

CALAVERAS COUNTY ASSESSMENT PRACTICES SURVEY

AUGUST 2016

CALIFORNIA STATE BOARD OF EQUALIZATION

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No. 2016/029

August 31, 2016

TO COUNTY ASSESSORS:

**CALAVERAS COUNTY
ASSESSMENT PRACTICES SURVEY**

A copy of the Calaveras County Assessment Practices Survey Report is enclosed for your information. The Board of Equalization (BOE) completed this survey in fulfillment of the provisions of sections 15640-15646 of the Government Code. These code sections provide that the BOE shall make surveys in specific counties to determine that the practices and procedures used by the county assessor in the valuation of properties are in conformity with all provisions of law.

The Honorable Leslie K. Davis, Calaveras County Assessor, was provided a draft of this report and given an opportunity to file a written response to the findings and recommendations contained therein. The report, including the assessor's response, constitutes the final survey report, which is distributed to the Governor, the Attorney General, and the State Legislature; and to the Calaveras County Board of Supervisors, Grand Jury, and Assessment Appeals Board.

Fieldwork for this survey was performed by the BOE's County-Assessed Properties Division from September through October 2014. The report does not reflect changes implemented by the assessor after the fieldwork was completed.

Ms. Davis and her staff gave their complete cooperation during the survey. We gratefully acknowledge their patience and courtesy during the interruption of their normal work routine.

Sincerely,

/s/ Dean R. Kinnee

Dean R. Kinnee
Deputy Director
Property Tax Department

DRK:dcl
Enclosure

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INTRODUCTION

Although county government has the primary responsibility for local property tax assessment, the State has both a public policy interest and a financial interest in promoting fair and equitable assessments throughout California. The public policy interest arises from the impact of property taxes on taxpayers and the inherently subjective nature of the assessment process. The financial interest derives from state law that annually guarantees California schools a minimum amount of funding; to the extent that property tax revenues fall short of providing this minimum amount of funding, the State must make up the difference from the general fund.

The assessment practices survey program is one of the State's major efforts to address these interests and to promote uniformity, fairness, equity, and integrity in the property tax assessment process. Under this program, the State Board of Equalization (BOE) periodically reviews the practices and procedures (surveys) of selected county assessors' offices. This report reflects the BOE's findings in its current survey of the Calaveras County Assessor's Office.

The assessor is required to file with the board of supervisors a response that states the manner in which the assessor has implemented, intends to implement, or the reasons for not implementing the recommendations contained in this report. Copies of the response are to be sent to the Governor, the Attorney General, the BOE, and the Senate and Assembly; and to the Calaveras County Board of Supervisors, Grand Jury, and Assessment Appeals Board. That response is to be filed within one year of the date the report is issued and annually thereafter until all issues are resolved. The Honorable Leslie K. Davis, Calaveras County Assessor, elected to file her initial response prior to the publication of our survey; it is included in this report following the Appendixes.

OBJECTIVE

The survey shall "...show the extent to which assessment practices are consistent with or differ from state law and regulations."¹ The primary objective of a survey is to ensure the assessor's compliance with state law governing the administration of local property taxation. This objective serves the three-fold purpose of protecting the state's interest in the property tax dollar, promoting fair treatment of taxpayers, and maintaining the overall integrity and public confidence in the property tax system in California.

The objective of the survey program is to promote statewide uniformity and consistency in property tax assessment by reviewing each selected county's property assessment practices and procedures, and publishing an assessment practices survey report. Every assessor is required to identify and assess all properties located within the county – unless specifically exempt – and maintain a database or "roll" of the properties and their assessed values. If the assessor's roll meets state requirements, the county is allowed to recapture some administrative costs.

SCOPE AND METHODOLOGY

Government Code sections 15640 and 15642 define the scope of an assessment practices survey. As directed by those statutes, our survey addresses the adequacy of the procedures and practices employed by the assessor in the valuation of property, the volume of assessing work as measured by property type, and the performance of other duties enjoined upon the assessor.

