STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
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November 13, 2009

To Interested Parties:

Notice of Proposed Regulatory Action
by the
State Board of Equalization

Notice of Proposed Regulatory Action

The State Board of Equalization Proposes to Adopt Amendments to California Code of Regulations, Title 18, Sections:

192, *Mandatory Audits,*
193, *Scope of Audit,* and
371, *Significant Assessment Problems*

NOTICE IS HEREBY GIVEN

The State Board of Equalization (Board), pursuant to the authority vested in it by Government Code sections 15606, subdivisions (a), (c), and (g), 15640, subdivision (f), and 15643, subdivision (b), and Revenue and Taxation Code (RTC) section 75.60, subdivision (b)(3), proposes to amend California Code of Regulations, title 18, sections (Rules) 192, *Mandatory Audits*, 193, *Scope of Audit*, and 371, *Significant Assessment Problems*. The proposed amendments to Rule 192 implement, interpret, and make specific RTC sections 106, 469, and 470. The proposed amendments to Rule 193 implement, interpret, and make specific RTC sections 469, 502, 503, 531, 531.3, 531.4, 532, and 532.1. The proposed amendments to Rule 371 implement, interpret, and make specific RTC section 75.60 and Government Code section 15643. The proposed amendments to Rules 192, 193, and 371 reflect and provide guidance to county assessors regarding the new procedures for auditing taxpayers engaged in a profession, trade, or business who own, claim, possess, or control locally assessable trade fixtures and business tangible personal property required by recent amendments to RTC section 469 made by Statutes 2008, chapter 297 (Assembly Bill No. 550 (2007-2008 Reg. Sess.), section 2, effective January 1, 2009. The proposed amendments to

Rules 192, 193, and 371 also make grammatical and formatting changes, update the citations in the authority and reference notes, and make the rules gender neutral.

A public hearing on the proposed amendments will be held in Room 121, 450 N Street, Sacramento, at 9:30 a.m., or as soon thereafter as the matter may be heard, on January 26, 2010. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the proposed amendments. In addition, if the Board receives written comments prior to the hearing on January 26, 2010, the statements, arguments, and/or contentions contained in those comments will be presented to and considered by the Board before the Board decides whether to adopt the proposed amendments to Rules 192, 193, and 370.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Prior to its amendment by Statutes 2008, chapter 297, section 2 (Assembly Bill No. 550 (2007-2008 Reg. Sess.), effective January 1, 2009, RTC section 469 required county assessors to audit taxpayers that own, claim, possess, or control locally assessable trade fixtures and business tangible personal property with a full value of at least $400,000, at least once every four years. The Board adopted Rule 192 to provide guidance to county assessors regarding the mandatory audit requirement and the Board adopted Rule 193 to provide guidance regarding the scope of audits performed pursuant to Rule 192. The Board adopted Rule 371 to provide guidance to county assessors regarding the assessment practices surveys the Board conducts pursuant to Government Code section 15640, and Rule 371, subdivision (b)(4), refers to mandatory audits conducted in accordance with Rule 192.

Statutes 2008, chapter 297 (Assembly Bill No. 550 (2007-2008 Reg. Sess.), section 2, amended RTC section 469, effective January 1, 2009. The amendments deleted the mandatory audit requirement and replaced the mandatory audit requirement with a new requirement that county assessors conduct a "significant number of audits" of taxpayers that own, claim, possess, or control locally assessable trade fixtures and business tangible personal property as specified in RTC section 469.

The proposed amendments to Rule 192 replace the mandatory audit requirement with the new requirement that county assessors conduct a "significant number of audits" of taxpayers that own, claim, possess, or control locally assessable trade fixtures and business tangible personal property as specified in RTC section 469. The proposed amendments also add a citation to RTC section 106, which defines personal property, to the reference note for Rule 192.

The proposed amendments to Rule 193 clarify the scope of the new audit requirement. The proposed amendments to Rule 193 clarify the circumstances under which the disclosure of a discrepancy or irregularity during a taxpayer's audit will require a county assessor to perform additional audits. The proposed amendments to Rule 193 divide

subdivision (a) into two smaller subdivisions, make the references to the Board consistent, replace the word "section" with the word "Rule," and make the rule gender neutral. In addition, the proposed amendments add citations to RTC sections 502, 503, 531, 531.3, 531.4, 532, and 532.1 to the reference note for Rule 193.

