California State Board of Equalization,
Legislative Division

LEGISLATIVE BULLETIN

PROPERTY TAX LEGISLATION
1999

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Assembly Bill 704 (Honda) Chapter 334
Business Property Statement; Filing Dates

Effective January 1, 2000; Amends Section 441 and 463 of the Revenue and Taxation Code.

This bill provides that the business property statement is to be filed between January 1 and April 1. The last day to file the statement without a penalty would be May 7. The due date and final date to file without penalty would be uniform for all counties. A property owner who files the business property statement before May 7 may amend the statement for errors or omissions not the result of willful intent to erroneously report until May 31. With respect to business property statements filed by persons in the oil, gas, and mineral extraction industry, when any information that is necessary for taxpayers to file their business property statement is not made available by the assessor before February 28, then the filing deadline would be extended one day for every day that the required information is unavailable, but in no instance later than June 1.

This bill also provides that, for purposes of determining whether a property statement is filed timely, the postmark date by either the U.S. Postal Service or the date certified by a bona fide private courier service shall be used.

Sponsor: California Assessors' Association

Law Prior To Amendment:

Personal property used in a trade or business is generally taxable, and its cost must be reported annually to the assessor on the business property statement as provided for in §441. Personal property is not subject to the limitations of Proposition 13. Instead, it is valued annually at its current fair market value as of January 1 (the lien date). The business property statement shows all taxable property, both real and personal, owned, claimed, possessed, controlled, or managed by the person filing the property statement. The assessor may request a signed business property statement from any person owning taxable personal or real property. When the aggregate cost of the taxable personal property is one hundred thousand dollars or more, the person is required to file a signed property statement each year with the assessor.

Previously, the deadline for filing a business property statement with the assessor was the last Friday in May. However, the assessor is permitted to require that the statement be filed at an alternative, earlier date of his or her choosing no earlier than April 1. This is known as a "demand letter." Under prior practices, the final filing date varied from county to county.

In General:

Generally, the valuation of personal property is based on the acquisition cost of the property. The acquisition cost is multiplied by a price index, an inflation trending factor based on the year of acquisition, to provide an estimate of its replacement cost new. The replacement cost new is then multiplied by a depreciation index, also called percent good tables, to provide an estimate of the depreciated replacement cost of the property (replacement cost new less depreciation). The replacement cost new less depreciation value becomes the taxable value of the property for the following fiscal year.

Commencing January 1, 1997, the lien date was moved from March 1 to January 1. The lien date change was primarily made to reduce the burden on taxpayers of filing the business property statement. For most businesses, the previous March 1 lien date was not a significant date for accounting purposes. It did not fall on a financial quarter or the year-end. Changing the lien date to coincide with the beginning of the calendar year allowed most taxpayers to use, without adjustment, the reports and records kept for state and federal income taxes. Previously, those taxpayers had to adjust their calendar records by two months to meet the requirement of declaring all property held as of March 1.

Background:

Previous legislation to move the business property statement filing date includes 1998 legislation, SB 2237 (SR&T) and SB 1103 (Alpert), sponsored jointly by the Board of Equalization and the California Assessors' Association, which would have moved forward the final date for filing the business property statement to April 30. In 1997, the California Assessors' Association sponsored AB 1027 (Caldera), which would have, in part, moved forward the filing date for the business property statement to a date between February 1 and March 31.

Comments:

1. **Purpose.** To give assessors more time to process business property statements before the July 1 deadline for completing the assessment roll in view of the lien date change. This bill would establish a single, specific, statewide final date to file without a penalty of May 7. One advantage of moving forward the filing date is that assessors would have additional time to process property statements; the extra time should mean fewer errors, which in turn, should reduce the number of appeals filed and the number of escape assessments processed to correct errors. Additionally, the proposal would promote statewide uniformity by eliminating the option of the "demand letter."
2. **Reimbursement for costs.** The July 6 amendment deleted a provision that could have permitted counties to claim reimbursement for costs associated with this change in law as a mandated state cost. Instead, noncodified language provides

that no reimbursement would be required since this bill would provide offsetting savings resulting in no net cost to local governments.

3. **Assessors state that this measure would reduce county overtime costs as well as reduce costs in hiring temporary employees to process business property statements.** Large counties typically receive tens of thousands of property statements from business taxpayers on or near the county's final filing date. These statements must be processed by July 1, which is usually one month after they are received. This measure would spread out the workload surge thereby reducing overtime costs.

4. **Assessors state that businesses now have up to five months after the lien date to file their property statement, whereas, in contrast, assessors have as little as one month to process them.** Prior to the lien date change, businesses had up to three months after the lien date to file the business property statement. Since 1997, businesses now have up to five months. Assessors note that the lien date change was primarily made to reduce the burden of reporting information on the property tax statement. Thus, in addition to the fact that businesses now have more time to complete their property statements, reporting is easier since businesses can use their existing records without adjustment. Therefore, assessors reason that it would not be overly burdensome to move the final filing date as well, given that the benefit from doing so will be to reduce the cost government expends in processing the statements.

5. **A *single* statewide final filing date provides certainty.** A telephone survey conducted by Spidell's California Taxletter, March 1997, indicated that among the 58 counties, there were at least twelve different filing dates between April 1 and May 30. However, special dates were available if the taxpayer requested an extension and a number of counties had not yet set a date -- apparently, in some counties, the filing date changes each year. The most common date was May 30 (32 counties); however five counties indicated that the May 30 date was available only if the taxpayer requested an extension. There is no statewide conformity in this area. A single date, consistent from year to year, rather than the current practice of a range of dates which changes from year to year and from county to county would give taxpayers a measure of certainty.

6. **Statements due between January 1 and April 1; Last day to file statement without penalty is May 7.** As introduced this measure would have created a final filing date of April 30. The amendment creating a final date to file without a penalty of May 7 reflects a compromise agreement reached between the sponsor and public accountants who were concerned that it would be difficult for them to meet the April 30 deadline for business property statements since during that timeframe their resources are dedicated toward preparing first quarter payroll tax returns, which are due April 30, and which are not processed until after the April 15 deadline for personal income tax returns.

7. **Timely filed business property statements may be corrected until May 31.** The May 24, 1999 amendments to the bill, which permit business property statements filed on or before May 7 to be amended for errors and omissions, was made at the request of the California Taxpayers' Association.

8. **Oil, gas, and mineral extraction industry floating final filing date**. As amended on June 14, 1999, if the assessor does not make available by February 28, information necessary for taxpayers in these industries to file their business property statement, then the filing deadline will be extended one day for every day that the required information is unavailable. However, in no instance would the final filing date be later than June 1. The data that the industry requires from the assessor is related to the price forecast that the county assessor will use to value the property and how that price forecast would affect the production, expense, and reserve estimates made by the property owner. Prior to the change in lien date from March 1 to January 1, the Assessors' Association Petroleum Standards advisory meeting was held in early March and counties would reach a decision regarding price forecasts within a few weeks after the meeting. Since the lien date change, the meetings are now held at the end of January; however, counties still take until the middle of March to release their price forecasts. The price forecasts used by the counties are very seldom the same as the forecasts used by property owners. Some time is needed for the property owners to analyze and prepare production forecasts that match the price forecast used by the Assessors. These forecasts are supplemental information, not required on the petroleum property reporting forms, but requested by counties.

Assembly Bill 1291 (Corbett) Chapter 504
Seismic Safety Improvements; New Construction Exclusion

Urgency; effective September 27, 1999. Amends Section 74.5 of the Revenue and Taxation Code.

This bill extends indefinitely the new construction exclusion for certain earthquake related improvements that was scheduled to sunset on July 1, 2000.

Sponsor: Seismic Safety Commission

Law Prior To Amendment:

The law generally requires that when property undergoes "new construction," the assessed value of the property must be increased by an amount equal to the value added by the new construction.

In November of 1990, the voters of California approved Proposition 127, a constitutional amendment adding paragraph (4) to subdivision (c) of Sec. 2 of Article XIIIA. This amendment provided that the Legislature may exclude from the definition of "new construction" the construction or installation of seismic safety retrofitting improvements utilizing earthquake hazard mitigation technologies. The Legislature enacted Revenue and Taxation Code Section 74.5 to implement this constitutional authorization.

Consequently, while these improvements may increase the value of property, the additional value is exempt from property taxation. New construction exclusions remain in place until the property changes ownership. Section 74.5 is repealed by its own provisions on July 1, 2000. Subdivision (g) of Section 74.5 states that the Legislature established the July 1, 2000 repeal date to encourage the timely improvements of seismically unsafe structures and to not extend the exclusion beyond this date.

Comments:

1. **Purpose.** To ensure that property owners will continue to improve their properties without incurring any increase in assessment directly attributable to earthquake related improvements.
2. **Appropriation for costs.** The August 24 amendment appropriates $145,000 to pay for certain programs undertaken by the Seismic Safety Commission which are unrelated to the property tax new construction exclusion. The amendments

specify that no appropriation is made for the new construction exclusion and that the State will not reimburse local agencies for any revenue loss associated with the exclusion.

3. **This is a constitutionally adopted new construction exclusion without any time limitation.** Section 74.5(g), which this bill deletes, states that the Legislature established an automatic repeal date to encourage the timely improvement of seismically unsafe structures. However, the Constitution does not provide any time limitation on the availability of the exclusion. Thus, the Legislature is not restricted from keeping the new construction exclusion active for as long as it desires.

4. **Concrete tilt-ups and residential walls and foundations.** The June 14 amendment provides that "seismic retrofitting" includes items referenced in Appendix Chapters 5 and 6 of the Uniform Code for Building Conservation (UCBC) of the International Conference of Building Officials. UCBC Appendix Chapter 5 relates to the retrofit of concrete tilt-up buildings and provides requirements for wall anchors and diaphragm cross-ties. UCBC Appendix Chapter 6 relates to prescriptive retrofit of residential cripple walls and foundation anchorage and provides prescriptive guidelines for bracing of cripple walls that can be implemented by the homeowner and/or contractor without requiring numerically based structural design.

