

Issue Paper Number 00-011



- Board Meeting
- Business Taxes Committee
- Customer Services and Administrative Efficiency Committee
- Legislative Committee
- Property Tax Committee
- Other

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## PROPERTY TAX RULE 305.3

### I. Issue

What direction should the Board give to staff on the following sub-issues in the drafting of proposed Property Tax Rule 305.3 to interpret Revenue and Taxation Code section 469?

1. Should the rule writing effort be delayed until resolution of pending litigation that may decide some of the issues?
2. Should the equalization provisions only apply to mandatory audits?
3. Should the equalization provisions apply to audits that disclose an overassessment and cause a refund?
4. Should the phrase "result of an audit" apply to the total net value per class of property for each year of the audit?
5. Should the low-value ordinance provisions in section 155.20 apply to escape assessments discovered during an audit?

### II. Staff Recommendation

Staff recommends that (1) the rule writing effort not be delayed despite pending litigation that may decide some of the issues; (2) the provisions only apply to mandatory audits; (3) the provisions apply only to property subject to escape assessment and not to refund situations; (4) the phrase "result of an audit" applies to the total net value per class of property for each year of the audit; and (5) the low-value ordinance provisions in section 155.20 may be applied to escape assessments.

### III. Other Alternative(s) Considered

#### Alternatives to Staff Recommendations (1), (2), (3), and (5)

The Board could specify that (1) the rule writing effort should be delayed; (2) the provisions apply to all audits; (3) the provisions apply to refund situations; and (5) the low-value ordinance provisions in section 155.20 do not apply to escape assessments.

#### Alternatives to Staff Recommendation (4)

- (a) The Board could specify that the phrase "result of an audit" applies to the value of each single piece of property within each class of property.
- (b) The Board could specify that the phrase "result of an audit" applies to the total value of all classes of property for each year of the audit.

## IV. Background

Under Government Code section 15606, subdivision (c), the Board is given the power and duty to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. Pursuant to that authority, the Board directed staff to draft a new section of Title 18 of the California Code of Regulations, Subchapter 3, Local Equalization Property Taxes Rules, to interpret Revenue and Taxation Code section 469.

Revenue and Taxation Code section 469 mandates that the county assessor audit at least once each four years the assessable trade fixtures and business tangible personal property of a profession, trade, or business that has a full value of \$300,000 or more. These audits are commonly referred to as "mandatory audits." Section 469 further provides:

If the result of an audit for any year discloses property subject to an escape assessment, then the original assessment of all property of the assessee at the location of the profession, trade, or business for that year shall be subject to review, equalization and adjustment by the county board of equalization or assessment appeals board pursuant to Chapter 1 (commencing with Section 1601) of Part 3 of this division, except in those instances when the property had previously been equalized for the year in question.

It is the interpretation of the above equalization provisions of section 469 that has generated controversy and necessitated promulgation of a Property Tax Rule. Property Taxes Department and Legal Division staff drafted proposed Property Tax Rule 305.3 to interpret and implement the equalization provisions of section 469. Board staff received input from the California Association of Clerks and Election Officials, the California Clerks of the Board of Supervisors Association, California Assessors' Association, County Counsels' Association of California, California Taxpayers' Association (Cal Tax), and industry representatives.

On February 25, 2000, staff held a meeting in Sacramento with interested parties to listen to comments, suggestions, and interpretive opinions regarding section 469 and the proposed rule. The issues that encompass the proposed rule are contentious and diverse among the interested parties, and no agreement or consensus was reached on any of the issues at the meeting. Therefore, it was decided that the rule writing effort would be accomplished in two stages.

First, the Board will receive input from interested parties at a Property Tax Committee meeting, and then decide/resolve five major issues. Second, staff will redraft the proposed rule based on the decisions rendered by the Board, and then resubmit the draft to interested parties for further comment. The redrafted Property Tax Rule will then go before the Property Tax Committee for adoption of the specific rule language.

Accordingly, the Board is asked to decide five major issues of controversy that will determine the scope, direction, and language of Property Tax Rule 305.3

## **V. Staff Recommendation 1**

Continue the rule writing effort despite pending litigation that may decide some of the issues.

### **A. Description of the Staff Recommendation**

Staff recommends that the rule writing project interpreting the equalization provisions of section 469 continue as approved in the Property Tax Committee work plans for 2000. Staff recognizes the existence of three court actions currently in progress where the equalization provisions of section 469 are the primary focus. It is the existence of these controversies that underscore the need for the Board to invoke its rule writing authority and clarify the equalization provisions of section 469.

In reality, there may be, and frequently is, pending litigation and/or amendments to statutes before the Legislature that may affect the property tax system. If the Board decided not to promulgate rules because of possible future statutory changes or judicial decisions, then the Board would seldom adopt regulations. Staff is aware of litigation in El Dorado and Santa Clara Counties. None of the three cases involved in these two counties is near conclusion. In addition, there is no certainty that any of the decisions in these cases will result in a published opinion that would establish binding precedent.

Finally, a decision rendered in a court case is predicated on the specific facts and circumstances of that case. As such, a decision may be so limited in scope as to be of little assistance as a precedent. Staff believes that the proposed Property Tax Rule will provide a more comprehensive interpretation of the equalization provisions of section 469 than the courts will address in the pending litigation.

### **B. Pros of the Staff Recommendation**

Adoption of a Property Tax Rule interpreting the equalization provisions of section 469 will:

- Provide clarity by resolving issues not addressed in the pending court cases.
- Promote uniformity in enrollment procedures and within the assessment appeals process throughout California.
- Curtail the number of court actions by reducing or eliminating the need to litigate issues.
- Encourage consistent treatment of taxpayers in each county when they seek to challenge their property tax assessments following audits conducted pursuant to section 469.

### **C. Cons of the Staff Recommendation**

Staff has received a number of requests to delay writing a Property Tax Rule interpreting the equalization provisions of section 469. The California Assessors' Association stated the following in a letter dated December 16, 1999:

. . . this issue is currently being litigated and it would be our suggestion that the matter be delayed pending resolution of that litigation. . . .

Fresno County Counsel stated the following in a letter dated December 17, 1999:

. . . First, and most important, the SBE traditionally refrains from adopting or amending rules during the pendency of litigation. As you know, the meaning of the term "subject to an escape assessment" in Revenue and Taxation Code section 469 is the principal issue in Heavenly Valley

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v. El Dorado County Board of Equalization (No. C033467), currently pending in the California Court of Appeal, Third Appellate District. The SBE therefore should stop the process of adopting a Property Tax Rule regarding this topic until after this litigation is final. . . .