In addition, pursuant to Revenue and Taxation Code² section 75.60, the BOE determines through the survey program whether a county assessment roll meets the standards for purposes of certifying the eligibility of the county to continue to recover costs associated with administering supplemental assessments. Such certification is obtained either by satisfactory statistical result from a sampling of the county's assessment roll, or by a determination by the survey team – based on objective standards defined in regulation – that there are no significant assessment problems in the county. The statutory and regulatory requirements pertaining to the assessment practices survey program are detailed in Appendix B.

Our survey of the Calaveras County Assessor's Office included reviews of the assessor's records, interviews with the assessor and her staff, and contacts with officials in other public agencies in Calaveras County who provided information relevant to the property tax assessment program.

This survey examined the assessment practices of the Calaveras County Assessor's Office for the 2014-15 assessment roll. Since this survey did not include an assessment sample pursuant to Government Code section 15640(c), our review included an examination to determine whether "significant assessment problems" exist, as defined by Rule 371.

¹ Government Code section 15642.

² Unless otherwise stated, all statutory references are to the California Revenue and Taxation Code and all rule references are to sections of California Code of Regulations, Title 18, Public Revenues.

For a detailed description of the scope of our review of county assessment practices, please refer to the document entitled *Scope of Assessment Practices Surveys*, available on the BOE's website at <http://www.boe.ca.gov/Assessors/pdf/Scopemaster.pdf>. Additionally, detailed descriptions of assessment practices survey topics, authoritative citations, and related information can be found at <http://www.boe.ca.gov/proptaxes/apscont.htm>.

We conducted reviews of the following areas:

- Administration

We reviewed the assessor's administrative policies and procedures that affect both the real property and business property assessment programs. Specific areas reviewed include the assessor's budget and staffing, workload, assessment appeals, disaster relief, and exemptions.

- Assessment of Real Property

We reviewed the assessor's program for assessing real property. Specific areas reviewed include properties having experienced a change in ownership, new construction assessments, properties experiencing a decline in value, and certain properties subject to special assessment procedures, such as California Land Conservation Act (CLCA) property, taxable possessory interests, and mineral property.

- Assessment of Personal Property and Fixtures

We reviewed the assessor's program for assessing personal property and fixtures. Specific areas reviewed include conducting audits, processing business property statements, business equipment valuation, manufactured home assessments, aircraft assessments, and vessel assessments.

EXECUTIVE SUMMARY

We examined the assessment practices of the Calaveras County Assessor's Office for the 2014-15 assessment roll. This report offers recommendations to help the assessor correct assessment problems identified by the survey team. The survey team makes recommendations when assessment practices in a given area are not in accordance with property tax law or generally accepted appraisal practices. An assessment practices survey is not a comprehensive audit of the assessor's entire operation. The survey team does not examine internal fiscal controls or the internal management of an assessor's office outside those areas related to assessment. In terms of current auditing practices, an assessment practices survey resembles a compliance audit – the survey team's primary objective is to determine whether assessments are being made in accordance with property tax law.

Many of our recommendations concern portions of programs that are currently effective but need improvement. In many instances, the assessor is already aware of the need for improvement and is considering changes as time and resources permit.

In the area of administration, the assessor effectively manages her staffing, workload, assessment appeals, and disaster relief programs. However, we made a recommendation for improvement in her exemptions program.

In the area of real property assessment, the assessor has effective programs for the enrollment of changes in ownership, new construction, declines in value, and CLCA property. However, we made recommendations for improvement in the taxable possessory interests and mineral property programs.

In the area of personal property and fixtures assessment, the assessor has an effective program for the processing of business property statements and the assessment of manufactured homes. However, we made recommendations for improvement in the audit, business equipment valuation, aircraft, and vessels programs.

Despite the recommendations noted in this report, we found that most properties and property types are assessed correctly.