Assembly Bill 1559 (Wiggins) Chapter 927

Welfare Exemption; Low Income Housing

Low-Income Rental Housing Projects– Eligibility Requirements

Low-Income Homes For Sale – Postcard Annual Filing

Low-Income Homes For Sale – Vacant Land Held For Construction

Tax levy; effective October 10, 1999 but provisions apply commencing January 1, 2000. Amends Section 214 and 254.5 of , and adds Section 214.15 to, the Revenue and Taxation Code.

Low-Income Housing Projects – Eligibility Requirements

Revenue and Taxation Code Section 214 (g)

This provision deletes the provision (subparagraph (a) of subdivision (g) of Section 214) which permits rental housing to qualify for the welfare exemption on the basis that twenty percent or more of the occupants of the property are lower-income households. Thus, to qualify for the welfare exemption, low-income rental housing 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.

This provision also requires that for a property to be eligible for exemption, there must be a *recorded* deed restriction or an enforceable and verifiable agreement with a public agency limiting its use to low-income housing.

Sponsor: Los Angeles Housing Project

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. Twenty percent or more of the occupants of the property are lower-income households whose rent does not exceed that prescribed by Section 50053 of the Health and Safety Code; or
2. 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
3. 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.

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 a deed restriction, agreement, or other legal document 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.

Comments:

1. **Purpose.** To ensure that the owners of substandard housing for low-income residents do not continue to receive the benefit of a property tax exemption under the welfare exemption. In the course of investigating various slum-housing projects, the organization was surprised to discover that these property owners were receiving a property tax exemption under Section 214(g)(1)(A), 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 properties to receive the exemption, the property was not required to be subject to a recorded deed restriction limiting use to low-income housing.
2. **Governmental involvement in privately owned projects could help ensure that acceptable standard of living conditions exist.** Presumably, low-income housing projects financed under various governmental funding programs for low-income housing or receiving low-income housing income tax credits on the

project, have sufficient government oversight that the properties are maintained providing acceptable living conditions for low-income residents.

Non-Profit Low-Income Home Builders – Filing Requirements
Revenue and Taxation Code §214.15 and §254.5

This provision extends limited annual re-filing for the welfare exemption, in the form of a card that must be signed and returned to the assessor, to property that is owned and operated by a nonprofit corporation organized and operated for the purpose of building and rehabilitating single or multifamily residences for sale at cost to low-income families, with financing in the form of a zero interest rate loan and without regard to religion, race, national origin, or the sex of the head of household.

Sponsor: Habitat for Humanity

Law Prior To Amendment:

Non-profit organizations that rent or lease property to governmental agencies are relieved of the requirement to annually reapply for the welfare exemption. To retain the exemption for the following year, the non-profit entity returns a card to the assessor by March 15, indicating that there has been no transfer of, or other change in title to, the exempted property and that the property continues to be used in the same manner. All other entities qualifying for the welfare exemption must reapply for the exemption each year by February 15.

Comments:

1. **Purpose.** To reduce the annual burden of filing a full application to receive the welfare exemption on property that has already received the exemption. Instead, Habitat for Humanity (Habitat) and other similar organizations would be eligible to return a postcard to retain the exemption.
2. **Provisions limited to organizations that lease property to government.** Currently, the simplified filing procedures are limited to nonprofit organizations that lease property to the government. This measure would expand the more limited filing requirement to Habitat, or any other organization that builds or rehabilitates residences for sale at cost to low-income families and provides financing with no interest.

Nonprofit Low-Income House Builders – Vacant Land
Revenue and Taxation Code §214.15(b)

This provision provides that the exempt activities of Habitat for Humanity and similar organizations qualitatively differ from the exempt activities of other nonprofit entities that provide housing in that the exempt purpose the organization is not to own and operate a housing project on an ongoing basis, but is instead to make housing, and the land reasonably necessary for the use of that housing, available for prompt sale to low-income residents.

This provision also provides that property owned by Habitat for Humanity and similar organizations for the future construction of a single or multifamily residence that will be sold at cost with zero interest loans constitutes the exclusive use of that property for a charitable purpose within the meaning of the California Constitution. Thus, vacant land held for future construction will become exempt under the welfare exemption even though actual physical construction of residences has not yet commenced.

Sponsor: Habitat for Humanity

Law Prior to Amendment:

Generally, property is not eligible to receive the welfare exemption unless it is *used* by a nonprofit entity for an exempt purpose. Historically, for property tax purposes, a property that is vacant is not being "used" for an exempt purpose. [Article XIII, Sec. 4(b)] Thus with respect to unimproved land or vacant buildings (or homes) owned by the entity otherwise qualified for the welfare exemption, these properties can fail to qualify for the welfare exemption because the property is not being "used" for an exempt purpose. In most cases, the "use" requirement is a non-issue, since most exempt organizations that buy property immediately put the property to its intended use.

The Constitution does permit the welfare exemption to commence as soon as a building is "under construction." The property of an otherwise qualified organization, such as Habitat for Humanity, whose primary purpose is to construct low-income housing, is *not* exempt from property taxes between the period of time the property is initially acquired until the point in time where "onsite physical activity" commences.

Comments:

1. **Purpose.** To extend the welfare exemption to vacant land held by Habitat for Humanity and similar organizations.
2. **The property tax during the holding period.** The sponsors note that because they can not afford to pay property taxes on vacant land they have had to turn down land donations unless they have enough funds to commence construction immediately.
3. **Habitat for Humanity is unique in that it is a "short-term" holder of property.** Most entities eligible for the welfare exemption are long-term owners of properties and the exemption from property taxation for their properties is renewed annually. As long as the property continues to be qualified the exemption may be renewed indefinitely. Habitat for Humanity is unique in that it is a "short-term" holder of property. As soon as property is transferred from Habitat to a low-income family, it is once again subject to property taxation. And once a property is returned to the tax rolls, it contributes *more* property tax revenues than it otherwise would have. For example, a vacant lot with an assessed value of $15,000 contributes $150 in property taxes. Once Habitat constructs a home on the property and it is transferred to a family, it is once again subject to property tax. For a home with a market value of $80,000, that property would contribute $800 in property taxes, for a net gain, in this example, of $650 per year.
4. **Proponents note that Habitat for Humanity efforts will ultimately transform any property into one that generates *more* property tax revenue in the long term.** Habitat for Humanity often builds homes in economically-depressed areas where private, for-profit development would not occur. From this perspective, the net property tax revenue implications are especially noteworthy since in those areas, new construction, and associated increases in property tax revenue, would not take place at all.
5. **This measure sets a precedent that, in effect, extends the welfare exemption to unimproved properties.** This legislation may stimulate requests for further expansions of the welfare exemption to vacant, unused property from other types of organizations.

Assembly Bill 1638(Committee on Revenue and Taxation) Chapter 929
Taxpayers' Bill of Rights
Private Railroad Car Tax
Timber Yield Tax

Effective January 1, 2000. Adds Section 15620.5 to the Government Code; amends Sections 8262, 8269, 9262, 9269, 9275, 30458.2, 30458.9, 30459.5, 32462, 32469, 32475, 38621, 40202, 40209, 40215, 41162, 41169, 41175, 43513, 43520, 43526, 45858, 45865, 45871, 46613, 46620, 46626, 50112.2, 50156.2, 50156.9, 50156.15, 55323, 55330, 55336, 60623, and 60630 of, adds Sections 6832.5, 6902.4, 7658.1, 8174, 8878.5, 9033, 9184, 9272.1, 11253, 11254, 11409, 30283.5, 30354, 30384, 30459.2A, 32256.5, 32389, 32432, 32472.1, 38455, 38504, 38505, 38624, 40103.5, 40167, 40212.5, 41097.5, 41127.6, 41172.5, 43158.5, 43448, 43484, 43523.5, 45156.5, 45609, 45752, 45868.5, 46157.5, 46464, 46544, 46623.5, 50112.4, 50138.6, 50150.5, 50156.17, 55046, 55209, 55262, 55333.5, 60212, 60493, 60564, 60632.1, 60633.1, and 60633.2 to, the Revenue and Taxation Code.

This Board of Equalization-sponsored bill, with respect to the Private Railroad Car Tax and the Timber Yield Tax:

- **authorizes the Board to relieve interest where the failure to pay tax is due to an unreasonable error or delay by the Board, in conformity with other tax and fee laws administered by the Board,**
- **authorizes the Board to enter into a written installment payment agreement and provide for advance notice of termination of the agreement in specified circumstances in conformity with other tax and fee laws administered by the Board,**
- **authorizes the Board to return levied property in specified circumstances, in conformity with other tax and fees laws administered by the Board,**
- **specifies, with respect to the Timber Yield Tax only, when interest shall begin to accrue on a notice of determination for repayment of an erroneous refund in conformity with other tax and fees laws administered by the Board, and**
- **adds, with respect to the Timber Yield Tax only, an alternative procedure to recover an erroneous refund via a deficiency determination in conformity with other tax and fee laws.**

Assembly Bill 1694 (Committee on Revenue and Taxation) Chapter 200
Fire Detection Systems; New Construction Exclusion

Tax levy; effective July 28, 1999. Amends Section 74 of the Revenue and Taxation Code.

This bill specifies that "equipment used to transmit fire alarm activations and related signals to a remote location" is included in the definition of a "fire detection system." In addition, it specifies that (1) no part of a fire detection "system" shall be classified as personal property and (2) no part of the "system" should be excluded because it is owned or controlled by a person other than the owner of the property upon which the fire detection system was constructed or installed.

Sponsor: Assembly Revenue and Taxation Committee

Law Prior to Amendment:

Article XIII A, Section 2, subdivision (c) of the California Constitution gives the Legislature the authority to exempt from the definition of new construction "[t]he construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement, as defined by the Legislature." The Legislature enacted Revenue and Taxation Code Section 74 to set forth detailed definitions and requirements granting this new construction exclusion for fire-related improvements made to an existing building. With respect to a fire detection system, Section 74 defines it to mean "any system or appliance intended to detect combustion, or the products thereof, and to activate an alarm or signal, whether audio, visual, or other."

