STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	**6/10/02**	Bill No:	**SB 2092**
Tax:	**Property & Sales Tax**	Author:	**Senate Revenue and Taxation Committee**
Board Position:	**Board-Sponsored**	Related Bills:	

BILL SUMMARY

This bill contains Board of Equalization sponsored provisions to:

- Substitute the term "manufactured home" for "mobilehome" in various sections of the Property Tax Law. *§§62, 62.1, 172, 172.1, 181, 194, 197, 441, 480.4, 482, 5801*

- Correct cross reference error. *§62.2*

- Reinstates the parental or executor signature requirement on parent-child change in ownership exclusion claims. *§63.1*

- Related to base year value transfers to manufactured homes located in a mobilehome park would:
  - Define "land" to include a pro rata interest in a resident-owned mobilehome park.
  - Extend the claim deadline to allow prospective relief for resident-owned mobilehome parks recently reassessed for pro rata changes in ownership. *§69.5*

- Provide follow up to the recent the assessment appeals deadline extension to:
  - Delete various code references to uniform September 15th deadline. *§§75.51, 2611.6, 620.5*
  - Clarify that deadline per county is either September 15th or November 30th for all property (real and personal) on either roll (secured or unsecured) dependent upon whether notices are provided to real property on the secured roll. *§1603*
  - Require the assessor to notify the clerk and tax Collector by April if he or she will be sending notices to taxpayers by August 1. *§1603*
  - Require the clerk to notify the BOE of county's deadline so the BOE will maintain a statewide list of all county's filing deadlines. *§1603*
  - Clarify that publication of values in newspaper does not suffice as notice. *§621*

- Increase the tax limitation on supplemental assessments that can be cancelled by the assessor from $20 to $50. *§75.55*

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

- Provide additional administrative provisions for the Indian Tribal Owned Low-Income Housing exemption to:
  - Provide that an annual claim is required to be filed. *§§254, 259.13*
  - Provide a partial exemption for claims filed late. *§270*
  - Provide the exemption to property acquired after the lien date. *§271*
  - Modify the definition of lower income households. *§237*

- Provide follow up to recent changes to the disabled veterans' exemption to:
  - Correct cross reference to statute of limitations provisions for refunds and cancellations. *§276*
  - Give disabled veterans additional time file a claim when the USDVA disability rating is received close to lien date. *§276.1*
  - Extend the exemption to property owned by a disabled veteran but not lived in on the lien date. *§276.2*
  - Provide that an escape assessment will be issued on a property for a mid-year termination of exemption. *§§276.3, 531.1*

- Provide specific authorization for e-filing business personal property statements and address signature requirements. *§§441, 441.5*

- Permit a county board of supervisors to adopt an ordinance to decline to assess escape assessments when it is not cost effective, but not to exceed $50 in revenue. *§531.9*

- Correct erroneous code section references. *§§ 755, 756*

- Make numerous technical and housekeeping changes related to manufactured homes:
  - Clarify that supplemental assessments are not to be made upon conversion from the VLF to local property tax. *§5802*
  - Clarify that supplemental assessments are to be made upon a change in ownership or completion of new construction. *§5802*
  - Add BOE Cost Handbook as a value guide and correct names of publications of commercially prepared value guides. *§5803*
  - Delete obsolete provisions related to transfer to local property taxation due to VLF delinquency. *§5831*
  - Correct cross reference errors. *§§5811, 5813*

- Amend the definition of "motor vehicle" to clarify that the allocation of local sales and use tax on leased vehicles is limited to passenger vehicles (other than a house car) and light-duty pickup trucks. *§7205.1*

ANALYSIS

Property Tax

Manufactured Homes vs. Mobilehomes

Revenue and Taxation Code §§62, 62.1, 172, 172.1, 181, 194, 197, 441, 480.4, 482, 5801

Current Law

Under current law, the term “manufactured home” is essentially synonymous with the term “mobilehome” for property tax purposes.

Section 5801 of the Revenue and Taxation Code states that the term “manufactured home” as used in Part 13 means either a “mobilehome” or a “manufactured home” and references the Health and Safety Code for a specific definition of each. In turn, those definitions essentially reference each other.

Health and Safety Code Section 18007 defines a "manufactured home," as

> “a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under this part. "Manufactured home" includes a mobilehome subject to the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, et seq.).

Health and Safety Code Section 18008 defines a "mobilehome" as

> “a structure that meets the requirements of Section 18007” and it specifically excludes three items from the definition of a mobilehome: (1) a commercial coach, as defined in Section 18001.8, (2) factory-built housing, as defined in Section 19971, and (3) a recreational vehicle, as defined in Section 18010.

In 1991, Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code was amended to change its title from “The Mobilehome Property Tax Law” to “The Manufactured Home Property Tax Law.” Additionally, it substituted the term “manufactured home” for “mobilehome” within each section of the part (AB 2227 - Stats. 1991, Ch. 796). However, miscellaneous other sections of property tax law in Division 1 of the Revenue and Taxation Code still use the term “mobilehome.”