El Dorado County Counsel stated the following in a letter dated January 5, 2000:

. . . We note, as did the California Assessors' Association, that the development of an SBE rule on R&T Code Section 469 at this time is not appropriate for several reasons. First, there is pending appellate litigation in the Third Appellate District involving Heavenly Valley and El Dorado County, Case No. C033467, . . . that will determine what the words "subject to escape assessment" mean in Section 469 regarding the business taxpayer's right of appeal. . . The pending appellate decision will undoubtedly be published for citation purposes once it is issued and it is premature at this time to promulgate a rule without knowing the outcome.

. . . Second, legislation has been introduced that may have an important impact on the contents of the proposed rule. AB 1643 is pending in the Assembly and, if approved, would clarify Section 469 to state that the right of post-audit appeal is triggered only by the actual enrollment of an escape assessment by the county assessor. . . .

The California Assessors' Association and the Property Tax Study Group of the County Councils' Association stated the following in a letter dated February 11, 2000:

. . . both the Assessors and Study Group members strongly urge that any rule attempting to implement Revenue & Taxation Code ("R&T Code") section 469 be postponed until the pending appellate litigation of *Heavenly Valley et al v. County of El Dorado*, Case No. 3 Civil C033467 (Third Appellate District) is resolved by that court. We reiterate that the appellate decision in that case will address most, if not all, of the regulatory interpretations mentioned in the proposed rule. This appellate case will also undoubtedly be the first published and first appellate decision construing R&T Code section 469. The SBE has historically not promulgated new or revised rules when significant appellate litigation is pending and the agency should not abandon that wise practice now.

. . . Further, we again note the holdings in *Jones v. Tracy School District* (1980) 27 Cal.3d 99, at 107, and *Carmona v. Division of Industrial Safety* (1975) 13 Cal.3d 303, at 311-12, fn. 8, both cases noting that the promulgation of administrative rules knowingly created while groundbreaking litigation is pending may well deprive the rule of the deference it may otherwise receive from the court. The SBE has allowed the property tax system to implement R&T Code section 469 since 1978 without any formal SBE rule and, suddenly, it now wishes to rush the creation of a new rule for this statute during pending litigation that will be the first appellate judicial review of the statute.

. . . The promulgation of formal rules is a process that takes time and involves public agency resources on the part of the SBE and other public agencies or officers. The authority to create administrative rules granted to the SBE must be used in an appropriate, fair and responsible fashion and those appropriate conditions for proposed Rule 305.3 do not exist at the current time.

Santa Clara County Counsel stated the following in a letter dated February 18, 2000:

. . . I am writing to request that the State Board suspend any further action on this proposed Rule until currently pending litigation has been concluded. There are now pending in the Superior

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Court for the County of Santa Clara two separate civil actions filed against the Assessment Appeals Board and the Assessor, as Real Party In Interest, by International Business Machines, Inc. and Apple Computer, Inc., respectively, which directly involve interpretations of section 469. Many of the issues to be litigated in the *I.B.M.* and *Apple* cases are issues to be addressed in the proposed Rule 305.3. Because of the magnitude of the assessed value at issue in these cases, and the nature of the issues in dispute, there is a substantial probability that one or both of these cases will result in a published appellate court decision interpreting section 469. The promulgation of this proposed administrative regulation during the pendency of this litigation is inappropriate for numerous reasons. . . .

**D. Statutory or Regulatory Change**

Action by the Board to adopt a Property Tax Rule interpreting the equalization provisions of section 469 will add section 305.3 to Title 18 of the California Code of Regulations, Subchapter 3.

**E. Administrative Impact**

None

**F. Fiscal Impact****1. Cost Impact**

None

**2. Revenue Impact**

None

**G. Taxpayer/Customer Impact**

Adoption of a Property Tax Rule interpreting the equalization provisions of section 469 will affect administrative procedures for the assessment appeals process at the county level and the functions of the clerks of the appeals boards, appeals board members, county assessors, county counsels, and each taxpayer seeking a reduction in assessment of his or her property's value following an audit conducted pursuant to section 469.

**H. Critical Time Frames**

There is no critical time frame for adoption of a Property Tax Rule interpreting section 469 since the county assessor conducts audits pursuant to section 469 on an ongoing basis. The 60-day period for filing an application appealing the result of an audit disclosing property subject to an escape assessment commences on receipt of the proper notice of the escape assessment. Consequently, the equalization provisions of section 469 provide for the filing of an application for an equalization hearing before a local board of equalization or county assessment appeals board throughout the year.

**VI. Alternative to Staff Recommendation 1****A. Description of the Alternative**

The Board could decide to suspend the Property Tax Rule project until a decision is reached in one or more of the pending court cases. The *I.B.M.* and *Apple* cases in Santa Clara County are at the Superior Court level and it is likely that the decisions will be appealed to the appellate court.

The *Heavenly Valley* case in El Dorado County is already in the court of appeal. The El Dorado County Counsel's Office provided the following timeline as their best estimate for the remainder of the case:

- March 20: El Dorado County Counsel had until March 20 to respond to the amicus brief filed by Cal Tax in the *Heavenly Valley* case.
- Mid-April: El Dorado County Counsel has 30 days after the Board's amicus brief is filed in the *Heavenly Valley* case to respond to the brief. The deadline for the Board to file their brief was March 17.
- Mid-Summer: The court will most likely hear oral argument in the *Heavenly Valley* case in mid-summer.
- End of Year: A decision on the hearing in the *Heavenly Valley* case might be released by the end of 2000. The court has 90 days after hearing oral argument to reach a decision.

## **B. Pros of the Alternative**

Delaying the Property Tax Rule project until resolution of one or more of the three pending court cases would provide the Board with the finality of judicial ruling(s) prior to adoption of a Property Tax Rule. This alternative would avoid a situation whereby the Board continues the project as scheduled and then later decides to amend the rule because of an opinion published by the court. The process to amend the rule would require additional resources of the Board, Board staff, and interested parties.

## **C. Cons of the Alternative**

Delaying the Property Tax Rule project until resolution of one or more of the three pending court cases could result in more disputes over interpretation and litigation for additional taxpayers and counties. In addition, the pending court cases do not address many of the issues that will be covered in the Property Tax Rule. Moreover, there is no certainty that the cases will result in published opinions establishing binding precedent on those issues that are addressed.