In General:

Property Tax System. Article XIII, §1 of the California Constitution provides that all property is taxable, at the same percentage of "fair market value," unless specifically exempted, or authorized for exemption, within the Constitution.

Article XIII A, §2 of the California Constitution defines "full cash value" as the assessor's opinion of value for the 1975-76 tax bill, or, thereafter, the appraised value of property when purchased, newly constructed, or a change in ownership has occurred. This value is generally referred to as the "base year value". Barring actual physical new construction or a change in ownership, annual adjustments to the base year value are limited to 2% or the rate of inflation, whichever is less. Article XIII A,

§2 provides for certain exclusions from the meaning of "change in ownership" and "newly constructed" as approved by voters via constitutional amendments.

New Construction Exclusions. With respect to any new construction the law requires the assessor to determine the added value upon completion. The value is established as the base year value for those specific improvements and is added to the property's existing base year value. When new construction replaces existing improvements, the value attributable to those preexisting improvements is deducted from the property's existing base year value. (R&T Code §71) Revenue and Taxation Code §70(c), §70(d), §74, §74.3, §74.5 and §74.6 exclude certain specified improvements made to real property from the definition of new construction. These provisions relate to seismic safety improvements, fire prevention or suppression improvements, accessibility improvements for disabled persons, and improvements reconstructed after disaster. Constitutional authorization exists for these specific types of improvements as provided in Article XIII A, §2 of the Constitution. Consequently, while these improvements may increase the value of the property, the additional value is exempt from taxation.

Background:

Proposition 31 (SCA 58 (Boatwright), Resolution Chapter 56 of 1984) was approved by voters at the November 6, 1984 general election. (A similar constitutional amendment – Proposition 7 (ACA 53 (Frizzelle), Res. Chap. 49 had failed passage at the November 1982 general election.) The intent of the exclusion was to benefit the owner of the building in which the detection system is installed, by providing a shield against any increase in property taxes that might otherwise result from retrofitting the building with fire safety equipment. According to the analysis of the Assembly Committee on Revenue and Taxation, dated June 4, 1984, local ordinances were requiring that buildings be retrofitted because of a number of fire tragedies. Of particular interest were hotels and motels. The California Hotel and Motel Association proposed the change in the Constitution to reduce the overall cost of making the fire safety improvements.

Comments:

1. **Purpose.** To ensure that all the components of a fire detection system that are installed in a pre-existing structure are eligible for the new Section 74 construction exclusion regardless of whether the property owner owns the fire detection system.
2. **A few counties have reasoned that the Section 74 exclusion is only available when the owner of the real property also *owns* the fire detection system.** In certain instances, the *contract* between the property owner and alarm company specifies that the alarm system company "owns, installs and monitors" the detection systems. Thus, because the contract specifies that the alarm company

owns the elements making up the fire detection system, some assessors have not granted the new construction exclusion and have, instead, assessed this property to the alarm company as personal property. Board staff has found this to be improper.

3. **It is the Board's view that fire detection systems are not personal property but rather they are fixtures to real property.** Section 104, subdivision (c) provides that real property includes "improvements," and Section 105 defines improvements to include: "(a) All buildings, structures, fixtures, and fences erected on or affixed to the land." Property Tax Rule 122.5 defines fixtures and sets out the elements of "annexation." Generally, a fire detection system will be physically annexed to improvements with the intent that it remain annexed indefinitely by means that are normally used for permanent installation within the meaning of Rule 122.5. Thus, in the Board's view a fire detection system is a real property fixture and any installation of a system is exempt under Section 74. In addition, in Property Tax Rule 124, subdivision (b), both "Alarm system" and "Sprinkler system, fire" are listed as examples of an improvement.

4. **The May 24th amendments reflect a suggestion to amend existing Section 74 rather than create a new statute.** The April 29th version of this bill would have added Section 210 of the Revenue and Taxation Code to essentially repeat the existing provisions found in Section 74 except that 1) it did not frame the exemption in terms of a "new construction" exclusion (and consequently did not provide for the exemption of fire-related egress improvements which are generally structural improvements to a building) and 2) it included the phrase "all equipment used to transmit fire alarm activations and related signals to a remote location" in the definition of a "fire detection system."

Senate Bill 42 (R. Johnson) Chapter 603

Mobilehome Parks – Change In Ownership Exclusion

Tenant Participation Level

Tenant-In-Common Ownership Group

Tax levy; effective October 10, 1999. Amends Section 62.2 of the Revenue and Taxation Code.

This bill, with respect to mobilehome parks initially transferred on or after January 1, 1995, extends the 36-month period to obtain a 51% tenant participation rate by an additional six months for in-progress purchases of rental spaces in the mobilehome park by the individual tenants renting their spaces prior to purchase if: (1) a purchase contract has been executed, (2) escrow was opened with a licensed escrow agent prior to expiration of the 36-month period, and (3) escrow closed within 6 months of the end of the 36-month period.

Sponsor: Rancho Carlsbad Partners

Law Prior To Amendment:

Certain transfers of mobilehome parks are excluded from change in ownership if the park is ultimately purchased by at least 51% of the tenants renting the individual spaces of the mobilehome park. Qualifying conversions to resident ownership permit the residents of the park to retain the base year value of the previous owner, rather than triggering a reassessment of the mobilehome park to current market value. In some cases, prior to the transfer to the tenants directly or to an entity owned by the tenants, there is an interim transfer of the mobilehome park to a non-tenant owned entity. This entity helps facilitate the purchase and conversion to a resident-owned park. To qualify for the change in ownership exclusion, the intermediary entity must complete the conversion and subsequently transfer the park to the tenants or an entity owned by the tenants within 36 months of the initial transfer.

In General:

California's system of property taxation under Article XIII A of the California 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."

Exclusion for Sale of Undivided Mobilehome Park to Tenant Owned Entity-§62.1(a): A transfer on or after January 1, 1985 of a mobilehome park to a specified legal entity, formed by the tenants of a park, for purposes of purchasing the park, is excluded from change in ownership provided that any transfer of the park on or after January 1, 1989 involves 51% ownership of the acquiring legal entity by tenants renting at least 51% of the spaces in the park prior to the transfer. Under Section 62.1(c), if the park has been excluded from a change in ownership under the window provisions and the park has not been converted to condominium, limited equity, or cooperative ownership, then any transfer (after January 1, 1989) of the shares of stock or ownership interests in the entity which acquired the park in accordance with Section 62.1(a), results in a pro-rata change in ownership in the park real property for the portion of ownership interests which have transferred. As an exception, this pro-rata change in ownership does not take place, if the transfers are for the purpose of converting the park to condominium or cooperative ownership.

Exclusion for Sale of Individual Rental Spaces to Individual Tenants - §62.1(b): Transfers of rental spaces in a mobilehome park to individual tenants of the spaces are also excluded from change in ownership provided that (1) at least 51% of the spaces are purchased by individual tenants renting their spaces prior to purchase, and (2) the individual tenants form, within thirty-six months after the first purchase of a rental space by a tenant, a resident organization, defined in Health & Safety Code §50781. If the tenant(s) notify the assessor of their intent to comply with these conditions, there is no reappraisal of any spaces purchased by individual tenant(s) during that time period. The assessor may levy escape assessments, if the requirements for the exclusion are not met. This exclusion applies only to parks in operation for five years or more, and to qualifying transfers on or after January 1, 1985.

Exclusion for Interim Holding By Non-Tenant Owned Entity - §62.2: Section 62.2 allows for application of the change of ownership exclusion in Section 62.1 upon the occurrence of an "interim transfer" of the mobilehome park to an entity (including a governmental entity) not owned by the park residents. This exclusion permits an initial transfer to an entity not formed by the tenants, followed within 18 months, by a transfer to one that is formed by the tenants. For parks originally transferred on or after January 1, 1993, the interim time period is extended to 36 months, and for parks located within a certain disaster area, the time period is extended to 76 months. The intent, stated by the Legislature in Section 62.1(e), is that the exclusion is for transfers to these entities which "facilitate affordable conversion of mobilehome parks to tenant ownership." Otherwise the transfer is disqualified from the change in ownership exclusion of Section 62.1.

Background:

In 1984, Section 62.1 was added to the Revenue and Taxation Code with a sunset date of January 1, 1989 by Ch. 1692 (AB 2240, Seymour). In 1987, the sunset date was extended to January 1, 1994 by Ch. 1344 (SB 298, Craven). In the 1992 legislative session, SB 1312 (Craven) proposed an extension of the sunset date to January 1, 2000; however this bill was held in abeyance by the Senate Revenue and Taxation Committee amid concerns of property tax revenue loss to local government and questions as to the constitutionality of the exclusion. As a result a Legislative Counsel opinion was requested. Legislative Counsel's Opinion #6691, issued May 18, 1992, opined that the exclusion from change in ownership of mobilehome parks converted to resident-ownership from change in ownership was not a valid interpretation of that term as it is used in Article XIII A of the California Constitution, and was not authorized by any constitutional provision allowing mobilehome parks preferential treatment in avoiding reappraisal. To date no constitutional amendment has been enacted. In 1993, the sunset date was extended to January 1, 2000 by Ch. 1200 (SB 664, Craven; see also SB 351, Craven) and in 1998, the provisions were extended indefinitely by Ch. 139 (AB 2384, Aguiar).

Previous Legislation Extending the Third-Party Holding Period. Since its 1988 enactment, Section 62.2 has been amended three times to increase the time period allowed for third party possessions prior to transfer, by the following measures:

- Chapter 442 (SB 674, Craven) of the Statutes of 1991 increased the interim period from 270 days to one year.
- Chapter 1080 (SB 1426, Rosenthal) of the Statutes of 1992 increased the interim period from one year to 18 months.
- Chapter 687 (SB 53, Craven) of the Statutes of 1995 increased the interim period from 18 months to 36 months for mobilehome parks initially transferred on or after January 1, 1993 and extended the time period that an intermediary entity may hold ownership of a mobilehome park from 18 months to 76 months for a mobilehome park located in the County of Los Angeles.