The proposed amendments to Rule 371 delete the word "mandatory" and the reference to Rule 192 from subdivision (b)(4). The proposed amendments to Rule 371 capitalize the first letter in the word "board's" in subdivision (a)(2), make the first letter of the word "Section" lower case in subdivisions (a), (b), and (c), and change the word "Sections" to "section" and delete the period in "et." in subdivision (b)(5) and (6). The proposed amendments also add citations to Revenue and Taxation Code section 75.60, subdivision (b)(3), and Government Code sections 15606, subdivisions (a) and (g), 15640, subdivision (f), and 15643, subdivision (b), to the authority note for Rule 371.

The purposes of the proposed amendments are to make Rules 192, 193, and 371 consistent with the recent amendments to RTC section 469, make other grammatical and formatting changes, update the citations in the rules' authority and reference notes, and make the rules gender neutral. The proposed amendments to Rules 192, 193, and 371 are necessary to provide guidance to county assessors that is consistent with the recent amendments to RTC section 469, make
grammatical and formatting changes, update the citations in the rules' authority and reference notes, and make the rules gender neutral.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the proposed amendments to Rules 192, 193, and 371 do not impose a mandate on local agencies or school districts that are required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES, AND SCHOOL DISTRICTS

The Board has determined that the proposed amendments to Rules 192, 193, and 371 will result in no direct or indirect cost or savings to a State agency, any costs to local agencies or school districts that are required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The proposed amendments to Rules 192, 193, and 371 make the rules consistent with recent amendments to RTC section 469, make grammatical and formatting changes, update the citations in the rules' authority and reference notes, and make the rules gender neutral. Therefore, pursuant to Government Code section 11346.5, subdivision (a)(8), the Board has made an initial determination that the adoption of the proposed amendments to Rules 192, 193, and 371 will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed regulation may affect small business.

RESULTS OF THE ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The adoption of the proposed amendments to Rules 192, 193, and 371 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

COST IMPACT ON PRIVATE PERSON OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

The adoption of the proposed amendments to Rules 192, 193, and 371 will not have a significant effect on housing costs.

FEDERAL REGULATIONS

Rules 192, 193, and 371 have no comparable federal regulations.

AUTHORITIES

Rule 192: Government Code section 15606.

Rule 193: Government Code section 15606.

Rule 371: Revenue and Taxation Code section 75.60, subdivision (b)(3); and Government Code sections 15606, subdivisions (a), (c), and (g), 15640, subdivision (f), and 15643, subdivision (b).

REFERENCES

Rule 192: Revenue and Taxation Code sections 106, 469, and 470.

Rule 193: Revenue and Taxation Code sections 469, 502, 503, 531, 531.3, 531.4, 532, and 532.1

Rule 371: Revenue and Taxation Code section 75.60; and Government Code section 15643.

CONTACT

Questions regarding the substance of the proposed regulation should be directed to Mr. Bradley Heller, telephone (916) 324-2657, at 450 N Street, Sacramento, CA 95814, email Bradley.Heller@boe.ca.gov or MIC: 82, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Ms. Toya Davis, Regulations Coordinator, telephone (916) 327-1798, fax (916) 324-3984, email Toya.Davis@boe.ca.gov or MIC: 80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080. Alternative contact, Mr. Richard Bennion, telephone 9916) 445-2130, fax (916) 324-3984, email *Richard.Bennion@boe.ca.gov* or MIC:80, P.O. Box 942879, 450 N Stret, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an Initial Statement of Reasons and underscored and strikeout versions of the text of Rules 192, 193, and 371, which illustrate the proposed amendments. These documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public

inspection at 450 N Street, Sacramento, California. The express terms of the proposed amendments and the Initial Statement of Reasons are also available on the Board's Web site at *www.boe.ca.gov*.

SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8

The Board may adopt the proposed amendments to Rules 192, 193, and 371 with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the resulting amendments, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting amendments will be mailed to those interested parties who commented on the proposed amendments orally or in writing or who asked to be informed of such changes. The text of the resulting amendments will also be available to the public from Ms. Davis. The Board will consider written comments on the resulting amendments that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the proposed amendments to Rules 192, 193, and 371 the Board will prepare a Final Statement of Reasons. The Final Statement of Reasons will be made available on the Board's Website at *www.boe.ca.gov.* It will also be available for public inspection at 450 N Street, Sacramento, California.