## **D. Statutory or Regulatory Change**

Action by the Board to adopt a Property Tax Rule interpreting the equalization provisions of section 469 will add section 305.3 to Title 18 of the California Code of Regulations, Subchapter 3.

## **E. Administrative Impact**

None

## **F. Fiscal Impact**

### **1. Cost Impact**

None

### **2. Revenue Impact**

None

## **G. Taxpayer/Customer Impact**

Adoption of a Property Tax Rule interpreting the equalization provisions of section 469 will affect administrative procedures for the assessment appeals process at the county level and the functions of

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the clerks of the appeals boards, appeals board members, county assessors, county counsels, and each taxpayer seeking a reduction in assessment of his or her property's value following an audit conducted pursuant to section 469.

**H. Critical Time Frames**

There is no critical time frame for adoption of a Property Tax Rule interpreting section 469 since the county assessor conducts audits pursuant to section 469 on an ongoing basis. The 60-day period for filing an application appealing the result of an audit disclosing property subject to an escape assessment commences on receipt of the proper notice of the escape assessment. Consequently, the equalization provisions of section 469 provide for the filing of an application for an equalization hearing before a local board of equalization or county assessment appeals board throughout the year.

## **V. Staff Recommendation 2**

The provisions apply only to mandatory audits.

### **A. Description of the Staff Recommendation**

Staff recommends that the Property Tax Rule interpreting the equalization provisions of section 469 specify that the rule applies to audits conducted by the county assessor for taxpayers whose assessable trade fixtures and business tangible personal property of a profession, trade, or business have a full value of \$300,000 or more for four consecutive years—mandatory audits—as defined in the first paragraph of section 469.

Existing statutes not only authorize the county assessor to conduct audits of taxpayer's business records, but require audits in certain circumstances. Sections 441, 469, 470, and Property Tax Rules 191, 192, and 193 provide the county assessor with the basic statutory authority to review an assessee's records. For assessees owning or possessing tangible business personal property and fixtures with a full cash value of \$300,000 or more for consecutive years, section 469 requires an audit at least once in each four-year period.

When section 469 was added to the Revenue and Taxation Code in 1966, the section consisted of a single paragraph setting forth the circumstances, including a minimum property value threshold, under which an assessor was mandated to conduct an audit. Section 469 has been amended numerous times to raise the value threshold and to add other provisions to the section, including the equalization provisions. Similar equalization provisions were not added to either section 441 or section 470 which permit the county assessor to conduct audits of taxpayer's business records that have a value less than that mandated by section 469. In staff's view, if the Legislature had intended that the equalization provisions are to apply to audits other than mandatory audits, the Legislature would have so specified by adding equalization language to the other audit sections. However, the language was specifically added to the statute regarding mandatory audits.

In addition, section 1605 prescribes filing requirements/procedures for a reduction in an assessment made outside of the regular assessment period, including escape assessments. Section 1605, subdivision (e), contains the same equalization provisions found in section 469 and specifically states that the provisions are applicable to audits conducted pursuant to section 469. Section 1605 does not reference audits conducted pursuant to any other code sections.

### **B. Pros of the Staff Recommendation**

Specifying in the Property Tax Rule that the equalization provisions in section 469 apply only to mandatory audits conducted pursuant to section 469 will conform to the intent of the Legislature, and will confirm a long-standing Board staff position. Case law interpreting section 469 involves only mandatory audits.

### **C. Cons of the Staff Recommendation**

The Legislature created provisions whereby a taxpayer audited under the provisions of section 469 is afforded an opportunity to equalize the original assessment of all property, real and personal, of the assessee at the location of the profession, trade, or business when the result of the audit discloses property subject to an escape assessment. There are no similar provisions authorized for a taxpayer whose assessable trade fixtures and business tangible personal property are less than the value

parameters specified in section 469. In those instances, an assessee may seek equalization of the amount of the escape assessment, but not the equalization of the original assessment of other property.

**D. Statutory or Regulatory Change**

Action by the Board to adopt a Property Tax Rule interpreting the equalization provisions of section 469 will add section 305.3 to Title 18 of the California Code of Regulations, Subchapter 3.

**E. Administrative Impact**

None

**F. Fiscal Impact**

**1. Cost Impact**

None

**2. Revenue Impact**

None

**G. Taxpayer/Customer Impact**

Adoption of a Property Tax Rule interpreting the equalization provisions of section 469 will affect administrative procedures for the assessment appeals process at the county level and the functions of the clerks of the appeals boards, appeals board members, county assessors, county counsels, and each taxpayer seeking a reduction in assessment of his or her property's value following an audit conducted pursuant to section 469.

**H. Critical Time Frames**

There is no critical time frame for adoption of a Property Tax Rule interpreting section 469 since the county assessor conducts audits pursuant to section 469 on an ongoing basis. The 60-day period for filing an application appealing the result of an audit disclosing property subject to an escape assessment commences on receipt of the proper notice of the escape assessment. Consequently, the equalization provisions of section 469 provide for the filing of an application for an equalization hearing before a local board of equalization or county assessment appeals board throughout the year.

**VI. Alternative to Staff Recommendation 2**

**A. Description of the Alternative**

The Board could decide that the equalization provisions in section 469 apply to all audits conducted by the county assessor's office. It could be decided that paragraphs two, three, four, and five in section 469 apply to audits conducted pursuant to sections 441, 469, and 470. This alternative would alleviate the equalization disparity between mandatory and nonmandatory audits.

Cal Tax provided the following comments on March 22, 2000:

We believe that section 469 affords the taxpayer certain fundamental rights or protections during any audit. The second paragraph of the statute requires that the taxpayer be advised of the

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assessor's audit findings; the fourth paragraph requires that the taxpayer be afforded the opportunity to appeal the original assessment if the audit discloses property subject to escape assessment; and the fifth paragraph requires the assessor to correct any discovered overassessment.

We recommend that the Committee write the heading and the text of Rule 305.3 to make it clear that the taxpayer protections afforded by section 469 apply in all audits, whether mandatory or non-mandatory.

It makes no sense that some or all of these protections should be limited to only mandatory assessor audits, and denied for discretionary audits. Indeed, this construction would allow an assessor to avoid these section 469 taxpayer protections by performing a superficial '*mandatory*' audit with a no-change result, and then start his or her true audit under the guise of a '*discretionary*' audit.