Proposed Law

This bill would amend Sections 62, 172, 172.1, 181, 194, 197, 441, 480.4, and 482, and the heading of Chapter 2.6 (commencing with Section 172) of Part 1 of Division 1 of the Revenue and Taxation Code to substitute the term "manufactured home" for "mobilehome."

Comments

1. **Sponsor and Purpose.** This bill is sponsored by the Board of Equalization to conform the remaining references to mobilehomes to the term manufactured homes. This bill will eliminate questions as to whether, for property tax purposes, there is a substantive distinction between the two terms.

2. **Amendment.** The April 8 amendment additionally amends Section 5801 to address concerns expressed by some interested parties, that for some purposes, which are not related to property taxes, there is a definite distinction between laws applicable to "mobilehomes" and those applicable to "manufactured homes." The amendment to Section 5801 specifies that wherever the term "manufactured home" is used in property tax law (Part 0.5, Part 1, Part 2, and Part 13) it means both a "manufactured home" as defined in Section 18007 of the Health and Safety Code and a "mobilehome" as defined in Section 18008 of the Health and Safety Code.

3. **Mobilehome Parks.** This bill does not propose to change the phrase "mobilehome park," which is found in various sections of property tax law, to "manufactured home park". This is an intentional omission since some interested parties object to such a name change.

4. **Suggested Amendment - Technical Housekeeping.** Unrelated to the purpose of this bill, Section 62 (g) (at page 5, line 30), has an extra word, "and," that should be deleted. The extra "and" makes the sentence nonsensical as the purpose of the sentence is conclusively to presume a 35 year renewal option exists when in fact there is no such renewal option. Additionally, similar phrasing in another section of law, Section 61(c), does not include the word "and." To correct this typo, the following amendment is suggested:

   > "For the purpose of this subdivision, for the 1979-80 and each fiscal year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than manufactured homes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), that are on leased land ~~and~~ have a renewal option of at least 35 years on the lease of that land, whether or not in fact that renewal option exists in any contract or agreement."

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Mobilehome Park Conversion to Resident Ownership

Revenue and Taxation Code §62.2

Current Law

Existing property tax law requires property to be reassessed at current market value whenever there is a change in ownership. However, Revenue and Taxation Code Section 62.1 excludes certain transfers of mobilehome parks from change in ownership reassessment if the tenants who rent the individual spaces in the park purchase it either directly or through a legal entity owned by the tenants.

In some conversions to resident ownership, prior to the transfer of the mobilehome park to the resident-tenants, there is an interim transfer of the park to a non-tenant owned entity. A separate section of law, Revenue and Taxation Code Section 62.2, allows the change of ownership exclusion of Section 62.1 to still apply when there has been such an "interim transfer." The purpose of the holding by the non-tenant owned entity is to facilitate the tenants' ultimate purchase by essentially providing "bridge financing" while the tenants work to obtain the necessary resources to purchase the park. Generally, the law provides that the interim holding period by the non-tenant entity may not exceed 18 months, but, in certain instances, it can be extended to as much as 36 or 76 months, as specified.

Last year, Assembly Bill 1457 (Ch. 772, Keeley, Stats. 2001) amended Section 62.1 to address issues related to pro-rata changes in ownership of parks after a change in ownership exclusion has been granted. This bill also added reporting requirements whereby parks must annually provide certain information to county assessors regarding changes in ownership within the park. The various provisions of AB 1457 resulted in the renumbering of Section 62.1. Related to this bill, former subdivision (a) of Section 62.1 has been renumbered as paragraph (1) of subdivision (a) and former subdivision (b) of Section 62.1 has been renumbered as paragraph (2) of subdivision (a). Consequently, the existing references to Section 62.1 found in Section 62.2 are incorrect.

Proposed Law

This bill would amend Section 62.2 to correct the cross reference errors created by the recent amendments to Section 62.1.

Comments

This bill would correct cross-reference errors created by amendments to Section 62.1 in the prior Legislative session related to mobilehome park conversions to resident ownership.

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Parent-Child Change In Ownership Exclusion

Revenue and Taxation Code §63.1

Current Law

Last year, Senate Bill 1184 (Chap. 613, Stats. 2001) amended Section 63.1 of the Revenue and Taxation Code to reduce the number of signatures required on claims for the parent-child change in ownership exclusion. Previously all transferors (generally the parents) and all transferees (generally the children) were required to sign the claim form. SB 1184 deleted the requirement that the transferors sign the claim and allowed, where there are multiple transferees, the signature of only one transferee.

Proposed Law

This bill would amend Section 63.1 of the Revenue and Taxation Code to reinstate the parental signature requirement on the parent-child change in ownership exclusion claim form.

