property at its 1975 fair market value, with annual increases limited to the amount of inflation or 2%, whichever is less, until the property changes ownership or is newly constructed. At the time of the ownership change or new construction, the value of the property for property tax purposes is redetermined based on current market value. The value initially established, or redetermined where appropriate, is referred to as the "base year value." Thereafter, the base year value is subject to annual increases for inflation. This value is referred to as the "factored base year value."

Proposition 60 (1986) amended the constitution to authorize the Legislature to provide an exception to the general requirement that property be reassessed to current market value by providing for a one-time transfer of base year value from a former principal place of residence to a replacement dwelling, under certain conditions, by qualified persons who are over the age of 55 years. Proposition 90 (1988) further amended the constitution to authorize such base year value transfers to replacement dwellings located in another county, provided the county board of supervisors of that county adopts an ordinance accepting such transfers. Proposition 110 (1990) extended these base year value provisions to persons who are severely and permanently disabled.

Revenue and Taxation Code Section 69.5 provides generally that any person over the age of 55 years, or any person who is severely and permanently disabled, may qualify for relief from provisions of law that would otherwise require a reassessment of a newly acquired residence to current market value. Section 69.5 provides such relief by allowing an eligible claimant to transfer, *one time only*, the existing base year value of a sold residence to the new residence as long as both residences are located in the same county and the new residence is of equal or lesser value. The law permits that a claimant may transfer their base year value to a newly acquired residence that is located in *another* county, but only if the county board of supervisors of the receiving county has adopted an ordinance accepting such base year value transfers. Currently, only 10 of the 58 counties have opted to grant this property tax benefit: Alameda, Kern, Los Angeles, Modoc, Monterey, Orange, San Diego, San Mateo, Santa Clara, and Ventura. In the past, four other counties have had ordinances which are no longer in effect: Contra Costa (repealed 11-8-93), Inyo (repealed 10-13-94), Riverside (repealed 7-1-95), and Marin (repealed 1-16-97).

Comments:

1. **Purpose.** To address a specific case in which a property owner has been unable to obtain a rescission of their base year value transfer after they discovered the climate of the location of their replacement home in Riverside County was not suitable for them. Apparently the property owner would have been eligible to rescind their base year value transfer under existing law if they had been aware of the ability to do so. However, due to a miscommunication with the Riverside County Assessor's Office, they were left with the impression that a rescission was not possible. The property owner subsequently purchased a home in Ventura County and filed for a base year value transfer. This claim was denied because the property owners had previously received a base year value transfer

on their Riverside County home. The property owners appealed this ruling and the Ventura County Assessment Appeals Board has held open their appeal while a legislative solution, which is contained in this measure, is attempted to permit the property owner to rescind the prior base year value transfer.

2. **Key Amendments.** The April 10 amendment provides that the rescission request must be made within six years after the transfer was granted to provide a specific time period after which a rescission would not be permitted. This amendment was made to address a concern raised by Riverside County that the provisions permitting a rescission under this bill (where a person vacates the home 90 days after the original claim was filed) were open ended so that regardless of the number of years that had elapsed after the base year value transfer had been granted, the taxpayer's rescission request would be granted. With this amendment, a rescission request made after the six year time frame would not be permitted. (In the specific case at hand, the transfer was granted in March of 1993 and a written request to rescind the transfer was made in July of 1998.)

3. **Current law permits a homeowner to rescind their base year value transfer after the assessor has processed the transfer request but before the date a tax refund is issued or a tax bill becomes delinquent, as the case may be.** These provisions were added to the law for the specific purpose of clarifying in statute that rescissions were permissible after the issue was raised several times by inquiring assessors and taxpayers. The principle of permitting rescissions is that taxpayers should not be forced to retain a tax benefit when they are willing to repay the tax savings they received.

4. **The base-year value transfer provision is a once in a lifetime benefit.** The long term property tax savings from this benefit can be significant. Some persons have used their one-time benefit on a home which they expected to be their permanent home for their retirement years, but then discovered that home or location was not suitable for a variety of reasons: their health, family needs, or climate.

5. **These provisions make it possible for the property owner in this specific instance to rescind their claim and pay back the property tax savings plus interest to the county.** Where an inter-county transfer is involved, as in this instance, the rescinding county (Riverside County) will ultimately receive <u>more</u> property tax revenue. For instance, if the home was assessed at $100,000 as a result of a base year value transfer, rather than its fair market value of $300,000, then once the recission is granted, the taxpayer would receive a tax bill via an escape assessment based on an additional $200,000 of assessed value per tax year. In addition, this measure provides that interest be added to the escape assessment. The result is a revenue <u>benefit</u> for the rescinding county.

6. **This provision also permits the rescinding county to charge a fee to cover all reasonable costs of processing the rescission request.** Thus, the rescinding county need not incur any unfunded administrative costs.

Intercounty Ordinance – Effective Date
Revenue and Taxation Code Section 69.5

This provision adds subdivision (k) to Section 69.5 to provide that if a county adopts an ordinance with an effective date that is more than three years prior to the actual date the ordinance is adopted, that those persons who would have been eligible to receive a base year value transfer, except that an ordinance had not been in effect at the time they purchased their home and who would otherwise be precluded from filing a "timely" claim because the three year period to file a claim had elapsed, could file and receive a base year value transfer on a prospective basis. A base year value transfer that is granted under this provision would not result in a refund or cancellation of property taxes previously paid. Thus, the base year value transfer would be granted prospectively.

Sponsor: Ventura County Assessor

Law Prior To Amendment:

Existing law provides that a claimant may transfer their base year value to a newly acquired residence that is located in another county, but only if the county board of supervisors of the receiving county has adopted an ordinance accepting such base year value transfers. Section 69.5(a)(2)(E) provides that a county may specify an effective date that is earlier than the actual date the ordinance is adopted, but no earlier than November 9, 1988 (the effective date of Proposition 90).

Section 69.5(e)(B)(5) requires, in part, that to receive a base year value, a person must file a claim within three years of the date the replacement home is purchased or constructed.

Comment:

Purpose. Ventura County adopted an intercounty base year value transfer ordinance on May 4, 1992. The county would like to amend their ordinance to specify an effective date that coincides with the effective date of Proposition 90, so that persons who purchased a replacement home between November 9, 1988 and May 4, 1992, and previously ineligible to receive a base year value transfer, can receive this property tax benefit on a prospective basis. While Ventura County may amend the effective date of their ordinance under current law, it would have no practical effect since a claim must be filed within three years of the date the replacement property is purchased. To remedy this situation, this measure would allow a three year filing period that commences on the new date the ordinance is adopted.