A careful reading of the language and structure of section 469 confirms that the legislature did not intend such a construction. The first paragraph of section 469 does specify that audits are mandatory for taxpayers having over \$300,000 of business property. Nevertheless, the rest of section 469 is not limited to just the taxpayer's mandatory audit, but instead applies to all audits. The second paragraph of section 469 requires that "upon completion of an audit" the taxpayer shall be given the assessor's findings. Paragraph four specifies that the taxpayer is afforded an appeal right if the "result of an audit for any year discloses property subject to escape assessment."

. . . Section 469 is the only statute providing an assessor any audit right at all. Rule 192(e) and 192(c) confirm that these section 469 audit rights extend beyond mandatory audits. The only logical interpretation of the statute is for the taxpayer's section 469 audit protections to remain coextensive with the assessor's section 469 audit rights. Thus, arguing that a taxpayer's section 469 audit protections are limited to only mandatory audits is as illogical as arguing that the assessor's entire audit right is limited to only mandatory audits.

This alternative would promote a liberal construction of a taxpayer's right to file an application with an appeals board to challenge the assessment of his/her property.

**B. Pros of the Alternative**

This alternative would lessen the equalization disparity between mandatory and nonmandatory audits by extending the equalization provisions in section 469 to audits conducted pursuant to sections 441 and 470. All taxpayers who are audited by the county assessor, regardless of the value of their assessable trade fixtures and business tangible personal property, would have the same opportunity to file an application for equalization of property at the location of the escaped assessment.

**C. Cons of the Alternative**

This alternative would not be consistent with section 1605, subdivision (e), which prescribes application filing requirements/procedures and incorporates the provisions of section 469, which provisions apply only to mandatory audits. Escape assessments discovered during an audit are considered assessments made outside of the regular assessment period within the meaning of section 1605. Section 1605, subdivision (e), only references mandatory audits conducted pursuant to section 469 and not any other code section.

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The equalization provisions for audits conducted pursuant to sections 441 and 470 are contained in section 1605, subdivision (a), whereby the assessee may appeal the escape assessment only.

**D. Statutory or Regulatory Change**

Action by the Board to adopt a Property Tax Rule interpreting the equalization provisions of section 469 will add section 305.3 to Title 18 of the California Code of Regulations, Subchapter 3.

**E. Administrative Impact**

None

**F. Fiscal Impact****1. Cost Impact**

None

**2. Revenue Impact**

None

**G. Taxpayer/Customer Impact**

Adoption of a Property Tax Rule interpreting the equalization provisions of section 469 will affect administrative procedures for the assessment appeals process at the county level and the functions of the clerks of the appeals boards, appeals board members, county assessors, county counsels, and each taxpayer seeking a reduction in assessment of his or her property's value following an audit conducted pursuant to section 469.

**H. Critical Time Frames**

There is no critical time frame for adoption of a Property Tax Rule interpreting section 469 since the county assessor conducts audits pursuant to section 469 on an ongoing basis. The 60-day period for filing an application appealing the result of an audit disclosing property subject to an escape assessment commences on receipt of the proper notice of the escape assessment. Consequently, the equalization provisions of section 469 provide for the filing of an application for an equalization hearing before a local board of equalization or county assessment appeals board throughout the year.

## V. Staff Recommendation 3

The provisions do not apply to refund situations.

### A. Description of the Staff Recommendation

Staff recommends that the Property Tax Rule specify that the equalization provisions of section 469 apply only when the result of the audit shows that property has escaped assessment. The rule should clarify that in instances where the audit discloses only property that has been overassessed, and therefore creates a refund situation, that the equalization provisions in section 469 do not apply.

Section 469 provides in paragraph four that an application for equalization may be filed in instances where the result of the audit discloses escaped property. In the next paragraph, section 469 describes the provisions to be followed in situations where property has been overassessed; namely, the taxpayer shall be notified of the fact that a claim for refund may be filed. If it had been intended that the refund situation could also be open to equalization under the section 469 provisions, then the language would have stated that a claim for refund may be filed or the taxpayer may file an application for equalization if he/she believes the assessment upon which the refund is based is incorrect. The Legislature did not add such language.

The staff recommendation is consistent with the position taken in Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures*, which was adopted by the Board in December 1998. That handbook (on page 147) cites various Revenue and Taxation Code sections that apply to audits conducted by the county assessor. The portion of the text that discusses section 469 contains the following language:

. . . NOTE: If a refund only, and there is no escape property at the location for that year, the assessee has no appeal rights.

### B. Pros of the Staff Recommendation

Specifying in the Property Tax Rule that the equalization provisions in section 469 apply only when the result of the audit discloses property subject to escaped assessment will conform to the plain language of section 469 and the intent of the Legislature, will ratify the position adopted by the Board in Assessors' Handbook Section 504, and will confirm a long-standing Board staff position.

Staff is not aware of any instances where a local board of equalization or assessment appeals board has permitted a taxpayer to invoke the equalization provisions of section 469 when the result of the taxpayer's audit disclosed only overassessed property.

### **C. Cons of the Staff Recommendation**

The equalization provisions of section 469 permit an assessee to appeal all of his/her property at the location where the result of an audit discloses property subject to escape assessment. Consequently, these provisions allow an assessee to appeal both real and personal property after the statutory deadlines mandated in sections 1603 and 1605 have expired. Since staff's recommendation would not allow an assessee to utilize the equalization provisions in section 469 under a refund situation, the assessee would be barred from filing an application for equalization on other property when the deadlines mandated in sections 1603 and 1605 have expired.

### **D. Statutory or Regulatory Change**

Action by the Board to adopt a Property Tax Rule interpreting the equalization provisions of section 469 will add section 305.3 to Title 18 of the California Code of Regulations, Subchapter 3.

### **E. Administrative Impact**

None

### **F. Fiscal Impact**

#### **1. Cost Impact**

None

#### **2. Revenue Impact**

None

### **G. Taxpayer/Customer Impact**

Adoption of a Property Tax Rule interpreting the equalization provisions of section 469 will affect administrative procedures for the assessment appeals process at the county level and the functions of the clerks of the appeals boards, appeals board members, county assessors, county counsels, and each taxpayer seeking a reduction in assessment of his or her property's value following an audit conducted pursuant to section 469.

### **H. Critical Time Frames**

There is no critical time frame for adoption of a Property Tax Rule interpreting section 469 since the county assessor conducts audits pursuant to section 469 on an ongoing basis. The 60-day period for filing an application appealing the result of an audit disclosing property subject to an escape assessment commences on receipt of the proper notice of the escape assessment. Consequently, the equalization provisions of section 469 provide for the filing of an application for an equalization hearing before a local board of equalization or county assessment appeals board throughout the year.