Sincerely

Diane G. Olson

Diane G. Olson, Chief
Board Proceedings Division

STATE BOARD OF EQUALIZATION

BOARD APPROVED

At the 1/27/10 Board Meeting

Diane G. Olson

Diane G. Olson, Chief
Board Proceedings Division

INITIAL STATEMENT OF REASONS

Proposed Amendments to California Code of Regulations, Title 18, Sections:

192, *Mandatory Audits,*
193, *Scope of Audit,* and
371, *Significant Assessment Problems*

Factual Basis

Prior to its amendment by Statutes 2008, chapter 297, section 2 (Assem. Bill No. 550 (2007-2008 Reg. Sess.), effective January 1, 2009, Revenue and Taxation Code (RTC) section 469 required county assessors to audit taxpayers that own, claim, possess, or control locally assessable trade fixtures and business tangible personal property with a full value of at least $400,000, at least once every four years. The Board adopted California Code of Regulation, title 18, section (Rule) 192 to provide guidance to county assessors regarding the mandatory audit requirement and the Board adopted Rule 193 to provide guidance regarding the scope of audits performed pursuant to Rule 192. The Board adopted Rule 371 to provide guidance to county assessors regarding the assessment practices surveys the Board conducts pursuant to Government Code section 15640, and Rule 371, subdivision (b)(4), refers to mandatory audits conducted in accordance with Rule 192.

Statutes 2008, chapter 297 (Assem. Bill No. 550 (2007-2008 Reg. Sess.), section 2, amended RTC section 469, effective January 1, 2009. The amendments deleted the mandatory audit requirement and replaced the mandatory audit requirement with a new requirement that county assessors conduct a "significant number of audits" of taxpayers that own, claim, possess, or control locally assessable trade fixtures and business tangible personal property as specified in RTC section 469.

The proposed amendments to Rule 192 replace the mandatory audit requirement with the new requirement that county assessors conduct a "significant number of audits" of taxpayers that own, claim, possess, or control locally assessable trade fixtures and business tangible personal property as specified in RTC section 469. The proposed amendments also add a citation to RTC section 106, which defines personal property, to the reference note for Rule 192.

The proposed amendments to Rule 193 clarify the scope of the new audit requirement. The proposed amendments to Rule 193 clarify the circumstances under which the disclosure of a discrepancy or irregularity during a taxpayer's audit will require a county

assessor to perform additional audits. The proposed amendments to Rule 193 divide subdivision (a) into two smaller subdivisions, make the references to the Board consistent, replace the word "section" with the word "Rule," and make the rule gender neutral. In addition, the proposed amendments add citations to RTC sections 502, 503, 531, 531.3, 531.4, 532, and 532.1 to the reference note for Rule 193.

The proposed amendments to Rule 371 delete the word "mandatory" and the reference to Rule 192 from subdivision (b)(4). The proposed amendments to Rule 371 capitalize the first letter in the word "board's" in subdivision (a)(2), make the first letter of the word "Section" lower case in subdivisions (a), (b), and (c), and change the word "Sections" to "section" and delete the period in "et." in subdivision (b)(5) and (6). The proposed amendments also add citations to Revenue and Taxation Code section 75.60, subdivision (b)(3), and Government Code sections 15606, subdivisions (a) and (g), 15640, subdivision (f), and 15643, subdivision (b), to the authority note for Rule 371.

Specific Purpose

The specific purposes of the proposed amendments are to make Rules 192, 193, and 371 consistent with the recent amendments to RTC section 469, make other grammatical and formatting changes, update the citations in the rules' authority and reference notes, and make the rules gender neutral.

Necessity

The proposed amendments to Rules 192, 193, and 371 are necessary to provide guidance to county assessors that is consistent with the recent amendments to RTC section 469, make grammatical and formatting changes, update the citations in the rules' authority and reference notes, and make the rules gender neutral.

Documents Relied Upon

Staff in the Board's County-Assessed Properties Division (CAPD) issued Letter to Assessors Number 2009/022 to county assessors and interested parties on May 20, 2009. The letter advised the county assessors and interest parties about the recent amendments to RTC section 469 and solicited their comments regarding draft amendments to Rules 192, 193, and 371, which were attached to the letter.[1] On August 28, 2009, CAPD staff finalized Issue Paper 09-004,[2] which requested the Board's authorization to begin the process of amending Rules 192, 193, and 371 to incorporate the draft amendments. The Board relied upon Issue Paper 09-004 in deciding to authorize staff to amend Rules 192, 193, and 371 to incorporate the draft amendments.

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[1] Letter to Assessors 2009/022 is available at http://www.boe.ca.gov/proptaxes/pdf/lta09022.pdf.
[2] Issue Paper 09-004 is available at http://www.boe.ca.gov/proptaxes/pdf/IssuePaper-PTRules192_193_371.pdf.

