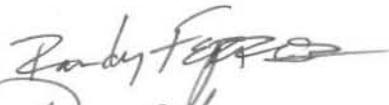
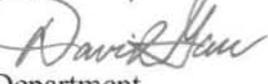


Memorandum

To: Honorable Jerome E. Horton, Chairman
Honorable Michelle Steel, Vice Chair
Honorable Betty T. Yee, First District
Senator George Runner, Second District
Honorable John Chiang, State Controller

Date: May 9, 2012

From: Randy Ferris, Chief Counsel 
David Gau, Deputy Director 
Property and Special Taxes Department

Subject: **Board Meeting, May 30-31, 2012**
Chief Counsel Matters - Item J - Rulemaking
Proposed Rule 100 Change to Property Tax Rule 263

We request your authorization to complete Rule 100 changes to Property Tax Rule 263, *Roll Corrections*. The changes reformat subdivision (a), incorporate the amendments made to Revenue and Taxation Code section 4831 by Senate Bill No. 947 (Stats. 2011, ch. 351) into subdivision (b), and replace "Section" with "section" in subdivision (g) of the rule. The attached Statement of Explanation includes a detailed description of the proposed changes and a strikeout and underlined version of the rule illustrating the proposed changes. The changes are appropriate for processing under Rule 100 without the normal notice and public hearing process because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

If you have any questions regarding this request, please let me know or contact Mr. Bradley Heller, at (916) 323-3091.

Item J
May 30-31, 2012

Recommendation by:

Approved:


 Randy Ferris, Chief Counsel


 Kristine Cazadd, Executive Director

Approved:

BOARD APPROVED

At the _____ Board Meeting


 David Gau, Deputy Director
 Property and Special Taxes Department

 Joann Richmond, Chief
 Board Proceedings Division

Attachment

Statement of Explanation for Changes to Property Tax Rule 263, *Roll Corrections*.

cc (with attachments):

Ms. Joann Richmond	MIC:80
Ms. Christine Bisauta	MIC:82
Mr. Richard Moon	MIC:82
Mr. Bradley Heller	MIC:82
Mr. Dean Kinnee	MIC:64
Ms. Glenna Schultz	MIC:64

CHANGES WITHOUT REGULATORY EFFECT UNDER CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Title 18. Public Revenues Rule 263, *Roll Corrections*

A. Factual Basis

Chapter 2 (commencing with section 101) of division 1 of title 18 of the California Code of Regulations contains property tax rules the State Board of Equalization (BOE) has adopted in accordance with Government Code section 15606 to govern county assessors when assessing property under division 1, *Property Taxation*, (commencing with section 50) of the Revenue and Taxation Code (RTC). The BOE hereby proposes to reformat subdivision (a) of California Code of Regulations, title 18, section (Rule) 263, *Roll Corrections*, change subdivision (b) of Rule 263 to incorporate the amendments made to RTC section 4831 by Senate Bill No. (SB) 947 (Stats. 2011, ch. 351.), and replace “Section” with “section” in subdivision (g) of Rule 263 under California Code of Regulations, title 1, section (Rule) 100.

The second sentence in subdivision (a) of Rule 263 is formatted as subdivision (a)(1), even though the extra formatting is unnecessary because subdivision (a) only contains two sentences and there is no subdivision (a)(2). Accordingly, the BOE now proposes to reformat subdivision (a), under Rule 100, so that there is no longer a separate subdivision (a)(1).

RTC section 4831 prescribes the periods in which county assessors are authorized to correct errors and omissions on county assessment rolls and Rule 263, subdivision (b), incorporates the provisions of RTC section 4831, subdivision (c), prescribing the period in which an assessor is authorized to correct an “error or omission involving the exercise of assessor value judgment that arises solely from a failure to reflect a decline in the taxable value” of real property. Section 18 of SB 947 amended section 4831, subdivision (c), so that its provisions apply to errors and omissions involving “floating homes subject to taxation pursuant to Section 229 [of the RTC], and manufactured homes subject to taxation under Part 13 (commencing with section 5800)” of the RTC, in addition to errors and omissions regarding real property. Accordingly, the BOE proposes to change subdivision (b) of Rule 263, under Rule 100, to incorporate the amendments made to RTC section 4831 by SB 947.