Comments

1. **Two unintended consequences of eliminating the transferor (parental) signature have been identified.** The first occurs in situations where the parents own, in addition to a principal place of residence, more than one million dollars of other property. The parent-child exclusion is limited to the first one million dollars of property claimed. Since the parent, or the executor of the estate, is no longer required to sign the claim form, the parent can not direct which property or child is to receive the property tax benefits of the exclusion when property holdings will be subject to the one million dollar cap. Instead, the *first* sibling(s) to file a claim will receive the exclusion. Reinstating the signature requirement will give the parent, or the executor of the estate, the ability to determine how best to use the one million dollar limit.

   The second unintended consequence occurs in situations where the parent sells or transfers their principal residence to their child with the intention of transferring the base year value from that property to a replacement property. Revenue and Taxation Code Section 69.5 provides property tax relief by allowing a person who is over the age of 55 or disabled to sell his/her principal place of residence (original property) and transfer, under certain conditions, the base year value of that property to a qualifying replacement residence (replacement property). One of the conditions is that the sale of the original property must trigger a reassessment to its current market value. (There are two exceptions to this requirement: (1) the new buyers are transferring their base year value from their original property because their home had been damaged in a disaster (Section 69 and 69.3); or (2) the new buyer is over 55 or disabled and is also claiming a base year value transfer under Section 69.5). If a child files a claim for the parent-child exclusion, which no longer requires the parental signature, then the parent is ineligible to receive a base-year value transfer since the original property will not be reassessed. Reinstating the parental signature and adding to the form a declaration that the parent will not claim a base year value transfer on that property will preserve the parent's right to claim, if desired, a base year value transfer. Senate Bill 1184 was sponsored by the California Assessors' Association (CAA). Board staff has conferred with the CAA on the unintended consequences of eliminating the parental signature and the association is agreeable to its reinstatement.

Base Year Value Transfers and Resident Owned Mobilehome Parks

Revenue and Taxation Code §69.5

Current Law

Revenue and Taxation Code Section 69.5 provides that persons over the age of 55 years and disabled persons may, subject to many conditions and limitations, transfer the base year value of their primary residence to a newly acquired replacement residence. Section 69.5, subdivision (c) provides the guidelines for base year value transfers for manufactured homes and states that the relief may be available if the original property or the replacement dwelling, or both, includes a mobilehome, or a mobilehome and any land owned by the claimant on which the mobilehome is situated.

Additionally, Section 69.5, subdivisions (g)(9) and (11) define "claimant" as any person claiming the Section 69.5 property tax relief, and "person" as "any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind." Certain persons own their mobilehomes as individuals, but the land on which the mobilehomes are situated is owned by a legal entity in which they hold pro rata ownership interests.

Proposed Law

This bill would amend Section 69.5 of the Revenue and Taxation Code to permit base year value transfers for persons over 55 and the disabled who live in certain resident-owned mobilehome parks.

Comments

1. **Under existing law, Revenue and Taxation Code Section 62.1 excludes certain transfers of mobilehome parks from change in ownership reassessment if the tenants who rent the individual spaces of the park purchase it either directly or through a legal entity owned by the tenant-residents.** Section 62.1, subdivision (b) provides that when a resident-owned entity buys the park, if that legal entity does not thereafter convert the form of ownership to condominium, limited equity, or cooperative ownership, then any transfer of the shares of stock or ownership interests in the entity results in a pro rata change in ownership in the park real property for the portion of ownership interests which have transferred. In other words, once the residents who participated in the original purchase of the park sell or otherwise transfer their ownership interests in the park, that particular share in the park would be reassessed to current market value.

2. **Many counties have recently discovered that they have not reassessed these pro rata changes in ownership.** During the process of updating the Assessors' Handbook Section 511, Assessment of Manufactured Homes and Parks, and the discovery of these parks, the question arose as to the application of base year value transfers under Section 69.5 in resident owned parks when the park is held by a resident-owned entity. In studying this issue, Board staff opined that when a taxpayer purchases a manufactured home subject to local property taxation and a space in a manufactured home park that is owned by a resident-owned entity, the statute, on its face, reads that only the manufactured home may receive the benefits of Section 69.5 because the purchase of a share in a resident-owned entity would not constitute a purchase of land. Thus, that particular share in the park would be reassessed to current market value.

3. **While Section 69.5 contemplates the situation where a manufactured home is on a lot or space owned by the individual, it does not address the less common situation where the lots or spaces are instead held by a resident-owned legal entity.** This bill would amend Section 69.5 to directly address this particular situation. This clarification would guarantee that persons over the age of 55 and disabled persons could transfer a base year value of land as well as the improvement to and from manufactured homes parks owned by resident owned legal entities.