Reasonable Alternatives

The Board did not reject any reasonable alternatives to the proposed amendments to Rules 192, 193, and 371. No alternative amendments were presented to the Board for consideration.

No Significant Adverse Economic Impact on Business

The proposed amendments to Rules 192, 193, and 371 make the rules consistent with recent amendments to RTC section 469, make grammatical and formatting changes, update the citations in the rules' authority and reference notes, and make the rules gender neutral. Therefore, the Board has determined that the proposed amendments will not have a significant adverse economic impact on business.

Proposed Amendments to California Code of Regulations, Title 18, Section 192

192. ~~MANDATORY~~ AUDIT~~S~~ SELECTION.

(a) DEFINITIONS. For purposes of this regulation:

(1) "Personal property" means all property except real property.

(2) "Business tangible personal property" means personal property used in a profession, trade, or business, and shall include vessels and/or aircraft if used in a profession, trade, or business.

(3) "Trade fixtures" means any fixtures that are used in connection with a trade or business.

(4) "Farming" is a business. When conducting an audit pursuant to this section of a farming or ranching operation, the assessor must determine whether any racehorses taxable to the same taxpayer pursuant to Part 12 of Division 1 of the Revenue and Taxation Code have been underreported or escaped assessment.

(5) "Significant number of audits" means at least 75 percent of the fiscal year average of the total number of audits the assessor was required to have conducted from the 2002–03 fiscal year to the 2005–06 fiscal year, inclusive, on those taxpayers in the county that had a full value of four hundred thousand dollars ($400,000) or more of locally assessable trade fixtures and business tangible personal property.

(6) "Taxpayers with largest assessments" means taxpayers that have the largest assessments of locally assessable trade fixtures and business tangible personal property in the county for the applicable year of audit selection.

(b) GENERAL PROVISIONS.~~(a)~~ The assessor must annually conduct a significant number of audits of the books and records of~~When a~~ taxpayers engaged in a profession, trade or business who owns, claim~~s~~, possess~~es~~, or control~~s~~ locally assessable trade fixtures and business tangible personal property in the~~any~~ county ~~which according to the assessor's records, has a combined full value that equals or exceeds the amount specified by Section 469 of the Revenue and Taxation Code for each of four consecutive lien dates, the assessor shall complete an audit of the taxpayer's books and records~~ to encourage the accurate and proper reporting of property.

~~(1) at least once within the four fiscal years following the first of such four consecutive lien dates, and~~
~~(2) at least once thereafter within each four-year period following the latest fiscal year covered by the preceding audit until relieved of this responsibility by subdivision (b) of this section.~~

~~Upon completion of an audit of the taxpayer's books and records, the taxpayer shall be given the assessor's findings in writing with respect to data that would alter any previously enrolled assessment.~~

(c) SIGNIFICANT NUMBER OF AUDITS. If the computation of the significant number of audits, as defined in subdivision (a)(5), does not result in a whole number, the number must be rounded before calculating the number of audits that must be performed on taxpayers selected from the pool of taxpayers with the largest assessments and the number of audits that must be performed on taxpayers selected from the pool of all other taxpayers in the county.

(1) Fifty percent of the significant number of audits must be performed on taxpayers selected from the p of taxpayers with the largest assessments.

(A) This pool of taxpayers must be selected from a list of taxpayers in the county, ranked in descending

order by the total locally assessed value of both trade fixtures and business tangible personal property.

(B) The qualified number of those taxpayers for inclusion in the pool must be that number equal to 50 percent of the significant number of audits multiplied by four.

(C) All taxpayers in the pool must be audited at least once within each four-year period following the latest fiscal year covered by a preceding audit and the audit may combine multiple fiscal years.

(D) The assessor is relieved of the requirement to audit the taxpayer at least once every four years if the assessor determines that the taxpayer's assessments are no longer large enough for inclusion in the pool. If such is determined, then the next ranking taxpayer not currently within the pool of taxpayers with the largest assessments must be added to the pool.

(E) The assessor is not required to audit a taxpayer that is fully exempt from property taxation under other provisions of law for purposes of the requirements of this section. Therefore, a taxpayer fully exempt from property taxation must not be included in the pool of taxpayers with the largest assessments.

(2) The remaining 50 percent of the significant number of audits must be selected by the assessor from among the pool of all taxpayers.

(A) These audits must be selected in a fair and equitable manner.

