

**Amend Revenue and Taxation Code Sections 441 and 441.5 to provide for the electronic filing of business property statements.**

**Source: Legal Division and Property Taxes Department**

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 required by Revenue and Taxation Code Section 441. 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. When the aggregate cost of the taxable personal property is one hundred thousand dollars or more, taxpayers are required to file a signed property statement each year with the assessor. Under current law, business property statements must be "signed" which generally requires a manual or "wet" signature. The signature also serves to declare, under the penalty of perjury, that the information contained in the statement is true.

Many states have implemented forms of electronic transmission of returns and both the Internal Revenue Service and the Franchise Tax Board are currently accepting returns through the use of electronic media. Additionally, the Board is authorized to accept sales and use tax returns by electronic media and the Board is currently sponsoring legislation (Suggestion No. 4-1) which would authorize the Board to accept Special Taxes Program returns by electronic media and to prescribe the method of authenticating those returns.

With respect to property taxes, at least one county in California has begun accepting electronically filed property statements and many more counties are exploring the possibility.

This proposal would provide specific authorization for assessors to accept business property statements filed electronically. Additionally, it addresses the signature requirement under current law by allowing business property statements filed by taxpayers to be authenticated by means other than a traditional signature. This would afford taxpayers and assessors with the opportunity to take advantage of the many benefits of electronic filing.

Section 441 of the Revenue and Taxation Code is amended to read:

441. (a) Each person owning taxable personal property, other than a mobilehome subject to Part 13 (commencing with Section 5800), having an aggregate cost of one hundred thousand dollars (\$100,000) or more for any assessment year shall file a signed property statement with the assessor. Every person owning personal property that does not require the filing of a property statement or real property shall, upon request of the assessor, file a signed property statement. Failure of the assessor to request or secure the property statement does not render any assessment invalid.

(b) The property statement shall be declared to be true under the penalty of perjury and filed annually with the assessor between the lien date and 5 p.m. on April 1. The penalty provided by Section 463 applies for property statements not filed by May 7. If May 7 falls on a Saturday, Sunday, or legal holiday, a property statement that is mailed and postmarked on the next business day shall be deemed to have been filed between the lien date and 5 p.m. on May 7. If, on the dates specified in this subdivision, the county's offices are closed for the entire day, that day is considered a legal holiday for purposes of this section.

(c) The property statement may be filed with the assessor through the United States mail, properly addressed with postage prepaid. For purposes of determining the date upon which the property statement is deemed filed with the assessor, the date of postmark as affixed by the United States Postal Service, or the date certified by a bona fide private courier service on the envelope containing the application, shall control. This subdivision shall be applicable to every taxing agency, including, but not limited to, a chartered city and county, or chartered city.

(d) At any time, as required by the assessor for assessment purposes, every person shall make available for examination information or records regarding his or her property or any other personal property located on premises he or she owns or controls. In this connection details of property acquisition transactions, construction and development costs, rental income, and other data relevant to the determination of an estimate of value are to be considered as information essential to the proper discharge of the assessor's duties.

(e) In the case of a corporate owner of property, the property statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign the statements on behalf of the corporation.

(f) In the case of property owned by a bank or other financial institution and leased to an entity other than a bank or other financial institution, the property statement shall be submitted by the owner bank or other financial institution.

(g) The assessor may refuse to accept any property statement he or she determines to be in error.

(h) If a taxpayer fails to provide information to the assessor pursuant to subdivision (d) and introduces any requested materials or information at any assessment appeals board hearing, the assessor may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in subdivision (c) of Section 1604 for a period of time equal to the period of the continuance.

(i) Notwithstanding any other provision of law, every person required to file a property statement pursuant to this section shall be permitted to amend that property statement until May 31 of the year in which the property statement is due, for errors and omissions not the result of willful intent to erroneously report. The penalty authorized by Section 463 shall not apply to an amended statement received prior to May 31, provided the original statement is not subject to penalty pursuant to subdivision (b). The amended property statement shall otherwise conform to the requirements of a property statement as provided in this article.

(j) This subdivision shall apply to the oil, gas, and mineral extraction industry only. Any information that is necessary to file a true, correct, and complete statement shall be made available by the assessor, upon request, to the taxpayer by mail or at the office of the assessor by February 28. For each business day beyond February 28 that the information is unavailable, the filing deadline in subdivision (b) shall be extended in that county by one business day, for those statements affected by the delay. In no case shall the filing deadline be extended beyond June 1 or the first business day thereafter.

(k) The assessor may accept the filing of a property statement by the use of electronic media. In lieu of the signature required by subdivision (a) and the declaration under penalty of perjury required by subdivision (b), property statements filed using electronic media shall be authenticated pursuant to methods specified by the assessor and approved by the board. Electronic media includes, but is not limited to, computer modem, magnetic media, optical disk, and facsimile machine.

Section 441.5 of the Revenue and Taxation Code is amended to read:

441.5. In lieu of completing the property statement as printed by the assessor pursuant to Section 452, the information required of the taxpayer may be furnished to the assessor as attachments to the property statement provided that the attachments shall be in a format as specified by the assessor and ~~that:~~

(a) one copy of the property statement, as printed by the assessor, is executed signed by the taxpayer and carries appropriate reference to the data attached; or,

(b) the statement is filed electronically and authenticated as provided in subdivision (k) of section 441.