Comments:

1. **Purpose.** This bill is sponsored by Rancho Carlsbad Partners the owner of Rancho Carlsbad Mobilehome Park, a mobilehome park that is owned 51% by the residents of the park and 49% by investors. Its purpose is to ensure that the mobilehome park, located in San Diego County, will be able to receive the change in ownership exclusion. The 36-month period expired before 51% of the tenants were able to complete the purchase of their individual spaces, but many sales were in the escrow process. With this bill, the mobilehome park will be able to qualify for the change in ownership exclusion. Generally, tenants organize to

purchase the park in an effort to curb the increasing rents charged by the previous mobilehome park owner. Without the change in ownership exclusion, the property tax increase of the underlying park could be a significant expense to the tenants, many of whom are on a fixed or low income.

2. **The interim holding period has been extended each time a park has failed to qualify within the allotted time period.** Since its 1988 enactment, Section 62.2 has been amended three times to increase the time period allowed for third party possessions prior to transfer to the tenants directly or a tenant owned entity: (1) in 1991, the interim period was increased from 270 days to one year; (2) in 1992, the interim period was increased from one year to 18 months; (3) in 1995, the interim was increased to 36 months and a special provision of 76 months was permitted for a particular mobilehome park in Los Angeles County.

Senate Bill 933 (Poochigian) Chapter 352
Underground Storage Tanks; New Construction Exclusion

Effective January 1, 1999. Amends Section 70 of the Revenue and Taxation Code.

This bill provides that where a tank must be improved, upgraded, or replaced to comply with federal, state, and local regulations on underground storage tanks, the tank work shall not be considered new construction, and shall be considered to have been performed for the purpose of "normal maintenance and repair."

In addition, the bill provides that when a structure, or any portion thereof, must be reconstructed as a consequence of completing this work on an underground storage tank, the reconstruction shall be considered to be have been performed for the purpose of "normal maintenance and repair" if the structure is substantially equivalent to the prior structure in size, utility, and function.

Sponsor: Senator Poochigian

Law Prior To Amendment:

The assessed value of a property is generally the market value of a property at the time of purchase adjusted annually by a maximum of 2 percent for inflation. The law requires that when "new construction" occurs, the total assessed value of the property must be increased by an amount equal to the value added by the new construction. When new construction replaces existing improvements, the value attributable to those pre-existing improvements is deducted from the property's assessed value prior to adding the value for the replacement.

When an underground storage tank is replaced, the assessed value of the old tank is subtracted from the property's assessed value and the market value of the new tank is added to the property's assessed value. When a structure (such as the island canopy at a service station) must be replaced in connection with removing the tank, then the value of the old and replacement structure are similarly treated. With respect to improving or upgrading, rather than replacing, a tank or structure, the property's assessed value of the tank or structure would be increased by the value added by the improvements.

Property Tax Rule 463 (b)(3) provides that "[a]ny physical alteration of any improvement which converts the improvement or any portion thereof to the substantial equivalent of a new structure or portion thereof" qualifies as new construction. Property Tax Rule 463(b) (4) provides that "[e]xcluded from alterations that qualify as "newly constructed" is construction or reconstruction performed for the purpose of normal maintenance and repair, e.g., routine annual preparation of agricultural land or interior or exterior painting, replacement of roof coverings or the addition of aluminum siding to improvements or the replacement of worn machine parts."

Property Tax System. Article XIII, §1 of the California Constitution provides that all property is taxable, at the same percentage of "fair market value," unless specifically exempted, or authorized for exemption, within the Constitution.

Article XIII A, §2 of the California Constitution defines "fair market value" as the assessor's opinion of value for the 1975-76 tax bill, or, thereafter, the appraised value of property when purchased, newly constructed, or a change in ownership has occurred. This value is generally referred to as the "base year value". Barring actual physical new construction or a change in ownership, annual adjustments to the base year value are limited to 2% or the rate of inflation, whichever is less. Article XIII A, §2 provides for certain exclusions from the meaning of "change in ownership" and "newly constructed" as approved by voters via constitutional amendments.

New Construction. With respect to any new construction the law requires the assessor to determine the added value upon completion. The value is established as the base year value for those specific improvements and is added to the property's existing base year value. When new construction replaces existing improvements, the value attributable to those preexisting improvements is deducted from the property's existing base year value. (R&T Code §71) New construction under Rule 463 is defined, in part, to mean:

1. Any addition to real property, whether land or improvements (including fixtures), since the last lien date.
2. Any alteration of land or improvements (including fixtures) or portion thereof since the lien date which constitutes a major rehabilitation thereof or which changes the way it was used.
3. Any rehabilitation, renovation, or modernization which converts an improvement or portion thereof or fixture to the substantial equivalent of a new improvement or fixture is a major rehabilitation of such improvement or fixture, or part thereof.

New Construction Exclusions. Revenue and Taxation Code §70(c), §70(d), §74, §74.3, §74.5 and §74.6 exclude certain specified improvements made to real property from the definition of new construction. These provisions relate to seismic safety improvements, fire prevention or suppression improvements, accessibility improvements for disabled persons, and improvements reconstructed after disaster. Constitutional authorization exists for these specific types of improvements as provided in Article XIII A, §2 of the Constitution. Consequently, while these improvements may increase the value of the property, the additional value is exempt from taxation.

Service station improvements are made of many components. The following table is a generalized listing of property typically found in connection with service stations and their appropriate categorization as proposed by industry.[1] The Board agrees with the classification as shown, but as technological advancements are made and other changes occur in this industry, these general categorizations may need to be modified.

CLASSIFICATION OF SERVICE STATION IMPROVEMENTS	
Structures	**Fixtures**
Buildings	Island Curbing
Curbing	Signs
Paving	Hoists
Restrooms	Compressors
Walls	Air & Water Wells
Fencing	Dispensers/Pumps
Yard Lighting	*Tanks* & Related Equipment
Landscaping	
Island Canopy	

Background:

The following information is taken from a California Environmental Protection Agency's News Release dated December 3, 1998.

Owners and operators of USTs across the United States had until December 22, 1998 to comply with federal and state requirements to upgrade or replace tanks and piping installed before 1984 when California's UST program and more stringent tank requirements came into effect. This deadline was initially established by the U.S. Environmental Protection Agency 10 years ago to allow tank owners sufficient time to comply with the upgrade requirements. In California, State law prohibits the delivery of petroleum products to USTs after January 1, 1999 if those USTs have not been upgraded or replaced by the December 1998 deadline.

Local agencies regulate approximately 61,000 tanks throughout California. Of those, 55,000 are petroleum tanks and 6,000 are hazardous substance tanks. It is estimated that approximately 29,000 USTs still need to be removed, replaced or upgraded.

[1] Categorization recommendation supplied by the Western States Petroleum Association Marketing Property Task Force.

Although most of these tanks contain petroleum products, the impact to the public will be minimal as the majority of the tanks that have yet to comply with the law are located at trucking and transportation companies, hospitals, marinas, airports, and federal, state and local agencies.

In addition to being denied gasoline delivery, owners who miss the December 22, 1998 deadline will be subject to fines. If a petroleum release is discovered on the property after this deadline, owners who have not upgraded may be ineligible to receive reimbursement for cleanup costs from the State Water Resources Control Board Cleanup Fund.

Upgrades may include retrofitting an existing tank and piping with internal lining, corrosion protection, spill containment, overfill prevention equipment, striker plates and automatic pump shutdown capabilities. Replacing the tank with a new secondary tank system can also satisfy the requirement. Non-petroleum hazardous substances tank systems, like those containing waste oil or chemicals, may not be retrofitted. They must be replaced with secondary containment (double-walled) tank systems.

Upgrade work can still be done after the December 22, 1998 deadline without penalty if the tanks are emptied, temporarily closed and properly sealed prior to the deadline. Tank owners may then choose to replace, upgrade or permanently close the tanks during the temporary closure period.

Comments:

1. **Purpose.** To ensure that property tax assessments are not increased when a property owner is forced to purchase or upgrade underground storage tanks in order to meet laws and regulations imposed by government.
2. **Should fulfilling a governmental regulation result in higher property taxes?** Proponents reason that it is unfair that property owners must pay more property taxes as a consequence of making improvements to their property as required by law. The property owner is financially impacted twice: first, by the initial outlay to pay for the improvements and, second, by the annual incremental cost because the assessed value of the property has increased. Some service station owners have closed their businesses because it was too costly to comply with the underground storage tank requirements.
3. **Is this legislation too late for those property owners who timely complied with the law?** The new construction exclusion would apply *prospectively*. Presumably this bill would therefore apply to (1) future changes in underground tank laws and requirements and (2) those owners who did not meet the December 22, 1998 deadline but who have emptied and, temporarily or permanently, closed their tanks and will receive governmental approval to replace or upgrade their tanks at a later date. There was more than ten years of advance notification and

education of the December 22, 1998 deadline. The U.S. EPA had warned that they would not (and did not) extend the deadline because it would have been unfair to those underground storage tank owners who had already complied.

4. **This bill provides that the timely reconstruction of a structure, if it is substantially equivalent to the prior structure in size, utility, and function, will be considered as qualifying as "normal maintenance and repair" and thus excluded from the definition of new construction.** "Normal maintenance and repair" is a phrase used in Property Tax Rule 463, but which, until now, has not been used in statute. The purpose of the April 28 and May 25 amendments is to ensure that the new construction exclusion is extended only to comparable replacement structures. Some gas stations, which did minimal tank work in complying with the new underground storage tank regulations, would have only slightly disrupted the site or surrounding structures. In other cases, however, gas stations underwent major renovations or complete rebuilding in conjunction with the underground storage tank work. Some of these gas stations have reopened and expanded their previous facilities with other retail establishments, such as fast-food outlets and mini-marts. These properties would not be eligible for a new construction exclusion.

5. **As introduced, this bill excluded "structures," but not the tank itself, which is classified for property tax purposes as a fixture, from the definition of new construction.** The April 28 amendments correct this technical error.