## **VI. Alternative to Staff Recommendation 3**

### **A. Description of the Alternative**

The Board could decide that the equalization provisions in section 469 apply when the result of the audit discloses only overassessed property and results in a refund situation. This decision would then permit an assessee to use the equalization provisions in a refund situation to file an application for

equalization after the mandated deadlines in sections 1603 and 1605 for both personal and real property.

This alternative would promote a liberal construction of a taxpayer's right to file an application with an appeals board to challenge the assessment of his/her property.

**B. Pros of the Alternative**

This alternative would accord the same treatment to an audit that discloses property that has escaped assessment and an audit that discloses only property that is overassessed. All taxpayers who are audited by the county assessor, regardless of whether there is an escaped assessment or only an overassessment, could appeal both real and personal property at the location after the statutory filing periods mandated in sections 1603 and 1605 have expired.

**C. Cons of the Alternative**

This alternative would be contrary to the plain language of section 469, the express legislative intent, and the position adopted by the Board in Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures*, in December 1998. That position states that the section 469 provisions relating to equalization do not apply to refund situations. Drafting and adopting AH 504 consisted of a long process that included extensive input from interested parties. Substantive issues and other concerns were resolved or decided by the Board during the handbook process, including the interpretation of the equalization provisions of section 469.

In addition, section 1605 when taken together with section 469 makes it clear that the assessee has 60 days from the date he/she is given notice of the escape assessment to file an assessment appeal. There is no provision in section 1605 for the assessee to file an appeal based on a refund situation following an audit conducted pursuant to section 469.

**D. Statutory or Regulatory Change**

Action by the Board to adopt a Property Tax Rule interpreting the equalization provisions of section 469 will add section 305.3 to Title 18 of the California Code of Regulations, Subchapter 3.

**E. Administrative Impact**

None

**F. Fiscal Impact**

**1. Cost Impact**

None

**2. Revenue Impact**

None

**G. Taxpayer/Customer Impact**

Adoption of a Property Tax Rule interpreting the equalization provisions of section 469 will affect administrative procedures for the assessment appeals process at the county level and the functions of the clerks of the appeals boards, appeals board members, county assessors, county counsels, and each taxpayer seeking a reduction in assessment of his or her property's value following an audit conducted pursuant to section 469.

**H. Critical Time Frames**

There is no critical time frame for adoption of a Property Tax Rule interpreting section 469 since the county assessor conducts audits pursuant to section 469 on an ongoing basis. The 60-day period for filing an application appealing the result of an audit disclosing property subject to an escape assessment commences on receipt of the proper notice of the escape assessment. Consequently, the equalization provisions of section 469 provide for the filing of an application for an equalization hearing before a local board of equalization or county assessment appeals board throughout the year.

## V. Staff Recommendation 4

The phrase "result of an audit" applies to the total net value per class of property for each year of the audit.

### A. Description of the Staff Recommendation

Section 469, fourth paragraph, provides:

If the result of an audit for any year discloses property subject to an escape assessment, then the original assessment . . . shall be subject to review, equalization and adjustment. . . .

Staff recommends that the phrase "result of an audit" be defined in the Property Tax Rule to mean the total net value per class of property for each year of the audit. The Property Tax Rule should further specify that an audit may disclose value differences within a class of property which are offset at the end of the reconciliation process of an audit, resulting in a net total value for each class of property. "The result of an audit" is that net total value for each class of property. For purposes of this regulation, *class of property* is defined to mean those classes used in the original assessment; for example (1) personal property, (2) improvements, and (3) land. Since only the net total value per class of property is shown on an assessment roll each year, this procedure will be compatible with existing computer systems used throughout the county assessors', county auditors', and county tax collectors' offices.

The Property Tax Rule should specifically state that an assessor is not permitted to offset overassessments and underassessments between classes of property—personal property, fixtures, improvements, and land—in a single year, and is not permitted to offset differences in the net total value of all property for each year between years covered by the audit.

The key to interpreting this provision of section 469 is the word *result* which refers to the final value determinations made by the assessor. Thus, the "result of an audit" must disclose property "subject to escape assessment," not the individual audit findings. While the audit findings may identify some property within a class that was underassessed or not assessed, the result of the audit may disclose no property subject to escape assessment for that class because of offsetting overassessments or because the escaped property has a de minimis value. It is assumed that all words employed in a statute must be given meaning and none should be viewed as having no purpose. Section 469 says "the result of an audit" instead of just "the audit." The law contemplates that there must be a difference or the Legislature would have stated it differently.

This view is supported by the way assessors generally approach the appraisal of this type of property. Business property is usually appraised as a "mass appraisal." The property at a given location is described legally by one parcel number and is given one roll value even though there may actually be thousands of individual pieces of personalty being assessed at the location. Further, the typical appraisal methodology employed—the cost approach—does not contemplate actually valuing each individual piece of property in the appraisal unit, but rather contemplates that the application of the methodology to the entire spectrum and quantity of pieces of property will generally produce an accurate result for the whole. Thus, under this methodology, where there is a net difference of zero at a particular location, the result of the audit did not disclose property subject to an escape assessment. The original assessed roll value for the property was in fact correct.

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Sections 469 and 1605 are companion provisions. Taken together, these two provisions indicate that when the assessor *actually issues* an escape assessment, the assessee has 60 days from the date he/she is given notice of the escape assessment to file an application for equalization. That application may only be filed for the tax year applicable to the escape assessment.

Article 4, beginning with section 531, contains the provisions pertaining to property escaping assessment. Each of the sections within this article contemplated that an escape assessment causes a change to the assessment roll—not that an escape assessment includes discrepancies within a class of property disclosed during individual stages of an audit that resulted from errors in the self-reported cost provided by the taxpayer on the property statement.

In addition, paragraph two of section 469 states:

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.

This provision lends further support to the view that the Legislature intended that the audit results that trigger the section 469 equalization provisions were those that, upon completion, "would alter any previously enrolled assessment." Since only the net result of an audit and assessment for each year is enrolled for each class of property, only a value difference disclosing an escape assessment in the net result for each class of property could "alter any previously enrolled assessment."