4. **Claim Deadlines.** Beginning January 1, 2002, counties will revalue resident-owned mobilehome parks so that their values reflect any changes in ownership between January 1, 1989 and January 1, 2002 that were not previously reflected in the value of the mobilehome park. (See Assembly Bill 1457 (Stats. 2001, Ch. 772)). Some mobilehome park tenants subject to this reassessment will be precluded from receiving a base year value transfer, even though they are otherwise qualified, because the period to file a claim, which is three years from the date they sold an original property, has expired. This bill would amend Section 69.5 to allow these residents to file a base year value transfer claim within three years of the reappraisal of the pro rata share of the mobilehome park so that they can receive a base year value transfer.

Assessment Appeal Filing Period

Revenue and Taxation Code §§75.51, 1603, 2611.6, 620.5

Current Law

Last year the Board sponsored Assembly Bill 645 (Ch. 238, Horton) to amend Section 1603 to extend the assessment filing deadline in those counties that do not notify assessees of the value of their real property prior to their receiving their tax bill. Since the enactment of these changes, further points needing clarification have surfaced. The following additional changes are needed to clarify last year's change and update miscellaneous code sections affected by AB 645.

Proposed Law

This bill would amend Sections 75.51, 1603, and 2611.6, and repeal Section 620.5 of, the Revenue and Taxation Code to provide clarification of the assessment appeal deadline extension and conform other sections of law to recent law changes.

Comments

1. **Single County-Wide Deadline.** The existing sentence structure of Section 1603 relates to an appeals deadline for an individual taxpayer rather than the county as a whole. In those counties that send value notices to some taxpayers, the question has been raised whether only those specific persons that were not sent a value

notice receive the benefit of the deadline extension, or if the deadline applies to all taxpayers in the county. This bill would clarify that the deadline extension is a general county-wide deadline if the assessor does not provide notice to all assessees. Each county would have either a deadline of September 15 or November 30 for all property located in the county.

2. **Newspaper Publication of Values.** Some assessors have questioned if publication of values in a newspaper, as permitted by Section 621, rather than a specific notice to the taxpayer, as specified in Section 619, would be a permissible means of excluding a county from extending their deadline. This bill would clarify that a personal notice to the taxpayer is required and specifically states that the newspaper publications may not be substituted as a means of notice for purpose of the extension.

3. **Notify Clerk and Tax Collector.** The clerk of the county board of equalization and the county tax collector needs to be timely notified of whether the assessor will send value notices. This information is needed for the clerk to notice the county's filing period, as required by Section 1601, as well as finalize his or her documents and various publications. Additionally, the tax collector must have this information to print the appeals period information on the tax bill as required by Section 2611.6. This bill would establish a requirement that the assessor notify the clerk and tax collector by April 1, if notices will be provided or not.

4. **BOE Statewide Listing.** This bill would establish a requirement that the Board of Equalization maintain a statewide listing of the appeals period for each county so that the Board, counties, tax practitioners, and taxpayers may depend on a central source for the information. County clerks would be responsible for providing this information to the Board.

5. **Miscellaneous Code Reference updates.** Additionally, this bill updates current references in Revenue and Taxation Code 75.51 and 2611.6 to the July 2 to September 15 period, to reflect the changes to the appeals period, and repeals Section 620.5, which provides a November 15 appeals deadline for property acquired after the lien date that has been effectively obsolete since the establishment of supplemental assessments.

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Supplemental Assessments – Low Value Exemption

Revenue and Taxation Code §75.55

Current Law

Section 1(a) of Article XIII of the California Constitution provides that all property is taxable unless otherwise provided by that constitution or the laws of the United States. Section 7 of Article XIII provides that the Legislature, two-thirds of the membership of each house concurring, may authorize a county board of supervisors to exempt real property having a full value so low that, if not exempt, the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them.

The Legislature enacted Revenue and Taxation Code Section 155.20 to provide the necessary statutory implementation. Section 155.20 authorizes a county board of supervisors to exempt from property tax real property with a base year value and personal property with a full value so low that, if not exempt, "the total taxes, special assessments, and applicable subventions on the property would amount to less than the cost of assessing and collecting them." This exemption is commonly referred to as the "low-value ordinance" exemption.

With respect to supplemental assessments, Revenue and Taxation Code Section 75.55 provides that a county board of supervisors may, by ordinance, permit the county (presumably this means the county auditor or tax collector) to cancel supplemental tax bills which are less than $20, or less than $50 for mobilehome accessories. Alternatively, a county board may adopt an ordinance allowing the *assessor* to cancel the supplemental assessments in the first place. The provision allowing the assessor to cancel the supplemental assessment in the first instance was added in 1990 (AB 3843, Ch. 1494) and sponsored by the Stanislaus County Assessor's Office. The purpose of giving the assessor authority to cancel the supplemental assessment was to relieve the county of unnecessary administrative costs in making supplemental assessments resulting in tax bills that would ultimately be cancelled.