Senate Bill 1844 (Kelley) Chapter 613
Mandatory Audit Threshold

Effective January 1, 2001. Amends Section 469 of the Revenue and Taxation Code.

This bill increases the assessable trade fixture and business personal property owned threshold level for mandatory audits from $300,000 to $400,000.

Sponsor: San Diego Board of Supervisors

Law Prior To Amendment:

The law requires that county assessors audit at least once every four years the books and records of any taxpayer that is engaged in a profession, trade, or business if the taxpayer has assessable trade fixtures and business tangible personal property valued at $300,000 or more. These statutorily required audits are commonly referred to as "mandatory audits."

In General:

Audit Objective

A property tax *audit* is a means of collecting data relevant to the determination of taxability, situs, and value of property. It is used to verify an assessee's reported cost and other information which may influence the assessment of all items that are taxable under property tax law. An *audit program* is a system used to select and conduct these audits. Both are used to sample property tax assessments to ensure that taxable property and related information have been accurately reported by the assessee and have been properly assessed by the assessor.

The primary objective of the property tax audit is to determine that a correct assessment has been made. The auditor applies generally accepted auditing standards and utilizes generally accepted accounting and appraisal principles in performing these audits. Audits, and the audit program as a whole, help to identify problems, correct inaccurate existing assessments, and increase the likelihood that future assessments will be accurate through improved reporting by the assessee and improved understanding of the property by the assessor's office.

Audit Selection

An important part of the audit program is the selection of accounts to be audited. As previously discussed, some audits are required by law (*mandatory*) while additional audits (commonly referred to as *nonmandatory*) can be selected by the assessor as a means of sampling the system as a whole.

Mandatory Audits. As required by Section 469 and Property Tax Rules 192 and 193, for assessees owning, controlling, or possessing tangible business personal property and fixtures with a full cash value of $300,000 or more, audits must be completed at least once in each four-year period. However, an in-depth audit is not always required for each year in the four-year period. The auditor may "sample" one year in the four-year audit period. If no material discrepancy or irregularity is found, there is no requirement to audit the remaining years. If a discrepancy is found, the auditor must continue and audit the remaining years unless (1) the discrepancy or irregularity in the "sample" year is peculiar to that year and (2) the discrepancy or irregularity did not result in an escape.

Nonmandatory Audits. Nonmandatory audits are audits not required by law, but are authorized by Revenue and Taxation Code Section 470 and Property Tax Rule 192(e). The Board recommends that these types of audits should be done in addition to mandatory audits since an audit program would not be complete unless it includes a representative sample from all sizes and types of property. Nonmandatory audits are selected at the discretion of the assessor.

Depending on the resources available, it may be difficult for county assessors to complete a large number of nonmandatory audits. Counties may develop criteria for selecting these audits rather than making a random selection. Examples of criteria appropriate for selection may include: identified discrepancies; accounts just below the mandatory audit cut-off; inconsistent, incomplete, or nonfiled property statements; taxpayer's request for audit; and/or selection by type of business.

Background:

The requirement that assessors perform mandatory audits of taxpayers books and records was established in 1966. Initially the threshold level was set at $50,000. The level was increased to $100,000 in 1976, to $200,000 in 1979, and to its present level of $300,000 in 1991.

Comments:

1. **Purpose.** According to the sponsors, the county's current audit staff is totally engaged in fulfilling the mandatory audit requirements. By raising the audit threshold, the workload for mandatory audits would be reduced, giving the county assessor more flexibility in the use of limited resources and make staff available to audit a number of smaller businesses which have never been audited.
2. **Key Amendments.** The June 12 amendment reduced the audit threshold from $500,000 to $400,000. The California Assessors' Association had requested that the threshold be reduced to $400,000, and the Board of Equalization supported the Association's request.

3. **Nonmandatory audits may yield more revenue producing audits.** Most taxpayers who are subject to mandatory audits are routinely audited. Thus, these taxpayers generally have a higher level of compliance with property tax law since prior audits have increased knowledge of property tax law. Consequently, an auditor may yield more revenue per hour on nonmandatory audits.

4. **Some counties may treat this change in law as a workload reduction rather than a workload redirection.** Though a redirection of existing resources into non-mandatory audits may yield more productive audits with respect to generating additional revenue, it is possible that this may not be the result of this bill. If the increase in the threshold is interpreted by some counties as an opportunity to reduce workload, assessors' resources in this area could be reduced. Cuts in assessors' audit staff, where the staff already has difficulty in completing their mandatory audit workload, may prevent any staff from being redirected to nonmandatory audits.

<u>Senate Bill 1933 (Vasconcellos) Chapter 619</u>
California Commission on Tax Policy in the New Economy

Effective January 1, 2001. Adds and repeals Part 18.3 (commencing with Section 38061) of Division 2 of the Revenue and Taxation Code.

This measure makes various findings and declarations regarding the rapidly changing technology and its impact on California's economy, and states "There is a need to reevaluate our entire system of tax policies and collection mechanisms in light of the new economy." This measure creates the California Commission on Tax Policy in the New Economy comprised of nine voting members, five appointed by the Governor, two appointed by the President pro Tempore, and two appointed by the Speaker of the Assembly. In addition, ex officio members of the Commission include the chair of the BOE, the executive officer of the Franchise Tax Board the Director of Employment Development, the chair of the California Public Utilities Commission, the Director of Finance, the Controller, a public member of the California Economic Strategy Panel, and the chairs of both the Senate and Assembly Revenue and Taxation Committees.

The Commission is charged with conducting public hearings to address Internet taxation, and study and make recommendations regarding specified elements of the California system of state and local taxes, including, but not limited to, the sales and use tax, telecommunications taxes, income taxes, and property taxes.

With respect to the property tax, this bill requires the Commission to (1) investigate the revenue repercussions for local government in assessment of real property, assuming changes in the trends of real property versus personal property utilization, (2) examine the effects of electronic commerce activity on land-based enterprises in the new economy, and (3) evaluate the impact on local economic development approaches and consider what new tools could be used.

The commission must submit an interim report to the Governor and the Legislature at least 12 months from its first public meeting, and a final report with recommendations at least 24 months from its first public meeting.

This bill will be repealed on January 1, 2004.