Senate Bill 1014 (Poochigian) Chapter 291
Newly Planted Trees and Vines - December 1998 Freeze

Tax levy; effective September 1, 1999. Amends Section 211 of the Revenue and Taxation Code.

This bill restarts the four-year exemption period for newly planted fruit and nut trees severely damaged by the December 1998 freeze. This bill applies to trees that, while they were in an exemption period for new plantings, were so severely damaged by the freeze that they required pruning to the trunk or bud union.

Sponsor: California Citrus Mutual

Law Prior to Amendment:

Article XIII, Section 3(i) of the California Constitution exempts from property tax fruit and nut trees planted in orchard form until four years after the season they were first planted. The land upon which the trees are planted remains subject to tax. A similar exemption exists for grapevines, except that the exemption period is for three years.

Revenue and Taxation Code §211 restates the provisions of the constitution and additionally provides that any tree severely damaged during the exemption period as a result of a freeze that occurred in December 1990 restarts the exemption for another four years. Any tree pruned to the trunk or bud union to establish a new shoot as a replacement is considered "severely damaged."

In addition to the exemption for newly planted orchards provided by Revenue and Taxation Code §211, Property Tax Rule 131 provides that the four-year exemption period will also apply to individual trees when 1) a tree is newly planted within an existing orchard (i.e., a replacement tree) or 2) a tree that had reached commercial production requires grafting causing another non-producing period before it will bear fruit or nuts.

Article XIII, Section 3(e) of the California Constitution provides that property used exclusively for educational purposes by a nonprofit institution of higher education is exempt from property taxation.

Section 203(b) of the Revenue and Taxation Code defines an institution of higher learning to be "an institution incorporated as a college or seminary of learning, which requires for regular admission the completion of a four-year high school course or its equivalent, and confers upon its graduates at least one academic or professional degree, based on a course of at least two years in liberal arts and sciences, or on a course of at least three years in professional studies, such as law, theology, education, medicine, dentistry, engineering, veterinary medicine, pharmacy, architecture, fine arts, commerce, or journalism."

In General:

Property Taxation of Non-Williamson Act Land. 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. Inflationary increases in assessment are limited to no more than two percent a year.

Property Taxation of Williamson Act Land. In 1965 the Legislature enacted the California Land Conservation Act, commonly referred to as the "Williamson Act," in an effort to preserve agricultural lands for the production of food and fiber and to discourage noncontiguous urban development. This measure was an attempt to slow down the increase of property taxes on farmland by providing methods for restricting land use to agricultural purposes. By itself, the original California Land Conservation Act of 1965 could not assure limitations on the assessed value of agricultural land because the Constitution required that assessments be based on current market values. In 1966, a constitutional amendment (now Article XIII, Section 8) was approved giving the Legislature the authority to prescribe special assessment procedures for certain open-space lands.

Under the Williamson Act, landowners may enter into contracts with participating cities and counties to restrict their lands to agricultural or open-space uses. The contract must be for a minimum term of 10 years, and contracts are automatically renewed each year unless other action is taken. In exchange for entering into these contracts, the land subject to contract is valued according to a legislated formula that capitalizes the income that the land is capable of producing from agricultural and other compatible uses. The law also provides that 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. In this way, landowners participating in the Williamson Act program are guaranteed that their land value will never be assessed at a greater value than noncontracted land.

Forty-seven of the 58 California counties have established California Land Conservation Act agricultural preserves and made contracts with property owners within those preserves. The 11 counties not participating are Alpine, Del Norte, Imperial, Inyo, Los Angeles, Merced, Modoc, Mono, San Francisco, Sutter and Yuba.

Trees Exempt During Development Period. In addition to the typical costs of land preparation and planting, an investment in an orchard or vineyard is a long-term venture with a period of several years before any cash flow is realized. Both types of crops require several years to reach maturity, and the land is committed to that specific use with little flexibility to other uses. In recognition of this fact, the law exempts fruit and nut bearing trees from taxation during a portion of their immature life. The taxation of the trees is synchronized with the trees ability to produce a sellable crop. (The *land* in which the trees are planted remains subject to taxation, it is only the *trees* that are temporarily exempt.)

Background:

AB 1771 (Harvey, Ch. 1034, Stats. 1991) added the provision starting a new exemption period for fruit or nut bearing trees or grapevines, damaged by the December 1990 freeze. AB 1771 was sponsored by the Kern County Assessor in an effort to provide relief to farmers who had vineyards and orchards still within the initial exemption period for newly planted vines and trees when the December 1990 freeze hit. There were 10 days of freezing temperatures in December 1990 which resulted in tree losses in Kern, Tulare, and Fresno Counties.

Comments:

1. **Purpose.** To restart the exemption period for newly planted trees damaged by the December 1998 freeze.

2. **Major citrus crop loss in the freeze of 1998.** According to the California Farm Bureau, in December 1998, many citrus farmers in Fresno, Kern, Kings, Madera, and Tulare lost a large percentage of their crops due to three days of freeze.

3. **Many citrus trees are expected to recover.** The 1990 freeze was a more severe freeze than the 1998 freeze. There were ten days of freeze in 1990 and only three days in 1998. Even after the more severe 1990 freeze, however, many citrus trees successfully recovered. For example, despite the freeze, the Valencia orange crop had a successful bloom, and 86% of the navel orange crop successfully bloomed. Consequently, the extent of actual damage, if any, to citrus trees by the 1998 freeze is not yet known. Citrus experts have recommended that farmers not prune damaged trees until after the summer since many trees may recover on their own.

4. **These trees are currently exempt.** This bill would merely extend the exemption period for trees that are already exempt from tax. It follows the basic tax policy, that trees will not be subject to taxation until they reach maturity and start producing a harvestable crop.

5. **This bill does not affect Williamson Act properties.** 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 orchard lands affected by

the freeze where the Williamson Act value is still the lowest of the three determined values. However, in those orchards, the assessed value would, generally, nevertheless be reduced the following year. This is because the Williamson Act value is determined according to a capitalization of income method. It will take some time for these damaged trees to recover to their natural state before the freeze and then more time to mature and start producing harvestable crops. Since a nonproducing tree would produce no income, this loss in productive capacity would result in a reduced assessment of the land on the subsequent lien date (assuming that all other valuation factors remain constant from the previous year).

6. **Grapevines were not damaged in the 1998 freeze.** The April 6, 1999 amendment deleted the provisions for grapevines that were damaged by the December 1990 freeze. This amendment was taken at the request of the Wine Institute since grapevines were not damaged during the 1998 freeze. Deleting the reference to grapevines had no practical effect since 1) the provisions for the 1990 freeze for both trees and grapevines have been effectively obsolete since 1995 and 2) grapevines were not damaged in the 1998 freeze. The June 30, 1999 amendment subsequently reinstated the provision for grapevines for the 1990 freeze and added separate language to extend the exemption for the 1998 freeze for fruit- and nut- bearing trees only.

Senate Bill 1231 (Committee on Revenue and Taxation) Chapter 941
Property Tax Omnibus Measure

Effective January 1, 2000. Amends Section 25205.9 of the Health and Safety Code, amends Section 42886 of, and adds Section 42886.1 to, the Public Resources Code, and amends Sections 63.1, 66, 75.51, 402.9, 531.2, 531.8, 602, 1622.6, 1624, 1624.05, 2512, 2610.5, 2613, 2910.1, 3437, 3692, 4222.5, 4837.5, 4985, 8877, 30103.5, 30188, 30436, 38631, 43010.1, 43011.1, and 50159 of, adds Sections 69.4, 168.5, 237, 1612.5, 1612.7, 1624.3, 1636.2, and 1636.5, and repeals Section 3440 of, the Revenue and Taxation Code.

This bill contains Board of Equalization sponsored provisions that:

1. **Prohibit assessors from including interest subsidy payments in the income approach to value of Section 515 housing programs. (§402.9)**
2. **Correct an inadvertent drafting error under the Timber Yield Tax Law. (§38631)**

In addition, this bill contains non-Board sponsored provisions to:

- **Ensure that in a series of parent-child transfers of property where the parties were unaware of the change in ownership exclusion, the property owner is not precluded from receiving the exclusion on a prospective basis. (§63.1)**
- **Implement Proposition 1. (§69.4)**
- **Provide a property tax exemption for Indian Tribe low-income housing projects analogous to the welfare exemption for low-income housing. (§237)**
- **Establish various conflict of interest provisions and safeguards with respect to persons associated with assessment appeals boards. (§§1612.5, 1612.7, 1622.6, 1624, 1624.05, 1624.3, 1636.2, and 1636.5)**

Finally, this bill contains provisions that do not affect the Board of Equalization, including:

- **Permitting electronic transmission of tax bills. (§§75.51, 2610.5, and 2910.1)**
- **Allowing postmarks made by IRS designated independent delivery services to be used for determining delinquency dates. (§2512)**
- **Allowing the tax collector to defer installment plan payments for one year after a county is designated to be in a state of emergency or a disaster due to a major misfortune or calamity. (§4222.5)**
- **Making several other minor and technical changes to property tax law. (§§66, 168.5, 531.2, 531.8, 602, 2613, 3437, 3440, 3692, 4837.5, and 4985)**

Parent-Child Change In Ownership Exclusion
Revenue and Taxation Code §63.1

This bill provides that a "transfer to a third party" does not include transfer of a property to a parent or child of the transferor.

Sponsor: Senate Revenue and Taxation Committee

Law Prior to Amendment:

Section 2, subdivision (h), of Article XIII A of the California Constitution provides that the terms "purchased" and "change in ownership" do not include the purchase or transfer of the principal residence of the transferor in the case of a purchase or transfer between parents and their children (or grandparents and grandchildren), as defined by the Legislature, and the purchase or transfer of the first $1,000,000 of the full cash value of all other real property between parents and their children, as defined by the Legislature.