We found no significant assessment problems as defined in Rule 371. Since Calaveras County was not selected for assessment sampling pursuant to Government Code section 15643(b), this report does not include the assessment ratios that are generated for surveys that include assessment sampling. Accordingly, pursuant to section 75.60, Calaveras County continues to be eligible for recovery of costs associated with administering supplemental assessments.

OVERVIEW OF CALAVERAS COUNTY

Calaveras County is located in central California, has 1,020.01 square miles of land area, and a population of 44,515. Bounded on the north by Amador County, on the west by San Joaquin and Stanislaus Counties, on the south by Tuolumne County, and on the east by Alpine County, Calaveras County is located in the heart of the California Gold Country. Calaveras County is rich in historic landmarks and literary history, including *The Celebrated Jumping Frog of Calaveras County*, a short story written in 1865 by Mark Twain, which makes the annual Calaveras County Fair and Jumping Frog Jubilee a popular event. One of California's original 27 counties, Calaveras County was founded on February 18, 1850. The county seat is San Andreas, and the only incorporated city of Calaveras County is Angels Camp.



FINDINGS AND RECOMMENDATIONS

As noted previously, our review concluded that the Calaveras County assessment roll meets the requirements for assessment quality established by section 75.60. This report does not provide a detailed description of all areas reviewed; it addresses only the deficiencies discovered.

Following is a list of the formal recommendations contained in this report.

- RECOMMENDATION 1:** Properly notify claimants of the process for contesting denials when the property, or portion thereof, is denied the welfare exemption.....7

- RECOMMENDATION 2:** Improve the taxable possessory interest program by: (1) obtaining copies of lease agreements that create taxable possessory interests; (2) recognizing lessor expenses when valuing taxable possessory interests by the income approach; (3) reappraising all taxable possessory interests upon a change in ownership as required by section 61(b); (4) using the term of the lease as stated when valuing taxable possessory interests with a contract that has a stated term; (5) issuing supplemental assessments for changes in ownership in taxable possessory interests in compliance with section 75.5(b); (6) properly assessing tenant constructed or owned improvements that revert back to the lessor as taxable possessory interests; and (7) periodically reviewing all taxable possessory interests with stated terms of possession for decline in value.10

- RECOMMENDATION 3:** Reevaluate the current market value of mineral properties based on the projected physical and economic operating conditions on the current lien date.13

- RECOMMENDATION 4:** Develop and implement written procedures to improve the audit program, and monitor the program to ensure compliance with sections 469, 531, and 532.....15

- RECOMMENDATION 5:** Use the Board-prescribed factor tables as intended when valuing business equipment.19

- RECOMMENDATION 6:** Grant the historical aircraft exemption only when all conditions have been met pursuant to section 220.5.20

- RECOMMENDATION 7:** Consistently include sales tax as a component of market value when appraising vessels.21

ADMINISTRATION

Exemptions

Article XIII, section 1 of the California Constitution sets forth the general principle that all property is taxable unless otherwise provided. Section 3 of article XIII authorizes exemption of certain types of property from property taxation and section 4 authorizes the Legislature to exempt certain other types of property from property taxation.³

Our review of the assessor's exemptions program included the welfare exemption. In Calaveras County, an assessment technician processes all the welfare exemption claims and annual filings. The assessor correctly requires an active Organizational Clearance Certificate for each welfare exemption being granted and field inspects properties as needed. The assessor properly requires the timely filing of all welfare claim forms in Calaveras County, and late filings are correctly subject to applicable reductions to the exemption granted to the claimant.

In our research, we noted a number of best practices utilized by the Calaveras County Assessor to maintain the welfare exemption program. As an example, the assessment technician documents the date of the receipt of a claim form by date stamping the claim form once it is received. The assessor's staff is diligent with the administration of the low-income housing portion of the welfare exemption and requires such properties to have a valid Supplemental Clearance Certificate (SCC). Files reviewed indicated that submission of all the proper documentation by the claimant was required prior to granting the exemption.