(B) These audits may be based on evidence of underreporting as determined by the assessor.

(3) If the significant number of audits is an odd number, the assessor must determine how to split the odd number audit.

~~(b) After such a taxpayer's holdings fall below the amount specified by Section 469 of the Revenue and Taxation Code on any one lien date, the assessor shall not be required to audit the taxpayer's books and records for that lien date and subsequent lien dates until the taxpayer's holdings again equal or exceed the amount specified by Section 469 of such code on four consecutive lien dates.~~

~~(c) For purposes of this rule, farming is a business. The assessor, when making an audit pursuant to this section of a farming or ranching operation, shall determine whether any racehorses taxable to the same taxpayer pursuant to Part 12 of Division 1 of the Revenue and Taxation Code have been underreported or escaped assessment.~~

~~(d) "Holdings" means the taxable value of locally assessable fixtures and the full cash value of locally assessable business personal property in the county.~~

~~A "fiscal year" is the governmental fiscal year of July 1 through June 30. "Fixtures" means any fixtures whose use or purpose directly applies to or augments the process or function of a profession, trade, or business.~~

(~~e~~d) OTHER AUDITS. Nothing herein shall be construed to prohibit an assessor from auditing the books and records of any taxpayer ~~or for any period for which audits are not required by paragraph (a)~~more frequently than once every four years.

(e) EXAMPLES. The following hypothetical examples illustrate the audit selection process.

Example 1: Prior to January 1, 2009, a county with a total number of mandatory audits of 800 during the 2002-2003 fiscal year to the 2005-2006 fiscal year was required to conduct 200 audits (800 ÷ 4) per year. This county's significant number of audits that must be conducted annually is 150 (75% x 200). Of the 150

annual significant number of audits, 75 (50% x 150) must be from the pool of the taxpayers with the largest assessments, and 75 (50% x 150) must be selected from among the pool of all other taxpayers in the county. The number of taxpayers with the largest assessments that must be audited on a four year cycle is 300 (150 x 50% x 4).

Example 2: Prior to January 1, 2009, a county with a total number of mandatory audits of 61 during the 2002-2003 fiscal year to the 2005-2006 fiscal year was required to conduct 15 audits (61 ÷ 4 = 15.25, rounded) per year. This county's significant number of audits that must be conducted annually is 11 (75% x 15.25 = 11.4375, rounded). Of the 11 annual significant number of audits, 5.5 (50% x 11) must be from the pool of the taxpayers with the largest assessments, and 5.5 (50% x 11) must be selected from among the pool of all other taxpayers in the county. The county assessor must determine how to split the odd number audit. The number of taxpayers with the largest assessments that must be audited on a four-year cycle is 22 (11 x 50% x 4). Therefore, during a four-year cycle, the county assessor would be required to audit five from the pool of taxpayers with the largest assessments in the county and six from among the pool of all other taxpayers in the county each year for two years; and six from the pool of taxpayers with the largest assessments in the county and five from among the pool of all other taxpayers in the county each year for the remaining two years.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 106, 469 and 470, Revenue and Taxation Code.

Proposed Amendments to California Code of Regulations, Title 18, Section 193

193. SCOPE OF AUDIT.

(a) When auditing a taxpayer under the requirements of ~~section~~Rule 192, an assessor may audit for only one of the fiscal years within the period specified in section 532 of the Revenue and Taxation Code if no discrepancy or irregularity is found in the fiscal year selected for audit unless one of the provisions of subdivision (b) apply.

(b) When a discrepancy or irregularity is found in the fiscal year first selected for audit, the assessor shall audit the remaining fiscal years for which the statute of limitations has not ~~run~~expired unless ~~he~~the assessor documents in the audit report his/her conclusion both that:

(1) ~~that t~~The discrepancy or irregularity in the fiscal year first selected is peculiar to that fiscal year; and

(2) ~~that t~~The discrepancy or irregularity did not ~~permit the assessment of~~disclose:

(A) an escape assessment under the provisions of Revenue and Taxation Code sections 469, 502, 503, 531.3, or 531.4; or

(B) an error that resulted in property being incorrectly valued or misclassified that caused the property to be assessed at a higher value than would have been on the roll if the error had not occurred. The error that caused the property to be assessed at a higher value than would have been on the roll must be of "material value" as defined in Rule 305.3.~~under the provisions of sections 502, 503, 531.3 or 531.4 of the Revenue and Taxation Code.~~