**B. Pros of the Staff Recommendation**

This recommendation is consistent with the intent of section 469 which is to ensure that value is correctly allocated among all classes of property within the appraisal unit. When the appraisal unit is originally assessed, the value of each class of property is assessed and the total value of those assessments is enrolled. If the assessee is satisfied with the total value for all property, then no appeal is filed. Subsequently, if the result of an audit discloses that one class of property is underassessed and subject to escape assessment, the total value of the property will then be increased. Thus, the assessee should have the opportunity to appeal all classes of property in order to ensure that the value for the entire appraisal unit is correct.

Moreover, this recommendation is supported by the long-standing property appraisal concept that assessed value is not a static value but rather is a range determined by appraisal judgment. The assessor has the discretion, within the value range, to determine and enroll a value for a subject property. If the result of an audit discloses that the original assessment based on the self-reported cost provided by the taxpayer on the property statement is "within the value range," then the assessor has the discretion of accepting the taxpayer's originally reported cost as value and making no change to the roll.

**C. Cons of the Staff Recommendation**

The equalization provisions of section 469 permit an assessee to appeal all of his/her property at the location where the result of an audit discloses property subject to escape assessment. Consequently, if the audit discloses that any property, even individual items of property within a class of property, was underassessed or not assessed, then the assessee has the right to appeal all property. Staff's recommendation would limit an assessee's right to use the equalization provisions in section 469 to the circumstances in which the net total per class of property shows an escape assessment; the

assessee could not use the equalization provisions when a discrepancy is discovered on a single piece of property during one stage of the audit.

Amgen provided the following in a letter dated February 10, 2000:

The Board staff's proposed definition of *property subject to an escape assessment* excessively restricts the plain language of this statute. . .

Under the staff's definition, the only time a taxpayer could appeal the escape assessment and the original assessment of all property at the location, is when the audit discloses an overall escape, i.e. an overall increase to the value on the roll. Section 469, however, only requires that the audit disclose that some property escaped assessment, not that the audit disclose a net increase to the total value on the roll. . .

As a result, the taxpayer will not be entitled to equalization on the entire property simply because escaped property is discovered, but only when the result of the audit reveals a net escape.

#### **D. Statutory or Regulatory Change**

Action by the Board to adopt a Property Tax Rule interpreting the equalization provisions of section 469 will add section 305.3 to Title 18 of the California Code of Regulations, Subchapter 3.

#### **E. Administrative Impact**

None

#### **F. Fiscal Impact**

##### **1. Cost Impact**

None

##### **2. Revenue Impact**

None

#### **G. Taxpayer/Customer Impact**

Adoption of a Property Tax Rule interpreting the equalization provisions of section 469 will affect administrative procedures for the assessment appeals process at the county level and the functions of the clerks of the appeals boards, appeals board members, county assessors, county counsels, and each taxpayer seeking a reduction in assessment of his or her property's value following an audit conducted pursuant to section 469.

#### **H. Critical Time Frames**

There is no critical time frame for adoption of a Property Tax Rule interpreting section 469 since the county assessor conducts audits pursuant to section 469 on an ongoing basis. The 60-day period for filing an application appealing the result of an audit disclosing property subject to an escape assessment commences on receipt of the proper notice of the escape assessment. Consequently, the equalization provisions of section 469 provide for the filing of an application for an equalization hearing before a local board of equalization or county assessment appeals board throughout the year.

## VI. Alternative (a) To Staff Recommendation 4

### A. Description of the Alternative

The Board could define the phrase "result of the audit" to mean a value difference for any single piece of property within each class of property for each year covered by the audit. This alternative would provide that the equalization provisions in section 469 are triggered when the audit shows any escape value difference, regardless of whether that difference is offset and the net result of the assessment of the class of property is a refund or no change to the roll.

Cal Tax provided the following comments on March 22, 2000:

We recommend that the Committee define "result of an audit" to be "information obtained and conclusions reached by the audit during the audit process."

When the legislature enacted section 469 and 1605(e) in 1974 [sic], it could have chosen to make actual enrollment of an escape assessment (a well-defined term referring to an action entirely within the control of the assessor) the trigger point for the taxpayer's section 469 rights. Obviously, however, the legislature chose not to do so. Instead the legislature chose to make the audit disclosure of property subject to escape assessment (an event not necessarily within the assessor's control) the jurisdictional prerequisite. The legislative counsel digest to A.B. 1643 (legislation proposed by the assessors in 1999) specifically recognized this distinction.

Moreover, while section 1605(e) and section 469 both use the words "discloses property subject to an escape assessment," indicating that the legislature wanted to stress the importance of those words, the same cannot be said about the "result of the audit" phrase. It appears in the fourth paragraph of section 469, but is left out of section 1605(e) altogether.

Interestingly enough, the fifth paragraph of section 469 also refers to what the "audit for any particular year discloses," rather than to what the *result* of the audit discloses.

Thus, it seems problematic to place much emphasis or significance on the "result of the audit" term. The more important term in sections 469 and 1605(e) is clearly the trigger phrase "audit for any year discloses property subject to escape assessment."

. . . For section 469 purposes, it is important for the Committee to recognize that the auditor should not be able simply to ignore information obtained from [the] taxpayer during the audit and decline to find over- and underassessments which would result from such information. This is critical where the auditor's actions or inactions after receiving such information may impair or block completely the taxpayer's appeal rights.

. . . The phrase "result of an audit" does not appear to be defined anywhere in the property tax portions of the Revenue and Taxation Code, and is a very ambiguous term. "Result of an audit" certainly is not synonymous with issuance of an escape assessment. Perhaps "result of an audit" is intended simply to imply somehow that the disclosure (of property subject to escape assessment) results during or from the audit.

### B. Pros of the Alternative

This alternative would allow a taxpayer to use the equalization provisions in section 469 whenever an audit showed that an individual item of property had been underassessed or not assessed. This alternative would afford the taxpayer a similar right, as the assessor has, to change enrolled assessments for past years.

This alternative would promote a liberal construction of a taxpayer's right to file an application with an appeals board to challenge the assessment of his/her property

**C. Cons of the Alternative**

This alternative is not consistent with the intent of section 469 which is to ensure that value is correctly allocated among all classes of property within the appraisal unit. The equalization provisions are intended to provide the assessee with an opportunity to appeal all classes of property in order to ensure that the value for the entire appraisal unit is correct. The alternative would allow an appeal even if there were no change or an overassessment of a class of property. Such a finding would have no effect on the overall value of the appraisal unit and no effect on the value allocation.