Sponsor: Senator John Vasconcellos

Law Prior To Amendment:

Under current law, the California Internet Tax Freedom Act (Chapter 351 of 1998) specifies that the state may not impose or attempt to collect any tax on Internet access for three years beginning January 1, 1999. However, any existing tax, including any sales and use tax that is imposed in a uniform and nondiscriminatory manner, as specified may be imposed. This means that state and local governments may impose sales and use taxes on all Internet sales, provided that the tax and its rate are the same as that which would be imposed on transactions conducted in a more traditional manner, such as over the phone or through mail order. Sales and Use Tax Law requires persons to pay use tax, as measured by the purchase price of the property, to the Board of Equalization (BOE) on purchases of tangible personal property for use in this state from out-of-state retailers. Persons who purchase items for use in this state from out-of-state retailers *who are engaged in business in California* pay use tax to the retailer, who must remit the use tax to the BOE.

Under current federal law, a three-year moratorium was also imposed on new Internet access taxes or other levies on electronic commerce, and expires in October 2001. That legislation also created the Advisory Commission on Electronic Commerce (ACEC) to study federal, state, local, and international taxation and tariffs on transactions using the Internet and Internet access. The ACEC's 19 members include three governors, heads of several major information technology corporations, and other government and business leaders from across the nation, including Board of Equalization Chair Dean Andal. The Commission issued a report to Congress on April 3, 2000.

Comments:

1. **Purpose.** To address the collection and administration of taxes in the 21st century technology-dependent economy.

2. **The ACEC was created by Congress to study this issue.** The ACEC obtained at least majority approval on the following concepts: (1) Extend the current moratorium on multiple and discriminatory taxation of electronic commerce for an additional five years, through 2006. (2) Prohibit taxation of digitized goods and their non-digitized counterparts to protect consumer privacy on the Internet and prevent the taxation of all services, entertainment, and information in the U.S. economy (both on the Internet and on Main Streets across America). (3) Make permanent the current moratorium on Internet access taxes, including those access taxes grandfathered under the Internet Tax Freedom Act. (4) Establish "bright line" nexus standards for American businesses engaged in interstate commerce, since the cyber economy has blurred the application of many nexus rules, and American businesses need clear and uniform tax rules and definitions before being exposed to business activity and sales and use tax collection obligations. (5) Encourage state and local governments to work with the National Conference of Commissioners on Uniform State Laws to simplify their own telecommunications and sales tax systems to ease burdens on interstate commerce. (6) Respect and protect consumer privacy in crafting any laws pertaining to online commerce generally and in imposing any tax collection and administration burdens on the Internet specifically. Their final report is available on-line at http://www.ecommercecommission.org./report.htm.

3. **Other organizations have already been formed to address tax administration in the new economy.** In addition to the ACEC, the Multistate Tax Commission (MTC), of which the BOE is a member, developed the Sales Tax Simplification Project to address sales tax simplification for all sales tax states. The minutes from these conferences are posted on the MTC website (http://www.mtc.gov). The Organization for Economic Cooperation and Development (OECD), which is comprised of the United States and 28 other countries, is actively addressing taxation issues related to e-commerce from an international perspective (http://www.oecd.org). The National Tax Association (NTA), an association of government officials, tax practitioners, business representatives, and academicians includes a Communications and Electronic Commerce Tax Project that issued its final report in September 1999 (http://www.ntanet.org). The Electronic Commerce Advisory Council (ECAC), which was created by Governor Pete Wilson by Executive Order W-175-98, released a report in November 1998 (http://www.e-commerce.ca.gov). And the Legislative Analysts Office issued its report, California Tax Policy and the Internet, in January 2000 (http://www.lao.ca.gov). In addition, many other states and organizations have become involved in Internet tax policy and numerous reports, with varying conclusions and recommendations, have been published on the topic.

Senate Bill 2084 (Polanco) Chapter 861
Commercial Trailers and Semitrailers

Effective September 29, 2000. Amends Section 13340 of, and adds Sections 29145 and 43402 to, the Government Code, amends Sections 10752, 10753.1, 10753.2, and 10753.9 of, and adds Sections 225 and 11006 to, the Revenue and Taxation Code, and amends Sections 260, 4000, 4004, 4150.1, 4458, 5000, 5011, 5014, 5015, 5016, 5017, 5101, 5103, 5106, 5108, 5204, 5301, 5302, 5305, 5902, 6275, 6285, 6291, 6293, 6367, 8000, 8054, 9250.7, 9250.8, 9250.10, 9250.13, 9250.14, 9250.19, 9260, 9261, 9400, 9406, 9408, 36010, and 36109 of, and adds Sections 288, 289, 468, 4000.6, 5014.1, 9400.1, 9406.1, 9554.2, 27910, and 42030.1 to, and repeals Sections 6851 and 6851.5 of, and amends and renumbers Section 390 of, the Vehicle Code.

This bill enacts the Commercial Vehicle Registration Act of 2001 to replace the current registration system (fees based on unladen weights and vehicle license fees) for commercial trailers with a permanent trailer plate identification program. This bill provides that a "commercial trailer or semitrailer that has a valid identification plate issued to it pursuant to Section 5014.1 of the Vehicle Code is exempt from personal property taxation." This language ensures that commercial trailers or semitrailers do not become subject to taxation under property tax law once they are no longer subject to the vehicle license fee.

Sponsor: Department of Motor Vehicles

Law Prior To Amendment:

Vehicles are not subject to property tax because the vehicle license fee, which is administered by the DMV, preempts their taxation. Revenue and Taxation Code Section 10758 provides that the vehicle license fee is in lieu of any other tax that is based on value and is levied for state or local purposes.

Comment:

Purpose. To allow California to conform to federal law regarding membership in the International Registration Plan Agreement for the purpose of collecting registration fees for commercial trucks that operate on an interstate basis.