~~(b)~~(c) If property of a taxpayer who meets the requirements of ~~section~~Rule 192 is selected by the California State Board of Equalization (B~~b~~oard) as an assessment sample item as part of its assessment practices surveys, the assessor of the county surveyed may consider the Board's audit findings ~~of the board's Assessment Standards Division~~as the fulfillment of ~~section~~Rule 192, providing no discrepancy or irregularity exists between the findings and the corresponding property statement or report and providing ~~he~~the assessor maintains a copy of such findings in his/her files. If the assessor determines that the findings disclose a discrepancy or irregularity between the taxpayer's books and records and the corresponding property statement or report, ~~he~~the assessor shall ascertain the cause and audit all years within the statute of limitations ~~applicable to escape assessments~~.

~~(c)~~(d) Nothing herein shall be construed to prohibit an assessor from auditing or reauditing any or all statements or reports for which the statute of limitations has not ~~run~~expired or to define the circumstances in which property that has escaped assessment can be added to the roll.

(e) The statute of limitations may be extended through the execution of a mutually agreed upon waiver pursuant to Revenue and Taxation Code section 532.1.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 469, 502, 503, 531, 531.3, 531.4, 532 and 532.1, Revenue and Taxation Code.

Proposed Amendments to California Code of Regulations, Title 18, Section 371

371. SIGNIFICANT ASSESSMENT PROBLEMS.

(a) For purposes of Revenue and Taxation Code ~~S~~section 75.60 and Government Code ~~S~~section 15643, "significant assessment problems" means procedure(s) in one or more areas of an assessor's assessment operation, which alone or in combination, have been found by the Board to indicate a reasonable probability that either:

(1) the average assessment level in the county is less than 95 percent of the assessment level required by statute; or

(2) the sum of all the differences between the ~~b~~Board's appraisals and the assessor's values (without regard to whether the differences are underassessments or overassessments), expanded statistically over the assessor's entire roll, exceeds 7.5 percent of the assessment level required by statute.

(b) For purposes of this regulation, "areas of an assessor's assessment operation" means, but is not limited to, an assessor's programs for:

(1) Uniformity of treatment for all classes of property.

(2) Discovering and assessing newly constructed property.

(3) Discovering and assessing real property that has undergone a change in ownership.

(4) Conducting ~~mandatory~~ audits in accordance with Revenue and Taxation Code ~~S~~section 469~~ and Property Tax Rule 192~~.

(5) Assessing open-space land subject to enforceable restriction, in accordance with Revenue and Taxation Code ~~S~~section~~s~~ 421 et~~.~~ seq.

(6) Discovering and assessing taxable possessory interests in accordance with Revenue and Taxation Code ~~S~~section~~s~~ 107 et~~.~~ seq.

(7) Discovering and assessing mineral-producing properties in accordance with Property Tax Rule 469.

(8) Discovering and assessing property that has suffered a decline in value.

(9) Reviewing, adjusting, and, if appropriate, defending assessments for which taxpayers have filed applications for reduction with the local assessment appeals board.

(c) A finding of "significant assessment problems," as defined in this regulation, would be limited to the purposes of Revenue and Taxation Code ~~S~~section 75.60 and Government Code ~~S~~section 15643, and shall not be construed as a generalized conclusion about an assessor's practices.

Note: Authority cited: Section 75.60, subdivision (b)(3), Revenue and Taxation Code; and Sections 15606, subdivisions (a), (c), and (g), 15640, subdivision (f), and 15643, subdivision (b), Government Code. Refere Section 75.60, Revenue and Taxation Code; and Section 15643, Government Code.

Regulation History

Type of Regulation: Property Tax

Regulation: 192, 193, and 371

Title: 192, Mandatory Audits
193, Scope of Audits
371, Significant Assessment Problems

Preparation: Sherie Kinkle
Legal Contact: Bradley Heller

Clarify that the acceptable resale designation on a purchase order taken by the seller to support a valid qualified resale certificate is not limited to the phrase "for resale" and may include comparable terminology such as "not taxable." The combination of a purchase order with such designation and a valid qualified resale certificate shall be regarded as adequate support for a seller's sale for resale transaction.

History of Proposed Regulation:

November 13, 2009	OAL publication date; 45-day public comment period begins; IP mailing
October 30, 2009	Notice to OAL
October 6, 2009	PTC, Board Authorized Publication (Vote 5-0)
October 6, 2009	Property Taxes Committee
May 20, 2009	Letter to Assessors 2009/022

Sponsor:	NA
Support:	NA
Oppose:	NA