Moreover, this recommendation is not supported by the long-standing property appraisal concept that assessed value is not a static value but rather is a range determined by appraisal judgment. The assessor has the discretion, within the value range, to determine and enroll a value for a subject property. If the result of an audit discloses that the self-reported cost provided by the taxpayer on the property statement is "within the value range," then the assessor has the discretion of accepting the taxpayer's cost as value and making no change to the roll.

Section 1605 and sections 531 et seq. contain the requirements for notification of an assessee regarding an escape assessment. None of these sections require notification of a discrepancy in a preliminary stage of an audit. Rather, an assessee must be notified of the results of an audit that indicate an escape assessment, that is, the net value of a class of property that results in a change to the assessment roll.

Finally, by adding paragraph two to section 469, the Legislature intended that the audit results that trigger the section 469 equalization provisions were those that, upon completion, "would alter any previously enrolled assessment." Since only the net result of an audit and assessment is enrolled for each class of property, only a value difference disclosing an escape assessment in the net result for each class of property could "alter any previously enrolled assessment."

**D. Statutory or Regulatory Change**

Action by the Board to adopt a Property Tax Rule interpreting the equalization provisions of section 469 will add section 305.3 to Title 18 of the California Code of Regulations, Subchapter 3.

**G. Administrative Impact**

None

**H. Fiscal Impact**

**1. Cost Impact**

None

**2. Revenue Impact**

None

**G. Taxpayer/Customer Impact**

Adoption of a Property Tax Rule interpreting the equalization provisions of section 469 will affect administrative procedures for the assessment appeals process at the county level and the functions of the clerks of the appeals boards, appeals board members, county assessors, county counsels, and each

taxpayer seeking a reduction in assessment of his or her property's value following an audit conducted pursuant to section 469.

## H. Critical Time Frames

There is no critical time frame for adoption of a Property Tax Rule interpreting section 469 since the county assessor conducts audits pursuant to section 469 on an ongoing basis. The 60-day period for filing an application appealing the result of an audit disclosing property subject to an escape assessment commences on receipt of the proper notice of the escape assessment. Consequently, the equalization provisions of section 469 provide for the filing of an application for an equalization hearing before a local board of equalization or county assessment appeals board throughout the year.

## VII. Alternative (b) To Staff Recommendation 4

### A. Description of the Alternative

The Board could specify that the phrase "result of an audit" applies to the total value of all classes of property for each year of the audit. The Property Tax Rule could specify that an audit may disclose for each class of property value differences that, at the end of the mathematical process of an audit, result in a net total value for each class of property. Those net total values for each class of property would then be netted together to find "the result of an audit," i.e., the total value of all the property. For purposes of this regulation, *class of property* would be defined to mean those classes used in the original assessment; for example (1) personal property, (2) improvements, and (3) land.

As an example of this alternative, an audit could result in a similar-valued underassessment in fixtures and a similar-valued overassessment in personal property, making "the result of an audit" no change to the roll. Or, an audit could result in a small-valued underassessment in fixtures and a larger-valued overassessment in personal property, making "the result of an audit" a refund.

### B. Pros of the Alternative

This alternative would simplify the process by allowing an appeal only if the final total value determination disclosed an escape assessment and, thereby, increased the assessed value of the entire appraisal unit. This approach is consistent with the audit process whereby audit findings yield a total for each class of property which are used to determine an overall total value of all property. Under this alternative, this overall total value is the value that would be used to determine whether property escaped assessment as a result of an audit and, therefore, that the equalization provisions would or would not be applicable.

### C. Cons of the Alternative

The equalization provisions of section 469 permit an assessee to appeal all of his/her property at the location where the result of an audit discloses property subject to escape assessment. Consequently, these provisions allow an assessee to appeal both real and personal property after the statutory deadlines mandated in sections 1603 and 1605 have expired. Since this alternative would not allow an assessee to utilize the equalization provisions in section 469 except where the net total shows an escape assessment, the assessee could not use the equalization provisions when a discrepancy is discovered on a single piece of property during one stage of the audit (Alternative (a)), or when a class of property has escaped assessment (Staff Recommendation).

**D. Statutory or Regulatory Change**

Action by the Board to adopt a Property Tax Rule interpreting the equalization provisions of section 469 will add section 305.3 to Title 18 of the California Code of Regulations, Subchapter 3.

**E. Administrative Impact**

None

**F. Fiscal Impact**

**1. Cost Impact**

None

**2. Revenue Impact**

None

**G. Taxpayer/Customer Impact**

Adoption of a Property Tax Rule interpreting the equalization provisions of section 469 will affect administrative procedures for the assessment appeals process at the county level and the functions of the clerks of the appeals boards, appeals board members, county assessors, county counsels, and each taxpayer seeking a reduction in assessment of his or her property's value following an audit conducted pursuant to section 469.

**H. Critical Time Frames**

There is no critical time frame for adoption of a Property Tax Rule interpreting section 469 since the county assessor conducts audits pursuant to section 469 on an ongoing basis. The 60-day period for filing an application appealing the result of an audit disclosing property subject to an escape assessment commences on receipt of the proper notice of the escape assessment. Consequently, the equalization provisions of section 469 provide for the filing of an application for an equalization hearing before a local board of equalization or county assessment appeals board throughout the year.

## V. Staff Recommendation 5

The low-value ordinance provisions in section 155.20 apply to escape assessments.

### A. Description of the Staff Recommendation

Section 155.20, subdivision (a), allows for the exemption of 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.

Section 155.20, subdivisions (b), (c), (d), and (e), lists the exceptions to this limitation. None of the exceptions preclude the provisions of section 155.20 from being applied to an escape assessment found as a result of an audit conducted pursuant to section 469.

Section 155.20, subdivision (e), addresses a situation where property with a low value may not be exempted if it is to be added to an already existing assessment on the roll. The language of subdivision (e) indicates that the Legislature was aware of and had addressed the issue of low-value property items being added to larger assessments already on the roll. However, this exception applies only to new construction and not escaped property found during an audit. The fact that the Legislature took specific action to preclude the use of section 155.20 for new construction but chose not to expressly limit its use in situations of escaped property found during an audit suggests that the Legislature did not intend to preclude the use of section 155.20 for escaped property found during an audit.

The Board-adopted position in Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures*, allows the section 155.20 provisions to apply to escaped property found during an audit. Pages 173 through 175 discuss escape assessments. Footnote 263 , states:

Escape assessments may not be necessary for property having a low value if the total taxes, special assessments and applicable subventions on the property would amount to less than the cost of assessing and collecting them. This is only the case in those counties that have adopted an ordinance or resolution pursuant to section 155.20.