Senate Bill 2170 (Committee on Revenue and Taxation) Chapter 647
Property Tax Omnibus Bill

Removed Property.
Statute of Limitations – Escape Assessments
Supplemental Assessments - Exemptions
Documented Vessels
State Lands Commission
State Assessee Appeals - Filing Dates
Private Contractors

This bill contains Board of Equalization sponsored provisions to:

1. **Restore time limitation on escape assessments that may be levied for prior tax years on an unreported change in ownership, except in cases of fraud or changes in ownership involving property owned by a legal entity. (§§75.11 and 532).**
2. **Restore language that was inadvertently deleted by SB 2237 (Stats. 1998, Chap. 591) related to permitting a partial exemption to be granted on late filed claims for the veterans', homeowners', and disabled veterans' exemptions on a supplemental assessment. (§75.21)**
3. **Simplify the petition filing deadlines for appeals of assessments and allocations of state-assessed properties. (§§731, 732, 733, 746, 748, 749, 758, and 759)**
4. **Establish safeguards to ensure the confidentiality of taxpayer confidential information when consultants are hired by county assessors to perform appraisal work. (§674)**

It also contains, non- Board sponsored provisions to

5. **Clarify that the time for filing property assessment appeals is "within 60 days of the date of mailing printed on the notice or the postmark date therefor, whichever is later." §75.31 (State Bar - Taxation Section)**
6. **Add the State Lands Commission to the list of agencies who may receive appraisal data in possession of the assessor. §408 (State Lands Commission)**
7. **Clarify that for property damaged by disaster, misfortune or calamity, the new base year value excludes the portion of the previous value attributable to the portion of the property that is destroyed or removed. §51 (Assessors' Association)**
8. **Strike out obsolete language relating to taxation of documented vessels. §227 (Assessors' Association)**

Statute of Limitations
Escape Assessments and Supplemental Assessments

Revenue and Taxation Code Sections 75.11 and 532

This bill reinstates the prior limitation on the number of prior tax years for which escape assessments can be issued except in two instances where property has been underassessed or escaped assessment, following a change in ownership.

1. **The first is where the penalty provided for in Section 503 must be added to the escape assessment. (Section 503 provides that if any taxpayer or the taxpayer's agent through a fraudulent act or omission causes, or if any fraudulent collusion between the taxpayer or the taxpayer's agent and the assessor or any of the assessor's deputies causes, any taxable tangible property to escape assessment in whole or in part, or to be underassessed, the assessor shall assess the property in the lawful amount and add a penalty of 75 percent of the additional assessed value so assessed.)**

2. **The second is where a change in ownership statement, is not filed pursuant to Section 480.1 where there is a change in control of a legal entity under Section 64(c)[17] or pursuant to Section 480.2 where there is a change in ownership of a legal entity under Section 64(d).[18]**

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[17] Section 64(c) states "(c) (1) When a corporation, partnership, limited liability company, other legal entity, or any other person obtains control through direct or indirect ownership or control of more than 50 percent of the voting stock of any corporation, or obtains a majority ownership interest in any partnership, limited liability company, or other legal entity through the purchase or transfer of corporate stock, partnership, or limited liability company interest, or ownership interests in other legal entities, including any purchase or transfer of 50 percent or less of the ownership interest through which control or a majority ownership interest is obtained, the purchase or transfer of that stock or other interest shall be a change of ownership of the real property owned by the corporation, partnership, limited liability company, or other legal entity in which the controlling interest is obtained.

(2) On or after January 1, 1996, when an owner of a majority ownership interest in any partnership obtains all of the remaining ownership interests in that partnership or otherwise becomes the sole partner, the purchase or transfer of the minority interests, subject to the appropriate application of the step-transaction doctrine, shall not be a change in ownership of the real property owned by the partnership."

[18] Section 64(d) provides that "If property is transferred on or after March 1, 1975, to a legal entity in a transaction excluded from change in ownership by paragraph (2) of subdivision (a) of Section 62, then the persons holding ownership interests in that legal entity immediately after the transfer shall be considered the "original coowners." Whenever shares or other ownership interests representing cumulatively more than 50 percent of the total interests in the entity are transferred by any of the original coowners in one or more transactions, a change in ownership of that real property owned by the legal entity shall have occurred, and the property that was previously excluded from change in ownership under the provisions of paragraph (2) of subdivision (a) of Section 62 shall be reappraised.

The date of reappraisal shall be the date of the transfer of the ownership interest representing individually or cumulatively more than 50 percent of the interests in the entity.

These two exceptions serve to keep the substantive intent of 1995 legislation concerning the unlimited escape assessment of certain properties that are not reappraised to current market level following a change in ownership.

Law Prior To Amendment:

Under current law, the statute of limitations on levying escape assessments on a change in ownership does not commence until a "change in ownership statement" (COS) or "preliminary change in ownership report" (PCOR) is filed. Consequently, if a taxpayer (the transferee) does not file a COS or PCOR, there is no limit on the number of prior tax years subject to collection for back taxes via an "escape assessment." Upon discovery of an unreported change in ownership, escape assessments are issued for each year after the change in ownership occurred.

Background:

Prior to January 1, 1996, the maximum number of years that escape assessments on an unreported change in ownership could ever be levied for previous tax years was eight. This eight year period was limited to instances in which a change in ownership had occurred but either a change in ownership statement (COS) or a preliminary change in ownership report (PCOR) had not been filed.

Chapter 544 of the Statutes of 1995 (Senate Bill 1726, Kopp) revised the escape assessment provisions to essentially require that an escape assessment be levied for every year that property is underassessed whenever a change in ownership is not reported. Specifically, SB 1726 deleted the former reference to an eight year time period found in Revenue and Taxation Code Section 531.2 and instead substantively recast the provisions in Revenue and Taxation Code Section 532 to provide that the statute of limitations on levying escapes does not commence until a COS is filed. Consequently, if a COS is not filed, then there is no limit on the number of years subject to the collection of back taxes. Because of the manner in which the legislation was drafted, the change in law permitting unlimited escape assessments is retroactive as well as prospective. Under the recast provisions, any taxpayer who did not file a COS or PCOR is at risk of receiving tax bills for up to 17 years of back taxes (for a change in ownership occurring on or after March 1, 1975, which resulted in an increase in value for the 1982-83 fiscal year) whether or not they filed a document evidencing a change in ownership with the county recorder. Furthermore, absent legislative change, in future years the potential number of years subject to back taxes will be unlimited.

Under current law, regardless of the number of years that back taxes are billed, taxpayers will have, at most, only a four year period in which to pay them under an

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A transfer of shares or other ownership interests that results in a change in control of a corporation, partnership, limited liability company, or any other legal entity is subject to reappraisal as provided in subdivision (c) rather than this subdivision."

installment payment plan. As assessors have begun to implement SB 1726, those taxpayers affected have contacted legislative staff members to request relief. Assessors have reported instances of being required to levy property taxes for up to 15 years of back taxes.

SB 1726 was introduced because of alleged fraudulent activity to thwart the reassessment of a major high-rise property in downtown San Francisco to current market level. This transaction was complex, involved transfers among legal entities, appears to have been structured to avoid reassessment, and apparently involved an agreement among some of the participants not to inform the assessor of the transaction. The decision to not file a COS or PCOR was one of many elements in this transaction.

