

Amend Revenue and Taxation Code Section 1604 to clarify that the two year period that an assessment appeals board has to decide appeals before a property owner's opinion of value becomes controlling applies to supplemental and escape assessment appeals.

Source: Legal Department

Existing Law

A taxpayer may appeal the assessed value of his or her property for property tax purposes by filing an application for reduction in assessment with the county assessment appeals board. Revenue and Taxation Code Section 1603, subdivision (a), allows taxpayers to file applications appealing assessments on the regular assessment roll (the annual assessment), and Section 1603, subdivisions (b)-(d), prescribe the deadlines for filing such applications. Section 1605, subdivision (b), allows taxpayers to appeal assessments made outside the regular assessment period (escape and supplemental assessments) by filing applications under Section 1603, subdivision (a), but within the time periods prescribed by Section 1605, subdivisions (b), (c), and (e).

In either case, the application requires that the taxpayer state an opinion of value. In order to encourage assessment appeals boards to hear and decide applications in a timely manner, Section 1604, subdivision (c) provides that if the appeals board fails to hear evidence and make a final determination on the application within two years of the application, the taxpayer's opinion of market value, as reflected on the application, will be the value upon which taxes are to be levied for the tax year covered by the application. If the applicant's opinion of value is enrolled, because the application was not timely heard and decided, that value is to remain on the roll until the appeals board makes a final determination on that application.

Some readers are uncertain about whether the two-year period for hearing and deciding appeals in Section 1604, subdivision (c), applies to applications for reductions of escape and supplemental assessments. This uncertainty appears to be caused by redundant language in the first sentence of Section 1604, subdivision (b)(1), and references to Section 80, subdivision (a), in section 1604, subdivision (d). However, the legislative history regarding the enactment and subsequent amendments to Section 1604, subdivision (c), do not contain any statements indicating that the Legislature intended to limit the application of subdivision (c) to application appealing regular assessments. In addition, in LTA 1995/56 the Board opined that “[w]hile not free of doubt, we are of the opinion that the two-year period also applies to those applications filed outside the regular period under Section 1605” and there no longer seems to be any dispute

Background

The Tax Section of the California State Bar annually sponsors an informal working meeting for tax administrators and tax professionals to discuss issues

affecting California tax administration in an objective environment. The meeting is referred to as "Eagle Lodge West."

One property tax issue discussed at the 2009 meeting was a lack of clarity with respect to whether the two-year time limit for hearing local property tax appeals applies to appeals of supplemental and escape assessments filed under Section 1605, in addition to appeals of assessments on the regular roll that are filed under Section 1603. Therefore, the group drafted the following clarifying, non-substantive amendments to address this issue:

- Deleted the first sentence of subdivision (b) (1) of Section 1604 which states "(a)ny taxpayer may petition the board for a reduction in an assessment by filing an application pursuant to Section 1603" to remove the implication that the provisions of Section 1604, subdivision (c), are limited to applications appealing assessments on the regular roll filed pursuant to Section 1603.
- Modified the second sentence of subdivision (b)(1) of Section 1604 to clarify that the remaining provisions in subdivision (b)(1) continue to apply to applications filed under Section 1603.
- Deleted the two references to Section 80, subdivision (a), in Section 1604, subdivision (d), so that they would no longer create an ambiguity with subdivision (c).
- Deleted a date reference that is now effectively obsolete for applications filed post 01/01/83.

In addition, for internal consistency with terms used throughout the text, the following clarifying amendments were made:

- Substitute "It" for the "The Board;"
- Substitute "application" for "petition;"
- Substitute "county board" for "assessment appeals board;"
- Substitute "applicant" for "taxpayer;"
- Substitute "tax year" for "tax year or tax years;" and
- Substitute "opinion of value" for "opinion of market value."

This Proposal

This proposal would make the changes recommended at the conference. The Tax Section has requested that the amendments agreed to by the working group be sponsored by the Board and enacted into law as part of the Board's annual property tax omnibus bill.

Revenue and Taxation Code Section 1604 is amended to read:

1604. (a) (1) In counties of the first class, annually, on the fourth Monday in September, the county board shall meet to equalize the assessment of property on the local roll. ~~The board~~ It shall continue to meet for that purpose, from time to time, until the business of equalization is disposed of.

(2) In all other counties, annually, on the third Monday in July, the county board shall meet to equalize the assessment of property on the local roll. It shall continue to meet for that purpose, from time to time, until the business of equalization is disposed of.

(b) (1) ~~Any taxpayer may petition the board for a reduction in an assessment by filing an application pursuant to Section 1603.~~ An application for a reduction in an assessment filed pursuant to Section 1603 shall also constitute a sufficient claim for refund, if the applicant states in the application that the application is also intended to constitute a claim for refund pursuant to the provisions of Section 5097.

(2) The county board shall have no power to receive or hear any ~~petition~~ application for a reduction in an escaped assessment made pursuant to Section 531.1 nor a penal assessment levied in respect thereto, nor to reduce those assessments.

(c) If the county assessment appeals board fails to hear evidence and fails to make a final determination on the application for reduction in assessment of property within two years of the timely filing of the application, the applicant's taxpayer's opinion of market value as reflected on the application for reduction in assessment shall be the value upon which taxes are to be levied for the tax year or tax years covered by the application, unless either of the following occurs:

(1) The ~~taxpayer~~ applicant and the county assessment appeals board mutually agree in writing, or on the record, to an extension of time for the hearing.

(2) The application for reduction is consolidated for hearing with another application by the same ~~taxpayer~~ applicant with respect to which an extension of time for the hearing has been granted pursuant to paragraph (1). In no case shall the application be consolidated without the ~~taxpayer's~~ applicant's written agreement after the two-year time period has passed or after an extension of the two-year time period previously agreed to by the ~~taxpayer~~ applicant has expired.

The reduction in assessment reflecting the ~~taxpayer's~~ applicant's opinion of ~~market~~ value shall not be made, however, until two years after the close of the filing period during which the timely application was filed. Further, this subdivision shall not apply to applications for reductions in assessments of property where the ~~taxpayer~~ applicant has failed to provide full and complete information as required by law or where litigation is pending directly relating to the issues involved in the application. ~~This subdivision is only applicable to applications filed on or after January 1, 1983.~~

(d) (1) When the applicant's opinion of value, as stated on the application, has been placed on the assessment roll pursuant to subdivision (c), and the application requested a reduction in the base year value of an assessment ~~pursuant to subdivision (a) of Section 80,~~ the applicant's opinion of value shall remain on the roll until the county board

makes a final determination on the application. The value so determined by the county board, plus appropriate adjustments for the inflation factor, shall be entered on the assessment roll for the fiscal year in which the value is determined. No increased or escape taxes other than those required by a purchase, change in ownership, or new construction, or resulting from application of the inflation factor to the applicant's opinion of value shall be levied for the tax years during which the county board failed to act.

(2) When the applicant's opinion of value has been placed on the assessment roll pursuant to subdivision (c) for any application other than an application requesting a reduction in a base year value ~~filed pursuant to subdivision (a) of Section 80~~, the applicant's opinion of value shall be enrolled on the assessment roll for the tax year or tax years covered by that application.

(e) The county board shall notify the applicant in writing of any decision by that board not to hold a hearing on his or her application for reduction in assessment within the two-year period specified in subdivision (c). This notice shall also inform the applicant that the ~~taxpayer's~~ applicant's opinion of value as reflected on the application for reduction in assessment shall, as a result of the county board's failure to hold a hearing within the prescribed time period, be the value upon which taxes are to be levied in the absence of the application of either paragraph (1) or (2) of subdivision (c).