### B. Pros of the Staff Recommendation

The staff recommendation will allow counties, whose boards of supervisors have adopted an ordinance pursuant to section 155.20, consistent with the legislative intent of that section, to implement the low-value ordinance provisions for all assessment occurrences, except as specifically precluded in the section. The purpose of the low-value ordinance is to promote the efficient use of government resources by:

- Relieving a county of the duty of processing an assessment that costs the county more than the county will recoup in taxes.
- Eliminating the requirement for a county to send a "nuisance" bill to a taxpayer.

Furthermore, if the low-value ordinance provisions were not applicable to escape assessments found during an audit, many taxpayers would not receive the benefit of the tax relief which that section was

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intended to provide. The only conceivable benefit of interpreting section 155.20 as not applying to such escape assessments would be to allow assesseees to invoke the equalization provisions of section 469, a benefit which was clearly not contemplated and not intended by section 155.20.

**C. Cons of the Staff Recommendation**

This recommendation would preclude an assessee from using the equalization provisions in section 469 when the property that escaped assessment is of a value lower than a county-adopted section 155.20 ordinance since the assessee would not receive a notice that meets the requirements of section 1601 et seq. to file an application for equalization.

**D. Statutory or Regulatory Change**

Action by the Board to adopt a Property Tax Rule interpreting the equalization provisions of section 469 will add section 305.3 to Title 18 of the California Code of Regulations, Subchapter 3.

**E. Administrative Impact**

None

**F. Fiscal Impact****1. Cost Impact**

None

**2. Revenue Impact**

None

**G. Taxpayer/Customer Impact**

Adoption of a Property Tax Rule interpreting the equalization provisions of section 469 will affect administrative procedures for the assessment appeals process at the county level and the functions of the clerks of the appeals boards, appeals board members, county assessors, county counsels, and each taxpayer seeking a reduction in assessment of his or her property's value following an audit conducted pursuant to section 469.

**H. Critical Time Frames**

There is no critical time frame for adoption of a Property Tax Rule interpreting section 469 since the county assessor conducts audits pursuant to section 469 on an ongoing basis. The 60-day period for filing an application appealing the result of an audit disclosing property subject to an escape assessment commences on receipt of the proper notice of the escape assessment. Consequently, the equalization provisions of section 469 provide for the filing of an application for an equalization hearing before a local board of equalization or county assessment appeals board throughout the year.

**VI. Alternative to Staff Recommendation 5****A. Description of the Alternative**

The Board could decide that the low-value ordinance provisions of section 155.20 do not apply to escape assessments found during an audit conducted pursuant to section 469. As a result, all escape

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assessments would be enrolled regardless of the value, and a tax bill would be sent to the assessee which would meet the requirements of section 1601 et seq. in order to file an application for equalization.

Cal Tax provided the following comments on March 22, 2000:

. . . Section 469 states that whenever property subject to escape assessment is disclosed by the audit, the taxpayer has an appeal right. Thus, the statute does not seem to admit the possibility of any section 155.20 de minimis exception. (It would be possible, of course, to amend section 469 legislatively to change this result.)

We therefore recommend that the Committee write Rule 305.3 without any section 155.20 exception.

Even if the Committee decides that it makes sense to read some sort of section 155.20 exception into section 469, we recommend that the exception be a very narrow one. Section 155.20 states that the board of supervisors "shall have no authority to exempt property with a total base year value or full value of more than five thousand dollars (\$5,000)." Accordingly, even if section 155.20 could be read to apply in section 469 situations to excuse the making of an escape assessment for a particular property with a full value of less than \$5,000 (e.g., a small piece of manufacturing equipment), it has no application where the escape assessment involves property with a base year or full cash value over \$5,000.

The . . . County Assessor's position presents an even more absurd use of section 155.20. There the assessor was faced with multi-million dollar under- and overassessments on properties which obviously had very substantial values and valuation disputes. The assessor all too conveniently upheld just enough of the overassessments for one year to reduce the overall net underassessment to \$1,290 of taxable value, and argued that section 155.20 applied to eliminate all of the taxpayer's appeal rights for all years at issue.

While it seems unlikely that most assessors would take this bold an approach, the potential for abuse in combining setoffs and section 155.20 is all too clear. The one sure way to eliminate this avenue of opportunity, of course, is to revert to the literal reading of section 469, which leaves no room for any section 155.20 exceptions whatsoever.

**B. Pros of the Alternative**

This recommendation would permit an assessee to use the equalization provisions in section 469 when the property that escaped assessment is of a value lower than a county-adopted section 155.20 ordinance since the assessee would receive a notice that meets the requirements of section 1601 et seq. to file an application for equalization.

This alternative would promote a liberal construction of a taxpayer's right to file an application with an appeals board to challenge the assessment of his/her property.

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This alternative would:

- Promote inefficiency in government and waste tax dollars on enrolling and billing small-valued assessments.
- Deny tax relief to taxpayers by mandating that the county enroll and bill escape assessments of a small value that could be exempted by a county's section 155.20 low-value ordinance.

**D. Statutory or Regulatory Change**

Action by the Board to adopt a Property Tax Rule interpreting the equalization provisions of section 469 will add section 305.3 to Title 18 of the California Code of Regulations, Subchapter 3.

**E. Administrative Impact**

None

**F. Fiscal Impact****1. Cost Impact**

None

**2. Revenue Impact**

None

**G. Taxpayer/Customer Impact**

Adoption of a Property Tax Rule interpreting the equalization provisions of section 469 will affect administrative procedures for the assessment appeals process at the county level and the functions of the clerks of the appeals boards, appeals board members, county assessors, county counsels, and each taxpayer seeking a reduction in assessment of his or her property's value following an audit conducted pursuant to section 469.

**H. Critical Time Frames**

There is no critical time frame for adoption of a Property Tax Rule interpreting section 469 since the county assessor conducts audits pursuant to section 469 on an ongoing basis. The 60-day period for filing an application appealing the result of an audit disclosing property subject to an escape assessment commences on receipt of the proper notice of the escape assessment. Consequently, the equalization provisions of section 469 provide for the filing of an application for an equalization hearing before a local board of equalization or county assessment appeals board throughout the year.

Prepared by: Property Taxes Department; Policy, Planning, and Standards Division

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