Comment:

Purpose. To restore the maximum number of years that back taxes in the form of escape assessment resulting from an unreported change in ownership may be collected to eight for property owned by individuals (required to file under Section 480). Escape assessments would remain unlimited in instances where fraud was involved or where a legal entity change in ownership under Section 64(c) or 64(d) occurred and a change in ownership statement was not filed under Section 480.1 or 480.2.

Welfare Exemption Supplemental Assessments

Revenue and Taxation Code Section 75.21

This bill restores language unintentionally deleted by amendments made last year by SB 2237. In addition, it recasts the original intent of SB 2237 by adding subdivision (f) to Section 75.21 to provide that no additional exemption claim shall be required to be filed until the next succeeding lien date in the case in which a supplemental assessment results from a change in ownership of property where the purchaser of the property owns and uses or uses, as the case may be, other property that has been granted the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, or welfare exemption on either the current roll or the roll being prepared and the property purchased is put to the same use. These amendments also specify that: 1) if the non-profit organization does not file a timely application for exemption on the next succeeding lien date then the provisions of paragraph (1) of subdivision (c), which permit a partial exemption for late-filed exemptions, will apply and 2) in all other instances when a supplement assessment results from a change in ownership, then a claim would be required to be filed pursuant to subdivision (c) of Section 75.21 to receive an exemption on the supplemental assessment (for example, a non-profit organization which purchases property eligible for a property tax exemption for the first time). These amendments are necessary because SB 2237 did not address the situation where an entity does not file an exemption on the next succeeding lien date and did not give entities the benefit of a partial exemption when a late filing is made as prior law had permitted.

Law Prior To Amendment:

In 1998, the Board of Equalization and the Assessors' Association jointly sponsored a provision contained in SB 2237 (Ch. 591, Senate Committee on Revenue and Taxation) to eliminate the need for non-profit organizations to claim a property exemption on a supplemental assessment resulting from a change in ownership. Since most non-profit organizations must reclaim their property tax exemption annually, in many cases it is burdensome to require them to file again mid-year to extend a property tax exemption to property newly acquired during the year. Instead, such organizations would file for an exemption on their supplemental assessment when they otherwise filed for an exemption on "next lien date" when they applied for their annual exemption. The amendments made by SB 2237 inadvertently deleted language related to the veterans', homeowners', and disabled veterans' exemptions, which the bill was not intended to affect. Assessors' offices have contacted the Board concerning the administrative difficulties that the deletion of this language has created and have noted the need for legislative cleanup.

Background:

Prior to SB 2237, the law provided similar streamlined filing in the case where a supplemental assessment results from the completion of *new construction* on property that had previously been granted exemption. In this situation, an exemption claim did not have to be filed until the next succeeding lien date. The new construction exception provision was sponsored by the Board of Equalization in 1994 (SB 1431, Ch. 1222, Senate Committee on Revenue and Taxation) to (1) eliminate the unnecessary burden placed on organizations to file an exemption claim every time they made an improvement to their properties and (2) eliminate the unnecessary administrative duties for assessors in processing these claims.

Comment:

Purpose. To restore the language unintentionally deleted. In addition, it would recast the original intent of SB 2237.

State Assessee Appeals

Revenue and Taxation Code Sections 731, 732, 733, 746, 748, 749, 758 and 759

Assessed Value Appeals

With respect to appeals of the assessed value of state-assessed property, this bill:

- **Eliminates the filing of declarations of intent to petition for reassessment on both unitary and nonunitary property.**
- **Replaces the 20-day deadline for filing declarations of intent and the 30-day deadline for filing petitions for reassessment with statutory petition filing dates of July 20 for unitary assessments and September 20 for nonunitary assessments, and with a single 50-day deadline for escape assessments.**

- **Requires mailing of notice of nonunitary value by the last day of July, rather than the last day of June.**

Allocation Appeals

With respect to appeals of the allocation of assessed value, this bill:

- **Requires the Board to mail the allocated assessed values of an assessee's unitary property not later than June 15, rather than "upon or prior to the completion of the assessment roll" (July 31).**
- **Replaces the 5-day deadline for filing petitions for correction of an allocated assessment with a statutory petition filing date of July 20.**
- **Increases the time of notice of hearing on petitions for correction of an allocated assessment from five days to ten working days.**
- **Requires that petitions for correction of an allocated assessment be determined by December 31, rather than by July 31.**

Law Prior To Amendment:

Assessed Value Appeals

Each year the Board of Equalization determines the fair market value of each state assessees' property. The Board then sends a notice to each state assessee indicating the value set by the Board. Under current law, if a state assessee wishes to appeal the value, they may either

1) file a "declaration of intent to petition for reassessment" within 20 days of receiving the value notice <u>and</u> then file the actual "petition for reassessment" 30 days after the date of filing the declaration of intent, or

2) if a declaration of intent to petition the Board for reassessment is not filed, then file a petition for reassessment within 20 days of receiving the value notice.

Allocation Appeals

After the Board of Equalization determines the fair market value of each state assessees' unitary property, the Board must then allocate the unitary value determined among the various counties in California where the state assessee owns property. The local county auditor applies the countywide tax rate area to the county's share of the total value of the state assessees' unitary property to determine the amount of taxes owed. The county auditor then uses statutory formulas to allocate the taxes collected to the numerous local agencies located in the county. Under current law, a state assessee may appeal the Board's allocation of unitary value to each county.

Comments:

1. **Purpose.** To simplify the petition filing deadlines for appeals of assessments and allocations of state-assessed properties, and conform the law to current Board assessment and notice practices.

2. **Unlike the appeals filing period for local assessees, that is consistent from year to year for all property owners (i.e. July 2 through September 15), the filing deadline for state assessees varies.** The date depends upon (1) the date the Board mails the value notice and (2) whether the state assessee first files a declaration of intent. This bill simplifies the filing dates by establishing dates certain that do not change every year, eliminating a confusing two-part calculation to establish the filing deadline, and also eliminating potential confusion or dispute over precisely when a filing period calculation commences.

3. **Detailed Summary of Changes.**

- This bill conforms the filing dates for petitions for reassessment of unitary properties and petitions for correction of allocated assessments with respect to that unitary assessment.

- This bill eliminates the need to file a "declaration of intent to petition for reassessment" and instead simply require that, with respect to unitary property, a petition for reassessment be filed by July 20, and with respect to nonunitary property, a petition for reassessment be filed by September 20. The July 20 date generally corresponds with the typical filing deadline for petitions for reassessment of unitary property under current law when a declaration of intent is filed, (20 days + 30 days). Similarly, the September 20 date for petitions for reassessment of nonunitary property generally corresponds with the typical filing deadline for those assessments.