The Legislature has adopted Revenue and Taxation Code Section 63.1 to prescribe the terms and conditions under which the parent-child change in ownership exclusion may be granted. Relevant to this bill, Section 63.1 precludes the exclusion unless the taxpayer files a claim form with the assessor. Current law requires that the claim be filed within three years after the date of the transfer of real property or prior to the transfer of the real property to a third party, whichever is earlier. However, even if a claim is not made within this stated filing period, a claim is considered timely if it is filed within six months after the date the assessor mails a notice of supplemental or escape assessment informing the taxpayer that the property will be reassessed. If a claim form is made within the above described periods, then the transfer is excluded from change in ownership as of the initial date the property was transferred (i.e., property tax refunds are issued for past years if the property was previously reassessed).

Notwithstanding these filing requirements, *except in the case where the property has already been transferred to a third party,* the parent-child change in ownership exclusion may be granted on a prospective basis at any time the claim is filed after the conclusion of the filing periods described above. When a claim is made after the customary filing periods, then the pre-reassessment value will be reinstated as of the year the claim form is filed (i.e., property tax refunds are not issued for past years, but future property tax bills will reflect the lower assessed value).

In General:

California's system of property taxation under Article XIII A 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 58 was approved by the voters on November 6, 1986 to create an exclusion from change in ownership. By avoiding reassessment to current market value, children can preserve the Proposition 13 protected value of property acquired from their parents (or vice versa).

Background:

As originally enacted, Section 63.1 required that a claim form be filed to receive the change in ownership exclusion, but it did not place any time limitations on filing the claim. Assembly Bill 3020 (Ch. 769, Stats. 1988) was enacted to require that a claim be filed within three years of the date of transfer. Subsequently, at the request of Stanislaus County, Assembly Bill 3843 (Ch. 1494, Stats. 1990) added a provision that required claims to be filed the earlier of: 1) three years or 2) prior to the transfer of the property to a third party. The purpose of the “prior to a third party” amendment was to eliminate the county’s cost of preparing retroactive assessment roll corrections in this type of situation.

Inevitably, the establishment of time limits on filing requirements led to some property owners being denied the exclusion. To reduce the number of denied claims, Senate Bill 675 (Ch. 709, Stats. 1993) provided an additional six month period to file a claim after a property owner is notified that the property is going to be reassessed via a supplemental or escape assessment. Further legislation, Senate Bill 542 (Ch. 941, Stats. 1997; Senate Revenue Taxation Committee) provided that, except in the case where the property has already been transferred to a third party, the assessor may grant, on a prospective basis, the parent-child change in ownership exclusion at any time the claim is filed.

Comments:

1. **Purpose.** To ensure that taxpayers are not permanently barred from receiving a constitutionally authorized benefit due to a statutory requirement.
2. **The case giving rise to this amendment.** The particular instance that raised this issue was a parent who died leaving her home to her adult child. The adult child did not know of the parent-child provision (which has only been available since

1986) and had, in turn, transferred the property to her child. When the child filed a claim (to revert the property's assessed value to her grandparent's base year value on a prospective basis) the assessor correctly denied the claim because the latter transfer to the child (from the adult child to the grandchild of the original owner) was considered a "transfer to a third party." This measure would exclude from the definition of "transfer to a third party," any transfer between parents and children. Thus, in the case outlined above, this measure would permit the grandchild to have the property's assessed value revert to the grandparent's original base year value as soon as a claim is filed.

3. **The constitution does not specify that a taxpayer must file a claim.** Establishing liberal time periods for filing a claim for exclusion could prevent challenges that any time limitations on filing a claim are unconstitutional. Article XIII A, Section 2, subdivision (h), of the California Constitution is a self-executing exclusion from a change in ownership for parent-child transfers of real property and does not expressly authorize the Legislature to establish filing requirements.

4. **Prospective relief.** By providing prospective but not retroactive relief, this measure conforms to Section 6 of Article XIII of the California Constitution which states: "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 or classification which reduces a property tax shall be deemed a waiver of the exemption or classification for *that year*." (Emphasis added.)

Base Year Value Transfers or New Construction Exclusions for Contaminated Property

Revenue and Taxation Code §69.4

This provision provides the necessary Legislative authorization to implement Proposition 1.

Sponsor: Senate Revenue and Taxation Committee

Law Prior To Amendment:

Proposition 1 was approved by voters in 1998 to allow owners of qualified contaminated property to transfer the property's base year value to a replacement property acquired or constructed on or after January 1, 1995, or to property repairs performed on or after that date. Specifically, where property is uninhabitable, in the case of residential property, or unusable, in the case of nonresidential property, due to environmental problems, this bill would allow the transfer of the property's base year value to replacement property, of equal or lesser value, in the same county or in another county, if the receiving county has adopted a resolution authorizing such intercounty transfers. Alternatively, if structures located on the property are demolished and rebuilt, then the reconstruction would be excluded from the definition of "new construction," provided it is similar in size, utility, and function to the original structures.

The constitutional amendment provides that property owners of residential or nonresidential property may retain their original base year values if all of the following conditions exist:

1. The residential property is rendered uninhabitable and the nonresidential property is rendered unusable, as defined, due to environmental problems.
2. The property is located on a site that a state or federal government agency has designated as a toxic or environmental hazard or as an environmental cleanup site.
3. The property has structures upon it which must be either substantially damaged or destroyed as a result of the environmental cleanup activities.
4. The lead state or federal agency has stipulated that the owner of the property did not cause or acquiesce in any act that caused or could have prevented the environmental problems.
5. The replacement property is acquired or newly constructed within 5 years after the contaminated property is sold or otherwise transferred.
6. The owner did not know the property was contaminated at the time the property was acquired or constructed.

In General:

California's system of property taxation under Article XIII A 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 new construction occurs. When a reassessable event occurs, the value of the property for tax purposes is redetermined based on its current market value. Because real estate values generally appreciate over time, the value determined may be substantially higher than its previous assessed 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 indexed value is referred to as the "factored base year value."

California property tax law provides for various situations where the base year value of a property is either: 1) retained, notwithstanding that new construction had taken place or that the property had transferred ownership, or 2) transferred to another property, notwithstanding that the property had transferred ownership. Briefly, Revenue and Taxation Code Section 70(c) provides that where property has been damaged or destroyed by a misfortune or calamity, the property will retain its previous assessed value after it is reconstructed. Section 63.1 provides that when property is transferred between parents and children, the property will not be reassessed to current market value, instead the property may retain its base year value. Section 69 and Section 69.3 provide that when property is damaged in a Governor-declared disaster, property owners may transfer their base year value to another property. Finally, Section 69.5 permits persons over the age of 55 years or disabled persons to, once in their lifetime, transfer their base year value from one home to another. All of these provisions are provided for in the Constitution.

Background:

Proposition 1 was a result of a vintage housing development in Orange County discovered in 1989 to have been built on soil contaminated in the 1930s from dumping fuel into a trench. Five of the structures had to be demolished to effect soil remediation. As a result, these property owners must either rebuild or relocate.

Comments:

1. **Purpose.** To provide the necessary Legislative authorization to implement Proposition 1 as approved by voters in 1998.
2. **Technical cleanup.** This bill specifies that the base year value to be transferred is the value of the property prior to contamination. Since in many cases the contamination occurred many years prior to actual discovery, further refinement of this language is needed.

Low-Income Indian Housing Authorities

Revenue and Taxation Code §237

This bill provides a property tax exemption for Indian Tribe low-income housing projects analogous to the welfare exemption for low-income housing.

Specifically, property owned and operated by the tribally designated housing entity of a federally recognized Indian tribe would not be subject to taxation if the entity meets the following requirements: (1) the property is used exclusively and solely for the charitable purpose of providing rental housing and related facilities for tenants who are persons of low-income (as defined in Section 50093 of the Health and Safety Code); (2) the housing entity is nonprofit; and (3) no part of the net earning of the housing entity inure to the benefit of any private shareholder or individual.

In lieu of the tax imposed by this part, a tribally designated housing entity *may* agree to make payments to a county, city, city and county, or political subdivision of the state for providing services, improvements, or facilities by that entity for the benefit of a low-income housing project owned and operated by the tribally designated housing entity. Any payments in lieu of tax may not exceed the estimated cost to the city, county, city and county, or political subdivision of the state of the services, improvements, or facilities to be provided.

Sponsor: Senate Revenue and Taxation Committee

Law Prior To Amendment:

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. With respect to certain Indian Housing Authorities who were denied the welfare exemption on property located off-reservation and not otherwise immune from taxation, the Housing Authority lacked two basic procedural requirements: 1) an income tax-exemption letter from the IRS or FTB and 2) articles of incorporation for the organization containing irrevocable dedication and dissolution clauses as required by Section 214.01 and 214.8.

In General:

Subdivision (g) of Section 214 extends the welfare exemption to property owned and operated by qualifying organizations and used exclusively for rental housing which is 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.

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. Twenty percent or more of the occupants of the property are lower-income households whose rent does not exceed that prescribed by Section 50053 of the Health and Safety Code; or
2. 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
3. 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.

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 a deed restriction, agreement, or other legal document 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, at 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.

Comments:

1. **Purpose.** To ensure that low-income housing projects owned by federally recognized Indian tribes are eligible for property tax exemption. 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 Indians could not receive funds under this particular program.
2. **Low-income housing projects constructed on property that is held in trust for Indians by the United States Government is already exempt from state property tax.** Thus this measure would affect housing projects 1) built on fee land located within a reservation or 2) built on land owned in fee off-reservation.

3. **There are two organization requirements which Indian Tribes and tribally established housing authorities can not satisfy in order to be eligible for a property tax exemption under the welfare exemption.** Revenue and Taxation Code 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 cannot 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.
4. **The sponsors note that similar types of low-income housing projects are exempt from property taxes.** The sponsors note that many low-income housing projects are exempt from property taxation and are requesting exemption in parity with similar projects. Specifically:

- State, county and city-owned low-income housing projects are exempt under Section 202(a)(4).
- Projects owned by religious, hospital, scientific, or charitable funds, foundations or corporations can be eligible for the welfare exemption under Section 214(g).
- Long-term leases of property by exempt organizations for use as low-income housing can be eligible for exemption under Section 236.