Proposed Law

This bill would amend Section 75.55 of the Revenue and Taxation Code to increase the limits on supplemental assessments that may be cancelled to be equivalent to the low-value ordinance exemption limits in Section 155.20 by: (1) increasing the maximum cancellation amounts from $20 to $50; and (2) deleting obsolete language concerning mobilehome accessories.

Comments

1. **The maximum supplemental assessment amounts that may be cancelled under Section 75.55 have generally tracked the low-value ordinance exemption amounts provided in Section 155.20.** But, because of the supplemental assessment proration factors, they relate to an equivalent amount of tax rather than assessed value. The cancellation limits in Section 75.55 have not changed since 1991. Since then, the Board of Equalization sponsored legislation in 1995 to amend

Section 155.20 to increase the maximum amount of the low-value ordinance, from $2,000 to $5,000 for all property (SB 722, Stats. 1995, Ch. 497). Additionally Section 155.20 was further amended in 1996 to allow counties to create a special low-value ordinance for certain possessory interests at a $50,000 level (SB 1737, Stats. 1996, Ch. 570). Also in 1996, the language in Section 155.20 relating to a $5,000 limit for certain mobilehome accessories was eliminated since it was made obsolete by the 1995 increase to $5,000 for all property. Thus, the $20 and $50 limits currently found in Section 75.55 relate to the pre-1995 low-value ordinance assessment limits of $2,000 for most property and $5,000 for mobilehome accessories, found in Section 155.20.

2. **This bill would conform Section 75.55 to Section 155.20 by increasing, from $20 to $50, the maximum amount of tax that may be cancelled due to a supplemental assessment.** This bill would also eliminate the unnecessary language specific to mobilehome accessories. (The provisions related to certain possessory interests found in Section 155.20 are not included in Section 75.55 since interests in counties with such ordinances are exempt from taxation in the first instance and therefore do not result in a supplemental assessment requiring cancellation.)

Tribal-Owned Low Income Rental Housing

Revenue and Taxation Code §§237, 254, 259.13, 270, 271

Current Law

Under Revenue and Taxation Code Section 237, (newly enacted in 1999), rental housing owned and operated by a federally recognized Indian tribe or its tribally designated housing entity (TDHE) is exempt from property tax to the extent that the housing is occupied by low-income tenants, and at least 30% of the units are occupied by low-income tenants. The exemption is independent of the welfare exemption and is not cross-referenced in any of the other administrative provisions for exemptions. This has resulted in various uncertainties that require resolution in order to administer the exemption.

Proposed Law

This bill would amend Sections 237, 254, 270, and 271 of, and add Section 259.13 to, the Revenue and Taxation Code to provide filing requirements, late filing relief and post lien date acquisition relief for the Indian tribal owned low-income housing exemption and to conform the definition of “low-income” to that of the federal Native American Housing and Self Development Act and other housing financing programs.

Comments

The following amendments are intended to provide clarity and consistency for the administration of the newly created exemption.

1. **Annual Affidavit Requirements.** This bill would clarify that an annual claim form is required to receive the exemption. Additionally, it would clearly define the types of information to include with the claim in order to identify the portion of the property eligible for exemption in the upcoming tax year. It also would provide for a simplified annual re-filing process in each county once the initial exemption has been granted on the property to avoid unnecessary and duplicative paperwork.
2. **Filing Deadline.** The claim would be required to be filed between January 1 and February 15, the same period of time for other exemptions.
3. **Late Filing Relief.** Late filing relief is also provided to prevent the loss of the exemption if the deadline is missed. This bill would amend Section 270 of the Revenue and Taxation Code to add tribal housing to existing provisions allowing a partial exemption for claims for the tribal-owned housing exemption filed after February 15. Specifically, if the claim is filed after February 15, but before the following January 1, then 90% of any tax or penalty would be cancelled or refunded. If the claim is filed on or after the following January 1, then 85% of any tax or penalty would be cancelled or refunded. However, in no event would the tax or penalty assessed on the exempt tribal-owned housing be more than $250.
4. **Post-Lien Date Acquisition Relief.** This bill would add the tribal-owned housing exemption to the exemptions listed in Section 271 to allow for the cancellation or refund of taxes on property on the regular roll that is acquired by various exempt organizations after the lien date (January 1) but prior to the beginning of the fiscal year (July 1). It allows for a similar cancellation or refund of taxes for organizations that do not come into existence until after the lien date and thereafter acquire property before the beginning of the fiscal year. This would provide tribal-owned housing the same acquisition relief now available to all other exempt housing.
5. **Expansion of Definition of Lower Income Households to Include Financing Programs or Agreements.** To make the determination of eligibility for the exemption the assessor would be required to have a certification from the tribe or TDHE that at least 30% of the units are occupied by tenants from "lower income households." The existing statute defines "lower income household" by reference to Health and Safety Code Section 50079.5, which in turn references an annual listing of household income limits broken down by county and household size derived from the US Department of Housing and Urban Development (HUD) statistics. Although derived from the same HUD statistics, the "low-income" definition for the major funding program for low-income tribal housing programs (NAHASDA, the Native American Housing and Self Development Act) can vary somewhat from the Department of Housing and Community Development (HCD) figures, potentially requiring the tribes and tribal housing authorities to perform multiple tenant income verifications for program and tax exemption eligibility. Although the current statute takes into account differences between the allowable rental charges under the Health and Safety Code and the applicable financing program, the income limits are tied exclusively to the HCD figures through Section 50079.5. This bill would change the definition of "lower income household" to include a household that came within the strictures of the applicable federal, state, or local financing assistance program or agreement, even if outside the HCD limits.