- This bill creates a filing deadline that is date certain each year and thereby eliminates potential confusion and dispute over filing deadlines.

- This bill requires the Board to mail the allocated assessed values of an assessee's unitary property not later than June 15, rather than "upon or prior to the completion of the assessment roll" (July 31) as current law provides. It would also replace the current 5-day deadline for filing petitions for correction of an allocated assessment with a statutory petition filing date of July 20. This would make the filing dates for "petitions for correction of *allocated* assessments" the same as the filing dates for petitions for reassessment of unitary property (July 20). Identical dates will provide a measure of certainty for taxpayers as well as the Board.

- This bill increases the time of notice of hearing on petitions for correction of an allocated assessment from five days to ten working days. The increase in the time of notice of hearing conforms petitions for correction of allocated assessments with other petitions.

- This bill requires that petitions for correction of an allocated assessment be determined by December 31, rather than by July 31. The determination of these petitions by December 31 is consistent with petitions for redetermination of unitary and nonunitary value, and with current practices of the Board.
- The July 20 date in this bill generally corresponds with the result under the current two-part calculation for petitions for reassessment of unitary value.
- The change in the date for mailing notices of nonunitary value in this bill corresponds with current Board practices of valuing nonunitary property in late July, when the Board roll is adopted. The September 20 date generally corresponds with the result under the current two-part calculation for petitions for reassessment of nonunitary value.
- The mailing of allocated assessed values by mid-June set forth in this bill is consistent with current practices, and provides sufficient notice for taxpayers to meet the July 20 petition filing deadline. The increase in the time of notice of hearing conforms petitions for correction of allocated assessments with other petitions. The determination of such petitions by December 31 is consistent with petitions for redetermination of unitary and nonunitary value, and with current practices of the Board.

Appraisal Consultants

Revenue and Taxation Code Section 674

This provision:

- **Requires that a contractor maintain the confidentiality of assessee information and records, as provided in Sections 408, 451, and 481, that is obtained in performance of the contract.**
- **Requires that initial requests for information and records from an assessee be made by the assessor. A contractor may request additional information or records, if needed, but only if authorized by the assessor in writing.**
- **Prohibits a contractor from providing appraisal data in his or her possession to the assessor or a contractor of another county who is not a party to the contract. (Such information may be exchanged from assessor to assessor as provided in Section 408.)**
- **Prohibits a contractor from retaining information contained in, or derived from, an assessee's confidential information and records after the conclusion, termination, or nonrenewal of the contract.**
- **Requires the contractor to, within 90 days of the conclusion, termination, or nonrenewal of the contract:**

- **Purge and return to the assessor any assessee records, whether originals, copies, or electronically stored, provided by the assessor or otherwise obtained from the assessee.**
- **Provide a written declaration to the assessor that the contractor has completed these tasks.**
- **Requires all contracts to incorporate these provisions in the contract using language that is prescribed by the State Board of Equalization.**

Law Prior To Amendment:

Some county assessors hire appraisal consultants for specialized properties such as oil, gas and mining properties. Currently, however, there is no statute that specifically requires consultants who obtain confidential information from taxpayers in the process of performing appraisal work for county assessors to maintain the confidentially of this information.

The law requires that assessors keep certain information confidential. Revenue and Taxation Code Section 408 provides that homeowners' exemption claims and any information and records in the assessor's office that are not required by law to be kept or prepared by the assessor are not open to public inspection. (The assessor is required to keep only a limited number of records, such as the assessment roll and a list of property transfers in the county.) Sections 451 and 481 provide that all information requested by the assessor or furnished in the property statement and change in ownership information shall be "held secret" by the assessor. Neither Section 408, Section 451 nor Section 481 have a penalty associated with its violation.

Background:

The Construction Materials Association of California (CMAC) recently requested that the Board adopt a regulation specifying the minimum requirements of a contract between an assessor and any outside consultants. One issue raised in the request for a regulation was the protection of confidential taxpayer information where contractors are used. As a result of these discussions, the Board agreed to sponsor legislation to ensure the protection of taxpayer information by specifically extending the confidentiality provisions of Section 408, 451 and 481 as well as provide for the return of taxpayer records once the contract has ended. At the time the Board adopted this proposal, both the CMAC and the California Assessors' Association requested modifications to the proposal. Staff met with both parties and reached agreement from both Associations on the specific language contained in this proposal.

Comments:

1. **Purpose.** To impose on independent appraisal consultants the same confidentiality requirements currently imposed on assessors to ensure the confidentiality of taxpayer information.
2. **Key Amendments.** The August 24 amendments delete the provisions that would have made violation of these requirements a misdemeanor. The provisions which would have make it unlawful for a consultant to disclose assessee confidential information and the prohibition on the retention of records after a contract has expired was based on language contained in similar laws with respect to taxpayer confidentiality for the various tax and fee programs administered by the Board: Sections 7153 and 7056 (Sales & Use Tax), Section 9255 (Fuel Tax), Section 30455 (Cigarette Tax), Section 32455 (Alcoholic Beverage), Section 43651 (Solid Waste), Section 45982 (Solid Waste), Section 55381(Fee Collections), and Section 60609 (Diesel Fuel).
3. **Other than the general confidentiality requirement for "licensed" appraisers in Business and Professions Code Section 11328, there is currently no statute expressly prohibiting public disclosure of taxpayer information and records obtained by independent appraisal consultants under contract with assessors.** The measure extends to taxpayers whose properties are being appraised by independent appraisal consultants under contract the same protection from public disclosure under Sections 408, 451, and 481 that pertains to properties appraised directly by the assessor and his/her employees.
4. **This measure specifically requires that at the conclusion of the contract work, independent appraisal consultants must return to the assessor any assessee records provided by the assessor during the course of the contract.** To this extent, the proposal prevents consultants' retention of taxpayers' records.
5. **The measure promotes statewide uniformity in the application of these confidentiality requirements by mandating the Board of Equalization to prescribe the confidentiality language to be included in assessor/consultants contracts.** This will eliminate any disparity among counties and assessors.

Senate Bill 2195 (Soto) Chapter 1086

Disabled Veterans' Exemption

Tax levy; effective September 30, 2000. Amends and repeals Section 205.5 of the Revenue and Taxation Code.

This bill makes permanent the current property tax exemption amounts for totally disabled veterans, which are otherwise scheduled to be reduced on January 1, 2001.