5. **The Indian housing provision could require a constitutional amendment.** There does not appear to be any constitutional authorization permitting an exemption.
6. **In-lieu tax.** At least one assessor has suggested that an in-lieu tax that reflected the costs of services provided would exceed the property tax savings.

Section 515 Housing

Revenue and Taxation Code §402.9

This provision adds a specific reference to Section 515 multifamily housing projects in Section 402.9 to prohibit the assessor from including interest subsidy payments as part of the income stream. Thus interest rate subsidy payments on federal "Section 515" multifamily housing projects are not to be included in the income stream when using the income approach to value these properties.

Sponsor: Board of Equalization

Law Prior to Amendment:

Revenue and Taxation Code Section 402.9 provides that if the assessor appraises a Section 236 multifamily housing project using the income approach to value, then the assessor is prohibited from including interest subsidy payments as a part of the income stream.

Background:

The federal government has a program, commonly referred to as the "Section 236" program, to promote the development of multifamily housing for low-income persons. One element of this program is that the federal government subsidizes financing costs so that the owner's effective rate of interest is 1%.

Section 402.9 was added in 1978 by Senate Bill 1706 (Ch. 737, Stats. 1978). Its purpose was to legislatively reverse advice Board staff had given to assessors in 1976 via Letters to Assessors' 76/157. In that letter, Board staff instructed assessors to include interest subsidy payments when calculating the income stream on Section 236 projects.

The federal government has a separate program, commonly referred to as the "Section 515" program, to promote the development of multifamily housing for low-income persons in rural areas. The Section 515 program is similar to the Section 236 program in most essential respects, including the interest rate subsidy.

Recently the appraisal of Section 515 multifamily housing projects has become an issue, since owners of these properties have appealed their assessments on the basis that the current market values of the properties exceeds their Proposition 13 factored base year values. In the reappraisal of these properties, one issue has been how to treat the interest subsidy payment. Since Section 402.9 refers only to Section 236 projects, some have inferred that the lack of any reference to Section 515 projects means that interest subsidy payments should be added to the income stream. As a result of the confusion, the Property Taxes Department recently issued Letter to Assessors' 98/51 which, in part, instructs assessors to exclude the interest subsidy payments when determining the income stream on Section 515 projects.

Comments:

1. **Purpose.** To promote assessment uniformity among county assessors and ensure consistent valuations of similarly situated properties.

Assessment Appeals Board Conflict of Interest Provisions
Revenue and Taxation Code §§1612.5, 1612.7, 1622.6, 1624, 1624.05, 1624.3, 1636.2, and 1636.5

These provisions establish additional conflict of interest provisions and safeguards with respect to certain specified persons who have an employment association with the assessment appeals boards.

Specifically, this bill:

1. Requires that the presiding judge of the superior court appoint an assessment appeals panel of three "special alternate assessment appeals board members" when the following persons represent their spouse, parent or child in an assessment appeal:
   - employees of the clerk of the assessment appeal board *§1612.7*
   - assessment appeals board members *§1622.6*
   - alternate assessment appeals board member *§1622.6*
   - assessment hearing officers *§1636.5*
2. Deletes the requirement that "special alternate assessment appeals board members" must reside in the county where the appeal is filed. *§1622.6*
3. Requires the following persons to immediately notify the clerk of the assessment appeals when they file an appeal application on their own behalf or decide to represent a spouse, parent or child in an assessment appeal:
   - employees of the assessment appeals board clerk *§1612*
   - assessment appeals board members *§1622.6*
   - alternate assessment appeals board members *§1622.6*
   - assessment hearing officers *§1636.5*
4. Prohibits the following persons from representing an assessment appeal applicant for compensation:
   - employees of the office of the clerk of the county board of equalization or county assessment appeals board *§1612.5*
   - assessment appeals members *§1624.3*
   - alternate assessment appeal members *§1624.*3
   - assessment hearing officers *§1636.*2

Sponsor: California Association of Clerks and Election Officials

Law Prior To Amendment:

An appeal application filed by a member or alternate member of an assessment appeals board must be heard before an assessment appeals board panel consisting of three special alternate assessment appeal board members appointed by the order of the presiding judge of the superior court where the application is filed. These special alternates are required to reside in the county. *§1622.6*

Assessment appeal board members are barred from knowingly participating in any assessment appeal where they have an interest in the subject matter or one of the parties in the proceeding. Violation can be cause for removal. *§1624.2*

Comments:

1. **Purpose.** To establish additional conflict of interest provisions and safeguards with respect to certain specified persons who have an employment association with the assessment appeals boards. The miscellaneous provisions of this bill are part of the County Treasurers and Tax Collectors Associations annual omnibus measure containing various minor and technical changes to the laws relating to the collection of property taxes.
2. **August 18 amendments.** The provision amending Section 441 to specify that records open to assessor inspection may be photocopied was deleted to prevent chaptering out problems with AB 704 (Honda) which also proposed amendments to Section 441. In addition, other nonsubstantive technical amendments were made.
3. **Appraisers certified by the Office of Real Estate Appraisers.** This bill adds a property appraiser certified by the Office of Real Estate Appraisers to the list of persons eligible for nomination to an assessment appeals board. (*§1624, §1624.05)* The Board of Equalization currently considers these appraisers to be qualified to be assessment appeals board members under existing law. Thus, this provision is declaratory of existing law.
4. **Identical provisions originally contained in SB 1234 and SB 1233**. The provisions related to assessment appeals board members were previously contained in SB 1234 (SR&T) as introduced and amended out of that bill on June 14 and in SB 1233 (SR&T) and amended out on September 3.

Timber Yield Tax – Tax Refunds Exceeding $50,000
Revenue and Taxation Code §38631

Sponsor: Board of Equalization

Law Prior To Amendment:

Previously, tax refunds issued by the Board of Equalization in excess of $50,000 must be made a public record ten days prior to payment. Prior to 1994, the law required that such refunds be submitted to the State Board of Control for authorization.

Background:

In 1994, the Department of General Services sponsored AB 3069 (Ch. 726, Stats. 1994; Frazee) to, in part, eliminate the State Board of Equalization's requirement to submit tax refunds in excess of $50,000 to the State Board of Control, which is within the Department of General Services, for certification. The purpose of AB 3069 was to transfer, reduce or eliminate some of the State Board of Control’s responsibilities due to severe budget cuts and staff reductions. As a result of AB 3069, the Board is now required to make public the intent to make these refunds at least 10 days prior to their payment.

Comments:

1. **Purpose.** To delete language inadvertently left in place when 1994 amendments were made to this section. AB 3069 amended all of the tax and fee programs administered by the Board; however, the amendment made to the Timber Yield Tax program contained an inadvertent drafting error whereby a portion of a pre-existing sentence was not deleted at the same time other amendments setting forth the change in procedure were made.

Senate Bill 1234 (Schiff) Chapter 942
Assessment Appeals Boards; Mandatory Training

Effective January 1, 2000. Amends Sections 1624, 1624.01, 1624.02, and 1624.05 of the Revenue and Taxation Code.

This bill (1) modifies eligibility requirements for assessment appeals board members, and (2) beginning January 1, 2001 requires a mandatory training course for newly appointed or selected assessment appeals board members.

Sponsor: California Association of Clerks and Election Officials

Assessment Appeal Board Eligibility Requirements

This provision:

1. Reduces the population threshold, from 1,000,000 to 200,000[2], where persons who do not otherwise meet the minimum qualifications for membership to an appeals board may be appointed by the recommendation of a board of supervisor member. Grandfathers existing members who did not meet eligibility requirements. *§1624.05*
2. Adds a property appraiser certified by the Office of Real Estate Appraisers to the list of persons eligible for nomination to an assessment appeals board. (The Board of Equalization currently considers these appraisers to be qualified under existing law.) *§1624, §1624.05*

Law Prior To Amendment:

Under current law, the elected county board of supervisors may sit as the "county board of equalization" or it may create one or more assessment appeals boards to

[2] Counties with populations between 200,000 and 1,000,000 include: Butte, Contra Costa, Fresno, Kern, Marin, Merced, Monterey, Placer, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Solano, Sonoma, Stanislaus, Tulare, and Ventura. Source: Department of Finance, Demographic Research Unit.

function as the county board of equalization. There are 20 counties[3] in California where the elected board of supervisors also sit as the county board of equalization. In the remaining 38 counties, assessment appeals board members are appointed directly by majority vote of the board of supervisors. Appointments last for a term of three years and members may be reappointed an unlimited number of terms. The three-year terms are staggered to ensure a board will not be compromised with members with no prior experience. Assessment appeals board may be comprised of either three or five members. In the case of a five member assessment appeals board, individual appeals are heard by a three-member panel.

The eligibility requirements for appointment as an assessment appeals board member are a minimum of five years' professional experience in California in the following professions: certified public accountant or public accountant, licensed real estate broker, attorney, or a property appraiser accredited by a nationally recognized professional organization. In counties with a population under 1,000,000, a person who does not meet these requirements can still be appointed if the nominating board of supervisor member has reason to believe the person is "possessed of competent knowledge of property appraisal and taxation." *§1624, §1624.05*

Assessment Appeals Board Training Requirements

These provisions:

1. Makes an introductory training course mandatory for newly selected or appointed assessment appeals board members. Training must be completed within one year of the appointment. *§1624.01(a)*
2. Members who do not complete training within the time allotted are deemed to have resigned their position. *§1624.01(c)*
3. Courses are to be conducted by either the State Board of Equalization or the county, at the county option. *§1624.02*
4. Curriculums for the course of training conducted by the State Board of Equalization must be developed in consultation with county boards of supervisors, administrators of assessment appeals boards, assessors, and local property taxpayer representatives. *§1624.02*
5. For those counties that opt to provide their own training, the curriculum must be developed in consultation with the State Board of Equalization, assessors, and local property taxpayer representatives. County prepared curriculums are subject to final approval by the Board of Equalization. *§1624.02*

[3] Alpine, Amador, Calaveras, Colusa, Del Norte, Glenn, Imperial, Inyo, Kings, Lake, Madera, Mendocino, Modoc, Napa, Plumas, San Benito, Sierra, Tehama, Trinity, and Tuolumne.