Disabled Veterans' Exemption

Revenue and Taxation Code §§276, 276.1, 276.2, 276.3, 531.1

Current Law

In 2000, various legislation (i.e., AB 2562, SB 1362, and SB 2195) amended and enacted various sections of the Revenue and Taxation Code to expand the availability of the disabled veterans' exemption.

Proposed Law

This bill would amend Revenue and Taxation Code Sections 276, 276.1, 276.2, 276.3, and 531.1, relative to the disabled veterans' exemption, to 1) correctly identify the appropriate authority for the statute of limitations period for claims for refunds; 2) provide a reasonable time for a claimant to file with an assessor; 3) allow the exemption on existing property owned by a claimant; 4) provide additional situations for the termination of the exemption; and 5) authorize escape assessments upon the termination of the exemption.

Comments

These amendments are intended to simply provide technical corrections and minor amendments to facilitate the availability and administration of the exemption.

1. **Refunds.** Under current law, Section 276 provides for a 90% or 85% partial exemption for late-filed claims for the disabled veterans' exemption. Section 276.1 allows a claimant to retroactively qualify for the disabled veterans' exemption if his or her disability rating was not received on a timely basis from the United States Department of Veterans Affairs (USDVA). Situations can occur in which a claimant receives his or her disability rating in late December and not have adequate time to complete a timely filing for the exemption with the assessor. This amendment would provide a reasonable time period for a claimant to file with the assessor by automatically allowing either 30 days from the receipt of the disability rating from the USDVA, or on or before the following lien date, whichever occurs later.

2. **Technical amendments.** This bill would also provide technical amendments to Sections 276 and 276.1 to correctly identify the appropriate statutory authority for the cancellation of taxes and the statute of limitations period for the refund of taxes.

3. **Portability.** Existing Sections 276.2 and 276.3 together provide for the portability of the disabled veterans' exemption from one property to another. Section 276.2 currently provides for an individual to file a claim for the exemption for property acquired after the lien date. Section 276.3 currently provides for the termination of the exemption when an individual sells or otherwise transfers the property to a person ineligible for the exemption. This bill would amend Section 276.2 to allow an individual to claim the disabled veterans' exemption on property already owned by the individual on the lien date but in which he or she did not reside on that date.

Section 276.3 would be amended to allow an exemption to terminate on an old residence on the date that the exemption is applied for on a new residence or, if an individual does not apply for the exemption on a new residence, the exemption to terminate on the old residence on the date that the individual ceases to reside at that location.

4. **Escape assessments.** This bill would amend Section 531.1 to specifically authorize escape assessments on property after the termination of an exemption pursuant to Section 276.3. The proposed amendment to Section 276.3 includes a reference to Section 531.1 authorizing such escape assessments.

Business Property Statements - Electronic Filing

Revenue and Taxation Code §§441, 441.5

Current Law

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.

Proposed Law

This bill would amend Revenue and Taxation Code Sections 441 and 441.5 to provide for the electronic filing of business property statements.

Comments

1. **Electronic Filing for other tax programs.** 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 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 two counties in California have begun accepting electronically filed property statements and many more counties are exploring the possibility.
2. **This bill 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.

Escape Assessments

Revenue and Taxation Code §531.9

Current Law

Under existing law, Section 531 of the Revenue and Taxation Code provides that if any property on the local roll has escaped assessment, the assessor is required to assess the property upon discovery. Unlike the low-value ordinance exemption provided by Revenue and Taxation Code Section 155.20 and the supplemental assessment exemption provided by Revenue and Taxation Code Section 75.55, there is no direct authority for assessors to exempt any escape assessment regardless of how small the taxes owed may be. In practice many, if not most, assessors neglect to make such small escape assessments because of the administrative waste of processing such a small tax bill. Under current law, however, there is no direct authority for assessors to fail to make such assessments. As a result, the Board commonly recommends in its assessment practices surveys that counties discontinue this practice.

Proposed Law

This bill would add Section 531.9 to the Revenue and Taxation Code to provide that a board of supervisors may authorize an assessor to not issue escape assessments when the cost of assessing and collecting taxes exceeds the taxes due.