Sponsor: Senator Nell Soto

Law Prior To Amendment:

The disabled veterans' exemption applies to the home of a qualified veteran or their surviving unmarried spouse. Depending on the nature of the disability and also the veteran's income, the law provides for an exemption in the amount of $40,000, $60,000, $100,000, or $150,000 of the full cash value of the property, as noted in the table below. In practice, the disabled veterans' exemption is generally granted in either $100,000 or $150,000 amounts. This is because, although the law specifies a different exemption for veterans who are blind or who have lost the use of two or more limbs, the Veterans' Administration classifies these injuries as a total disability, qualifying the veteran for the higher exemption amount.

Current law establishes, until January 1, 2001, the following exemption amounts:

Disability Type	Basic Exemption	Low Income Exemption[19]
• Blind[20] • Lost Two or More Limbs[21]	$40,000	$60,000
• Totally Disabled • Active Duty Death	$100,000	$150,000

[19] For persons who have qualified for the exemption in 1983, the income limit is $34,000; for persons who became qualified after 1983, the income limit is reduced to $24,000.

[20] The Veterans' Administration defines these injured veterans as "totally disabled." Thus, they instead may qualify for the $100,000 or $150,000 exemption.

[21] The Veterans' Administration defines these injured veterans as "totally disabled." Thus, they instead may qualify for the $100,000 or $150,000 exemption.

Beginning January 1, 2001, the exemption amount for virtually all persons who are receiving the exemption will be reduced to $40,000, or to $60,000 for persons with household incomes below either $24,000 or $34,000, as specified.

Disability Type	Basic Exemption	Low Income Exemption
• Blind • Lost Two or More Limbs • Totally Disabled • Active Duty Death	$40,000	$60,000

In General:

There are two property tax exemptions available for persons who have served in the military: 1) the veterans' exemption and 2) the disabled veterans' exemption.

Veterans' Exemption

The veterans' exemption applies to any property subject to property tax (for instance, real property; property used in a trade, profession or business; boats; or planes) owned by an eligible veteran. The exemption is also available to the unmarried surviving spouse of the veteran and the parents of a deceased veteran. The exemption is in the amount of $4,000 of full cash value, providing up to $40 of tax savings. However, the exemption is nearly extinct. At its peak, from 1956 through 1962, over one million persons received the veterans' exemption. Today, fewer than 125 veterans receive the exemption.

The decline of the veterans' exemption is due to two factors. First, the increase of the homeowners' exemption in 1974 to an amount greater than the veterans' exemption.[22] The homeowners' exemption, in the amount of $7,000 of full cash value, provides greater tax savings of up to $70. Consequently, veterans who own homes switched to the homeowners' exemption available to any Californian. Secondly, the inability of the remaining non-home owning veterans to qualify for the veterans' exemption due to strict wealth limitations fixed in the constitution. Those limitations are a personal wealth cap of $5,000 for an unmarried veteran and $10,000 for a married veteran, as specified. (See Revenue and Taxation Code §205, and Section 3, of Article XIII of the Constitution.)

[22] The homeowners' exemption was first adopted via constitutional amendment (Proposition 1A; 1968 Cal. Res. 9, extra session in 1968, SCA 1). The exemption increased from $3,000 to its current level of $7,000 via a second constitutional amendment in 1974 (Proposition 6, 1974 Cal. Res. 77 SCA 26).

Disabled Veterans' Exemption

Section 4(a) of Article XIII of the California Constitution grants the Legislature the authority to exempt from property tax, in whole or in part, the home of a person (or a person's spouse) who is injured in military service. This exemption is commonly referred to as the "disabled veterans' exemption." Injuries that qualify a veteran for the exemption include: 1) total disability, 2) blindness or 3) lost use of two or more limbs. The spouse of a disabled veteran is able to maintain the exemption after the veteran's death as long as the spouse is unmarried. Additionally, since 1994, the unmarried spouse of a person who, as a result of a service-connected injury or disease, dies while on active duty is able to qualify for the disabled veterans' exemption.

Section 205.5 of the Revenue and Taxation Code implements the Legislature's authority to provide a property tax exemption for disabled veterans and/or their unmarried surviving spouses. As noted in the table above, the amount of the exemption depends upon 1) type of injury and 2) household income. Exemption amounts are higher for claimants who have a household income below the amounts specified in Section 20585, which sets forth the maximum income levels for eligibility in the Senior Citizens and Disabled Citizens Property Tax Postponement program administered by the State Controller's Office. For persons who have qualified for the program in or before 1983, Section 20585 sets an income limit of $34,000; for persons who became qualified after 1983 the income limit is reduced to $24,000.

Disability Definitions

- Being blind in both eyes means having a visual acuity of 5/200 or less.
- Losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis.
- Being totally disabled means that the United States Department of Veterans Affairs or the military service from which the veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of the veteran being unable to secure or follow a substantially gainful occupation.
- Whether a death that occurs while the person is on active duty is a result of a service-connected injury or disease, is a determination made by the United States Department of Veterans Affairs.

Background:

Two previous bills have postponed the trigger of the sunset date that reduces the amount of the exemption. SB 320 (Chap. 1077, Stats. 1989) extended the sunset date to January 1, 1991 and AB 3 (Chap. 536, Stats. 1995) extended the sunset date to January 1, 2001.

In 1998, the homes of 15,563 persons received the disabled veterans' exemption. The 10 counties with the most homes receiving the exemption include: San Diego (2,813), Los Angeles (1,359), Sacramento (1,136), Riverside (888), Orange (848), Solano (769), San Bernardino (734), Monterey (669), Contra Costa (501), and Alameda (466).

Comment:

1. **Purpose.** To retain the current level of exemption provided to disabled veterans' on their home. The author's press release on this bill states: "Disabled veterans will no longer have to worry about whether or not this exemption will continue. These veterans fought and sacrificed for our freedom, the least we can do is help them with their property taxes."
2. **Key Amendments.** The April 25 amendment double joins this bill with SB 1362 (Poochigian) to prevent the provisions of SB 1362, which also amend Section 205.5, from being chaptered out in the event the Legislature approves both bills. SB 1362 increases the low income threshold to $40,000 and provides for annual increases of the threshold, beginning in 2002, by an inflation factor, as measured by the California Consumer Price Index for all items. (See SB 1362 analysis for detail on these provisions.)
3. **Without this Bill the Property Taxes of Disabled Veterans and their Spouses Would have Increased Next Year.** For those currently receiving the $150,000 exemption, taxes would have increased up to a maximum of $900 per year. For those currently receiving the $100,000 exemption, taxes would have increased up to a maximum of $600 per year.
4. **Current Law Specifies a Lower Exemption Amount For Persons who are Blind or who have Lost Limbs, which is Misleading.** In practice, despite the apparent distinction in existing property tax law between these veterans and totally disabled veterans, a veteran that is blind in both eyes or has lost the use of two or more limbs is rated totally disabled by the U.S. Department of Veterans Affairs. Thus, virtually all claimants qualify for the higher exemption level of $100,000, or $150,000 for those below the income threshold. The version of Section 205.5 which this bill repeals provides the same exemption amount regardless of the type of disability, consistent with actual practice. (While the Constitution specifically references these three disability types, it doesn't specify that the amount of the exemption must be varied.) Senate Bill 1362 deletes the misleading language which specifies different exemption amounts depending on the type of disability.