6. Adds "elements in the conduct of assessment appeal hearings" to the list of specified topics of training to be provided. *§1624.02*
7. Deletes the requirement that an exam be given at the end of the course and redefines "successfully complete" to solely require full-time attendance. *§1624.02*
8. Requires the Board of Equalization to provide requested training at no cost. *§1624.02(b)*
9. Requires the Board of Equalization training be provided at regional locations. *§1624.02(a)*

Law Prior To Amendment:

Current law encourages, but does not require, that assessment appeals board members receive training from the State Board of Equalization. Training provided must include an overview of the assessment process, new developments in court cases, legislation, and property tax rules. The State Board of Equalization develops the curriculum for the course in consultation with county boards of supervisors and administrators of assessment appeals boards. To successfully complete the course requires full-time attendance and a passing grading in a final examination is required. *§1624.01, §1624.02*

Background:

SB 1957 (Ch. 974, Stats. 1990; Ayala) established the current provisions "encouraging" assessment appeals board members to complete a course of training offered by the State Board of Equalization. As introduced, SB 1957 would have made training mandatory, but that provision was deleted prior to enactment. Assessment appeals board members would have been given a certain period of time to obtain the required training and members who did not obtain the training would have been deemed to have "resigned" their appointment. In addition, SB 1957 would have deleted the provision permitting boards of supervisors to nominate appeals board members who did not meet the minimum eligibility requirements in counties with a population under 1,000,000.

Comments:

1. **Purpose.** To ensure that assessment appeal board members are properly trained and kept abreast of important changes in property tax law.
2. **The September 3 amendment deletes the August 31 amendment to subject Board of Supervisor Members to mandatory training requirements**. The 20 counties where the elected board of supervisors sit as the local board of equalization would not be affected by this bill. As introduced, board of supervisor members were excluded from any training requirement. When the

bill was heard in the Assembly Appropriations Committee it was amended to require that board of supervisor members also receive training. However, with this requirement, the bill failed passage in the Assembly on September 2 (39-32). The board of supervisor provision was deleted and the bill passed the Assembly on September 7 (66- 8).

3. **Members would only be required to attend training once.** Appointments to the assessment appeals board are for a three-year term and members may be reappointed an unlimited number of times. The August 23 amendment deleted a requirement that reappointed members receive training. Consequently, only newly selected or newly appointed members would be required to receive training.

4. **Training implementation date delayed to January 1, 2001.** The August 16 amendment delays the implementation date of these provisions until January 1, 2001 and deletes a $91,000 appropriation to the Board of Equalization to fund the cost of providing training. (The amount of $91,000 reflects the cost to the Board when the bill required annual continuing education, a requirement subsequently deleted by July 7 amendments.) The Board will incur costs for the year prior to implementation, since the Board will commence the collaborative curriculum development process as well as develop the training program in 2000 in preparation for instructional courses to be given beginning in 2001.

5. **Collaborative curriculum development.** The July 7 amendments require that the training curriculum be developed collaboratively with input from county assessors and taxpayer representatives. These amendments were made to address concerns raised by industry that assessment appeals board members could be presented with a training course biased against taxpayers or that certain assessment topics could be presented in a manner that taxpayer representatives did not agree. In addition, due to the additional time and expense that would be required to develop a collaborative curriculum, the annual continuing education requirement was deleted.

6. **Standardized training would promote more uniform assessment appeal decisions.** There are approximately 275 assessment appeals board members, including alternates. In those 38 counties with appointed assessment appeals boards, mandatory training may result in better and more consistent decisions.

7. **Current law requires county assessors and appraisers to receive training.** County employed property tax appraisers are required to hold a valid appraiser's certificate issued by the State Board of Equalization. To keep their certificate valid, at least 24 hours of training must be completed annually. In certain instances, the number of hours may be reduced to 12. *(§671)* In addition, county assessors initially elected or appointed after 1997, are also required to hold a valid appraiser's certificate. *(Government Code §24002.5)* This measure would establish educational requirements for all parties in the property tax

assessment process: assessors, appraisers, and assessment appeals board members.

8. **Should the number of training hours be specified?** This measure requires "full-time attendance" as the measure of successful completion of a course, but the bill is silent as to the number of hours that are required. The Board's estimate of its cost to provide training assumes a one-day training course.
9. **Regionally provided training keeps participation costs down.** Counties are concerned that the cost to send members to mandatory training be kept to a minimum. Consequently, this measure would require that the Board offer these courses regionally. The Board currently conducts regional training for county appraisers.
10. **The State Board of Equalization does not charge counties for training property appraisers.** This measure specifies that the Board is not to charge assessment appeals boards for training. This is consistent with the cost-free training the Board provides assessors and their staffs as required by law. (*Government Code §15606.5)*
11. **Appraisers certified by the Office of Real Estate Appraisers.** This bill adds a property appraiser certified by the Office of Real Estate Appraisers to the list of persons eligible for nomination to an assessment appeals board. *(§1624, §1624.05)* The Board of Equalization currently considers these appraisers to be eligible under existing law. Thus, this provision is declaratory of existing law.
12. **This bill would strengthen the qualification requirements for appointment to the Appeals Board in 18 counties.** This bill would reduce the population threshold, from 1,000,000 to 200,000, where persons who do not otherwise meet the minimum qualifications for membership to an appeals board may be appointed upon the recommendation of a board of supervisor member to be a person believed to be knowledgeable in property tax law. Counties with populations between 200,000 and 1,000,000 include: Butte, Contra Costa, Fresno, Kern, Marin, Merced, Monterey, Placer, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Solano, Sonoma, Stanislaus, Tulare, and Ventura.

TABLE OF SECTIONS AFFECTED

SECTIONS		BILL NUMBER	CHAPTER NUMBER	SUBJECT
Revenue & Taxation Code				
§ 62.2	Amend	SB 42	Ch. 603	Change In Ownership Exclusion – Mobilehome Parks
§ 63.1	Amend	SB 1231	Ch. 941	Change In Ownership Exclusion – Parent Child Third Party Transfers
§ 69.4	Add	SB 1231	Ch. 941	Base Year Value Transfer – Environmental Contamination (Proposition 1)
§ 70	Amend	SB 933	Ch. 352	New Construction Exclusion – Underground Storage Tanks
§ 74	Amend	AB 1694	Ch. 200	New Construction Exclusion – Fire Detection Systems
§ 74.5	Amend	AB 1291	Ch. 504	New Construction Exclusion – Seismic Safety Improvements
§ 211	Amend	SB 1014	Ch. 291	Newly Planted Trees and Vines Exemption – December 1998 Freeze Damage
§ 214	Amend	AB 1559	Ch. 927	Welfare Exemption – Low-Income Rental Housing
§ 214.15	Add	AB 1559	Ch. 927	Welfare Exemption – Vacant Land Held For Construction
§ 237	Add	SB 1231	Ch. 941	Indian Housing Authority – Low Income Housing Projects
§ 254.5	Amend	AB 1559	Ch. 927	Welfare Exemption – Postcard Filing
§ 402.9	Amend	SB 1231	Ch. 941	Section 515 Housing – Subsidy Payments
§ 441	Amend	AB 704	Ch. 334	Business Property Statement Filing Date
§ 463	Amend	AB 704	Ch. 334	Business Property Statement Filing Date

TABLE OF SECTIONS AFFECTED CONTINUED

SECTIONS		BILL NUMBER	CHAPTER NUMBER	SUBJECT
Revenue & Taxation Code				
§ 1612.5	Add	SB 1231	Ch. 941	Assessment Appeals – Employees Prohibited From Representing Taxpayers For Compensation
§ 1612.7	Add	SB 1231	Ch. 941	Assessment Appeals – Employees Required To Notify Clerk When Appeal Filed
§ 1622.6	Amend	SB 1231	Ch. 941	Assessment Appeals – Property Owned By Appeals Board Members and Relatives
§ 1624	Amend	SB 1234	Ch. 942	Assessment Appeals Board Eligibility – Office of Real Estate Appraisers Population Threshold
§ 1624.01	Amend	SB 1234	Ch. 942	Assessment Appeals Board Members - Mandatory Training
§ 1624.02	Amend	SB 1234	Ch. 942	Assessment Appeals Board Members - Mandatory Training
§ 1624.05	Amend	SB 1234	Ch. 942	Assessment Appeals Board Eligibility – Office of Real Estate Appraisers Population Threshold
§ 1624.3	Add	SB 1231	Ch. 941	Assessment Appeals Board Members Prohibited From Representing Taxpayers For Compensation
§ 1636.2	Add	SB 1231	Ch. 941	Assessment Appeal Hearing Officer Prohibited From Representing Taxpayers For Compensation
§ 1636.5	Add	SB 1231	Ch. 941	Assessment Appeal Hearing Officer - Employees Required To Notify Clerk When Appeal Filed

TABLE OF SECTIONS AFFECTED CONTINUED

SECTIONS		BILL NUMBER	CHAPTER NUMBER	SUBJECT
Revenue & Taxation Code				
Private Railroad Car Tax				
§ 11253	Add	AB 1638	Ch. 929	Installment Payment Plan
§ 11254	Add	AB 1638	Ch. 929	Return of Levied Property
§ 11409	Add	AB 1638	Ch. 929	Interest Relief Employee Errors or Delays
Timber Yield Tax				
§ 38455	Add	AB 1638	Ch. 929	Interest Relief Employee Errors or Delays
§ 38504	Add	AB 1638	Ch. 929	Installment Payment Plan
§ 38505	Add	AB 1638	Ch. 929	Return of Levied Property
§ 38621	Amend	AB 1638	Ch. 929	Erroneous Refunds Recovery
§ 38624	Add	AB 1638	Ch. 929	Erroneous Refunds Interest Relief
§ 38631	Amend	SB 1231	Ch. 941	Refunds Exceeding $50,000