Furthermore, subdivisions (b), (c), and (d) of Rule 263 use the term “section” to refer to sections of the RTC; however, subdivision (g) of Rule 263 uses the term “Section” to refer to RTC section 441. Accordingly, the BOE proposes to replace “Section” with “section” in Rule 263, subdivision (g), under Rule 100 so that the rule consistently uses the term “section” to refer to RTC sections.

B. Proposed Changes

Reformat Rule 263, subdivision (a), incorporate the amendments made to RTC section 4831 by SB 947 into Rule 263, subdivision (b), and replace “Section” with “section” in Rule 263, subdivision (g), under Rule 100.

The foregoing changes are appropriate for processing under Rule 100 because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision. Furthermore, the changes are necessary to update the format of Rule 263, subdivision (a), make the rule consistent with the amendments made to RTC section 4831 by SB 947, and ensure that the rule uses consistent terminology to refer to RTC sections.

PROPOSED CHANGES

Change Rule 263 (Roll Corrections) to read as follows:

Property Tax Rule 263. Roll Corrections.

(a) Any error or omission not involving the exercise of value judgment which results in an incorrect entry or entries on the roll may be corrected after the roll is delivered to the auditor, provided that the correction is made within four years after the making of the assessment that is being corrected.

~~(1)~~ If an error or omission not involving the exercise of value judgment is discovered as the result of an audit of a taxpayer's books and records, that error or omission may be corrected at any time prior to the expiration of six months after the completion of the audit.

(b) Any error or omission involving the exercise of value judgment that arises solely from a failure to reflect a decline in the taxable value of real property, floating homes subject to taxation pursuant to Revenue and Taxation Code section 229, and manufactured homes subject to taxation under Part 13 (commencing with section 5800) of the Revenue and Taxation Code, as required by paragraph (2) of subdivision (a) of Revenue and Taxation Code section 51, shall be corrected within one year after the making of the assessment that is being corrected.

(c) Any incorrect entry on the roll resulting from a defect of description or clerical error, as determined by the assessor upon audit, made by the assessee in the property statement or in other information or records which causes the assessor to assess taxable tangible property which was not subject to assessment or to assess taxable tangible property at a substantially higher value may be corrected under this article. The correction shall be made after the roll is delivered to the auditor within the time period for making escape assessments as provided in sections 532 and 532.1. The change to be made on the roll shall be certified to the auditor by the assessor.

(d) If a correction will increase the amount of unpaid taxes, the assessor shall notify the assessee of the procedure for obtaining review by the county board under section 1605 and the procedure for applying for cancellation under section 4986.

(e) If a correction will decrease the amount of unpaid taxes, the consent of the board of supervisors is necessary to make the correction.

(f) Corrections authorized under this rule shall be made by the auditor upon delivery of the relevant information by the assessor.

(g) The provisions of this rule do not apply to escape assessments caused by the assessee's failure to report the information required by Article 2 (commencing with ~~section~~Section 441) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code, and roll corrections are not a prerequisite for escape assessments or base year value corrections.

(h) If the roll of any taxing agency in the course of preparation is lost or destroyed because of public calamity and is reconstructed from available data, at any time before the declaration of default, the assessor may correct any erroneous assessment. The assessor shall:

(1) Send certified notices of the correction to the tax collector, the auditor, and the Controller.

(2) Enter the date and nature of the correction with reference to the property for which the correction is being made

(i) On receipt of satisfactory, verified, written evidence that taxes have been entered on the secured roll as a lien on real property on which they are not legally a lien, the assessor shall transmit the evidence and his or her cancellation to the auditor. On direction of the board of supervisors, the auditor shall cancel the entry as a lien on that real property and reenter such taxes as follows:

(1) If the assessee has real property sufficient, in the assessor's opinion, to secure the payment of the taxes, as a lien on real property.

(2) Where there is not sufficient real property to secure the taxes on locally-assessed property, the taxes shall be placed on the unsecured roll. In the case of state-assessed property, the taxes shall be placed on the secured roll.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 4831, 4831.5, 4834, 4835, 4836, 4838 and 4840, Revenue and Taxation Code.