TABLE OF SECTIONS AFFECTED

SECTIONS		BILL NUMBER	CHAPTER NUMBER	SUBJECT
Revenue & Taxation Code				
§ 51	Amend	SB 2170	Ch. 647	Removed Property
§ 53	Amend	AB 1790	Ch. 272	Grapevines – Pierce's Disease and Phylloxera
§ 69.5	Amend	SB 1417 SB 383	Ch. 417 Ch. 693	Base Year Value Transfer – Rescissions; Intercounty Ordinances; Erroneously Granted
§ 75.11	Amend	AB 2891 SB 2170	Ch. 646 Ch. 647	Supplemental Assessments – Statute of Limitations
§ 75.21	Amend	AB 2891 SB 2170	Ch. 646 Ch. 647	Supplemental Assessments – Exemptions
§ 75.31	Amend	SB 2170	Ch. 647	Supplemental Assessments - Notice
§ 75.5	Amend	AB 1966	Ch. 406	Supplemental Assessments – Possessory Interests
§ 205.5	Amend	SB 1362 SB 2195	Ch. 1085 Ch. 1086	Welfare Exemption – Low-Income Rental Housing
§ 214	Amend	AB 659	Ch. 601	Welfare Exemption – Low-Income Housing
§ 225	Add	SB 2084	Ch. 861	Commercial Trailers and Semitrailers
§ 227	Amend	SB 2170	Ch. 647	Documented Vessels
§ 230	Add	AB 659	Ch. 601	Historical Wooden Vessels
§ 237	Amend	SB 1231	Ch. 601	Indian Housing Authority – Low-Income Housing Projects
§ 276	Amend & Repeal	AB 2562 SB 1362	Ch. 922 Ch. 1085	Disabled Veterans' Exemption
§ 276.1	Add	SB 1362	Ch. 1085	Disabled Veterans' Exemption

TABLE OF SECTIONS AFFECTED CONTINUED

SECTIONS		BILL NUMBER	CHAPTER NUMBER	SUBJECT
Revenue & Taxation Code				
§ 276.2	Add	AB 2562 SB 1362	Ch. 922 Ch. 1085	Disabled Veterans' Exemption
§ 276.3	Add	AB 2562 SB 1362	Ch. 922 Ch. 1085	Disabled Veterans' Exemption
§ 401.10	Amend	AB 2612	Ch. 607	Intercounty Pipeline Rights of Way
§ 408	Amend	SB 2170	Ch. 647	State Lands Commission
§ 469	Amend	SB 1844	Ch. 613	Mandatory Audit Threshold
§ 532	Amend	AB 2891 SB 2170	Ch. 646 Ch. 647	Escape Assessments – Statute of Limitations
§ 534	Amend	SB 2170	Ch. 647	Escape Assessments - Notice
§ 674	Amend	SB 2170	Ch. 647	Private Contractors
§ 731	Amend	AB 2891 SB 2170	Ch. 646 Ch. 647	State Assessee Appeals – Filing Deadlines
§ 732	Amend	AB 2891 SB 2170	Ch. 646 Ch. 647	State Assessee Appeals – Filing Deadlines
§ 733	Amend	AB 2891 SB 2170	Ch. 646 Ch. 647	State Assessee Appeals – Filing Deadlines
§ 746	Amend	AB 2891 SB 2170	Ch. 646 Ch. 647	State Assessee Appeals – Filing Deadlines
§ 748	Amend	AB 2891 SB 2170	Ch. 646 Ch. 647	State Assessee Appeals – Filing Deadlines
§ 749	Add	AB 2891 SB 2170	Ch. 646 Ch. 647	State Assessee Appeals – Filing Deadlines
§ 758	Amend	AB 2891 SB 2170	Ch. 646 Ch. 647	State Assessee Appeals – Filing Deadlines

TABLE OF SECTIONS AFFECTED CONTINUED

SECTIONS	BILL NUMBER	CHAPTER NUMBER	SUBJECT
§ 759 Amend	AB 2891 SB 2170	Ch. 646 Ch. 647	State Assessee Appeals – Filing Deadlines
Revenue & Taxation Code			
§ 1605 Amend	SB 2170	Ch. 647	Escape Assessment Notices – Appeal Filing Period
Private Railroad Car Tax			
§ 11253 Amend	AB 2898	Ch.1052	Installment Payment Agreements
§ 11253.5 Add	AB 2898	Ch. 1052	Installment Payment Agreement Statements
§ 11453 Add	AB 2898	Ch. 1052	Employer Withheld Taxes
§ 11553.5 Add	AB 2898	Ch. 1052	Refund Claims - Disability
§ 11597 Amend	AB 2898	Ch. 1052	Late Payment Penalty Relief
§ 11656 Add	AB 2898	Ch. 1052	Tax Preparers Confidentiality
§ 11657 Add	AB 2898	Ch. 1052	Reasonable Fees and Expenses Reimbursement
California Commission on Tax Policy in the New Economy			
§ 38061-36067 Add & Repeal	SB 1933	Ch. 619	Commission on Tax Policy
Timber Yield Tax			
§ 38452 Amend	AB 2898	Ch. 1052	Late Payment Penalty Relief
§ 38503.5 Add	AB 2898	Ch. 1052	Employer Withheld Taxes
§ 38504 Amend	AB 2898	Ch. 1052	Installment Payment Agreements
§ 38504.5 Add	AB 2898	Ch. 1052	Installment Payment Agreement Statements
§ 38602.5 Add	AB 2898	Ch. 1052	Refund Claims - Disability
§ 38707 Add	AB 2898	Ch. 1052	Tax Preparers Confidentiality

§ 38708	**Add**	**AB 2898**	**Ch. 1052**	**Reasonable Fees and Expenses Reimbursement**
Military & Veterans Code				
§ 890.3	**Add**	**AB 2092**	**Ch. 575**	**Veterans' Exemption**