Comments

This bill would allow a board of supervisors to authorize an exemption of escape assessments when the cost of assessing and collecting taxes exceeds the amount of proposed taxes. It would thereby provide legal authority for actual assessment practices of county assessors and promote statewide uniformity, where there currently is no such uniformity regarding these unauthorized exemptions.

State-Assessed Property

Revenue and Taxation Code §§755, 756

Current Law

Under current law, Section 755 requires the Board of Equalization to transmit estimates of total state-assessed values to county auditors by July 15. Section 756 requires that the Board transmit the roll of state-assessed property to each county auditor by July 31. Both sections refer to section 98.9(i) in order to identify property that must be listed by revenue district.

Proposed Law

This bill would amend Sections 755 and 756 of the Revenue and Taxation Code to correct erroneous code section references.

Comments

1. **In 1993, a major overhaul of the statutes relating to property tax revenue apportionment was undertaken.** The results of the overhaul were codified by Chapter 1167 (Stats. 1994, AB 3347) which made technical clarifications, eliminated obsolete provisions, and reorganized the many statutes relating to property tax revenue allocation. In the reorganization, former Section 98.9 was repealed and the substance of its provisions were included in newly added Section 100. That bill essentially, but not technically, renumbered prior Section 98.9 as Section 100. The reorganization of the property tax revenue apportionment laws created a cross-referencing error in Sections 755 and 756.

2. **This bill would correct the code section referencing errors in the current law.** Additionally, subdivisions 100(j) and 100(k), which similarly identify property required to be allocated to specific tax rate areas, would be referenced in Sections 755 and 756 to reflect amendments to former Section 98.9 adopted subsequent to the 1987 revisions to Sections 755 and 756.

Manufactured Homes

Revenue and Taxation Code §§5802, 5803, 5811, 5812, 5813, 5831

Current Law

The Board of Equalization recently updated an Assessors' Handbook on manufactured homes. In that process Board staff discovered code section references which require updating, general housekeeping changes, and issues which would benefit from clarification.

Proposed Law

This bill would amend Revenue and Taxation Code Sections 5802, 5803, 5811, 5812, 5813, and 5831 to conform and clarify various provisions in property tax law related to manufactured homes.

Comments

1. **Supplemental Assessments - Conversion to Property Tax.** Current Section 5802 of the Revenue and Taxation Code provides that when a manufactured home is converted from the Vehicle License Fee (VLF) to the local property tax (LPT), the base year value shall be the value on the first lien date following the conversion. Board staff believes that when a manufactured home is converted from VLF status to LPT status, the initial base year value is not subject to supplemental assessment. Some county assessors disagree with staff's position with respect to manufactured homes that change ownership immediately following the conversion. These assessors believe that the home becomes subject to county assessment jurisdiction at the time it is converted. Normally the seller converts the home from VLF to LPT, then sells the home. These particular assessors state that since the home was subject to local property tax as a result of the conversion, it is subject to supplemental assessment when it changes ownership. The current law is not sufficiently clear.

   The amendments to Section 5802 would provide that if there is a change in ownership following the conversion and before the first lien date of enrollment, the base year value shall be the value as of the date of the ownership change. The amendments would also specify that the initial base year value is not subject to supplemental assessment.

2. **Value Guides.** Existing Section 5803 provides that the full cash value of a manufactured home on rented or leased land does not include any value attributable to the particular site where the manufactured home is located. The section further provides that in determining the full cash value of a manufactured home on rented or leased land, the assessor shall consider sales prices listed in recognized value guides. An oversight exists in that Section 5803, in listing such guides, does not reference the cost data (value guide) issued by the State Board of Equalization pursuant to Section 401.5. The Board annually issues cost factors for manufactured homes in Assessors' Handbook Section 531, *Residential Building Costs*. In practice, many county assessors are using the cost factors issued by the Board to ensure compliance with the provisions of Section 5803.

   This bill would clarify Section 5803 by adding a reference to Section 401.5. Additionally, this proposal would correct the title of the publication issued by the National Automobile Dealers Association (NADA).

3. **Code Reference Correction – Tax Rate.** Current Section 5811 provides that the appropriate tax rate shall be applied to the taxable value of a manufactured home in accordance with Section 2237. In 1981 (Stats. 1980, Ch. 1256) Section 2237 was repealed.

   This bill would amend Section 5811 to reflect the 1981 amendments to Section 2237.

4. **Supplemental Assessments – Change in Ownership or New Construction.** Current Section 5812 should contain provisions relating to supplemental assessment. In 1983 (Stats. 1983, Ch. 498) the Legislature added provisions for supplemental assessments so that reappraisal and reassessment would occur as of the date of a change in ownership or completion of new construction rather than waiting until the next lien date.

   This bill would amend Section 5812 to add the specific authority to issue a supplemental assessment pursuant to Section 75.5.

5. **Code Reference Correction – Inflation Factor.** Existing Section 5813 provides that the taxable value for a manufactured home shall include an inflation factor as determined by the percentage change in the cost of living according to the California Consumer Price Index. In January 1985 (Stats. 1984, Ch. 1164) the provisions for determining the inflation factor were placed in Section 51.

   This bill would amend Section 5813 to reflect the 1985 amendments to Section 51.

6. **Code Reference Correction – VLF Delinquency.** Section 5831 provides that when a manufactured home is to be placed on the local roll because the manufactured home's license fee has become delinquent for 120 days or more, the assessor must notify the assessee and legal owner of the home's taxable value. In 1985 (Stats. 1984, Ch. 1760) Section 5812 was amended to repeal the provision whereby a manufactured home with delinquent license fees automatically becomes subject to property taxation.

   This bill would amend Section 5831 to reflect the 1985 amendments to Section 5812.

Sales and Use Tax Law

Place of Sale - Leases of Motor Vehicles

Revenue and Taxation Code §7205.1

Current Law

Section 7205.1 was added by Senate Bill 602 (Ch. 676, Stats. 1995) in an effort to change the allocation of the Bradley-Burns Uniform Local Use Tax for leases of vehicles. Instead of the 1 percent tax being allocated to the county "pool" in which the lessee resides, where each taxing jurisdiction within the county receives its proportionate share of this use tax, SB 602 required, in the case of a motor vehicle

being leased by a new car dealer, that the tax be allocated to the place of business of that dealer. SB 602 further required that, for lessors other than new car dealers, the tax be allocated to the place of business of the dealer from whom that lessor purchased the vehicle.

Section 7205.1 also defines "motor vehicles" as a motor vehicle as provided in Section 415 of the Vehicle Code. Section 415 of the Vehicle Code defines a motor vehicle as any vehicle that is self propelled. However, based on the legislative intent of SB 602, the Board interpreted motor vehicles as applying only to passenger vehicles and pickup trucks under one ton.

Section 7205.1 was amended, effective January 1, 1999, by Assembly Bill 1946 Ch. 140, Stats. 1998) to include leases of new and used motor vehicles in the allocation procedures. The amendment also extended the provisions under Section 7205.1 to "leasing companies," as specified. In addition, a new section was added with the following provisions:

- If the motor vehicle dealer/lessor originates lease contracts and does not sell or assign the lease contracts, and
- If the motor vehicle dealer/lessor has motor vehicle lease receipts of $15,000,000 or more annually, for any business location, then
- The 1% local use tax due on motor vehicle lease receipts shall be allocated to the jurisdiction in which the leasing company has its place of business.

Proposed Law

This bill would amend Section 7205.1 of the Bradley-Burns Uniform Local Sales and Use Tax Law to provide that the definition of motor vehicles is limited to self-propelled passenger vehicles and light-duty pickup trucks for the purpose of allocating local use tax imposed with respect to a lease of a new or used motor vehicle.

Background

One previous Board-sponsored bill was introduced to clarify the definition of motor vehicles in Section 7205.1. Senate Bill 529 (Wright), introduced during the 1997 legislative session, would have clarified the definition of motor vehicles. However, SB 529 met opposition due to an unrelated issue and the Local Sales and Use Tax provisions were amended out of the bill with the understanding that the Board would continue to administer the statute as applying only to passenger vehicles and light-duty pickup trucks and would adopt a regulation accordingly.

Comments

Purpose. On September 13, 2000, the Board adopted the proposed Regulation 1803.5, *Long-Term Leases of Motor Vehicles*, to interpret and explain the provisions of Section 7205.1, and to clarify the definition of motor vehicle. Regulation 1803.5 defined motor vehicle to mean a passenger vehicle and a pickup truck under one ton.

However, on November 27, 2000, the Office of Administrative Law (OAL) disapproved the proposed Regulation 1803.5, on the basis that the definition of motor vehicle in the regulation was narrower than the definition provided in Section 7205.1. Section 7205.1 provided that the definition of motor vehicle is "as defined in Section 415 of the Vehicle Code." Section 415 of the Vehicle Code defines a motor vehicle as any vehicle that is self-propelled. The OAL concluded that because the definition in the regulation was substantially narrower than the definition in the statute, that the Board was attempting to amend the statute by regulation. Although, the OAL found other minor problems with the regulation, its basis for rejecting the regulation was the narrower definition of "motor vehicle." Currently, Regulation 1803.5 is being held in abeyance pending the amendment to Section 7205.1.

COST ESTIMATE

Property Tax

The Board would incur some minor, absorbable costs in informing and advising county assessors, the public, and staff of the change in law.

Sales Tax

Any costs associated with this provision would be absorbable.

REVENUE ESTIMATE

Property Tax

This bill would have a minimal revenue impact.

Sales Tax

This provision would not affect state revenues. It would very minimally impact local tax allocations.

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This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.