We reviewed a variety of welfare exemption claims, including fully exempt claims, partial exemptions, late filings, hospital filings, first-time filings, and annual filings. We also inspected claims for low-income housing property, including properties owned by a limited partnership holding an SCC. We found one area in need of improvement.

RECOMMENDATION 1: Properly notify claimants of the process for contesting denials when the property, or portion thereof, is denied the welfare exemption.

When the claimant is denied the welfare exemption, the assessor's notice to the claimant does not include the statutorily required language that informs the claimant of the process for contesting denials.

Section 254.5(c)(2) provides that if the assessor finds the claimant's property ineligible for the welfare exemption, the assessor shall notify the claimant in writing of that finding. The assessor must also provide notification that the claimant may seek a refund of property taxes paid by

³ For a detailed description of the scope of our review of this topic, please refer to the document entitled *Exemptions*, available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/exemptions_general.pdf. Additionally, detailed descriptions of assessment practices survey topics, authoritative citations, and related information can be found at <http://www.boe.ca.gov/proptaxes/apscont.htm>.

filing a claim for refund with the county. If the claim for refund is denied, the organization may file a refund action in superior court.

By not providing the required language in the letter notifying claimants when a property is denied exemption, the assessor is not providing proper notification to the claimant and is not in compliance with section 254.5(c)(2).

ASSESSMENT OF REAL PROPERTY

Taxable Possessory Interests

A taxable possessory interest results from the possession, a right to possession, or a claim to a right to possession of publicly owned real property, in which the possession provides a private benefit to the possessor and is independent, durable, and exclusive of rights held by others. The assessment of a taxable possessory interest in tax-exempt publicly owned property is based on the value of the rights held by the possessor; the value of the rights retained by the public owner is almost always tax exempt.⁴

The assessor enrolled 156 taxable possessory interests on the 2014-15 assessment roll totaling \$6,988,506. The majority of taxable possessory interests in Calaveras County are privately owned cabins on U.S. Forest Service land, private interests at the airport, grazing interests, and fairground concessionaires. Other types of taxable possessory interests in the county include cable television franchises, marinas, and various others. The assessor enrolls taxable possessory interests on the unsecured roll, using an assessment number beginning with 860.

We reviewed a number of taxable possessory interest records. We found the valuations are typically calculated using the contract terms and rents provided the rents appear reflective of the market. The stated term of possession is typically used as the reasonably anticipated term of possession. For taxable possessory interests lacking a stated term of possession, the assessor estimates a reasonably anticipated term of possession based on the history and relationship between the public agency and the tenant. Upon a change in ownership, the assessor issues supplemental assessments for possessory interests worth more than \$50,000. Calaveras County adopted and approved section 155.20 by means of Resolution 91-75 to exempt property with a full value of \$2,000 or less. There is no provision in the resolution, or in any additional resolution, increasing the exemption to \$50,000 for certain uses at the fairground.

While we found that the assessor has been working to improve the taxable possessory interests program, we did find areas where additional improvements are needed.

⁴ For a detailed description of the scope of our review of this topic, please refer to the document entitled *Taxable Possessory Interests*, available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/tpi_general.pdf. Additionally, detailed descriptions of assessment practices survey topics, authoritative citations, and related information can be found at <http://www.boe.ca.gov/proptaxes/apscont.htm>.

RECOMMENDATION 2: Improve the taxable possessory interest program by: (1) obtaining copies of lease agreements that create taxable possessory interests; (2) recognizing lessor expenses when valuing taxable possessory interests by the income approach; (3) reappraising all taxable possessory interests upon a change in ownership as required by section 61(b); (4) using the term of the lease as stated when valuing taxable possessory interests with a contract that has a stated term; (5) issuing supplemental assessments for changes in ownership in taxable possessory interests in compliance with section 75.5(b); (6) properly assessing tenant constructed or owned improvements that revert back to the lessor as taxable possessory interests; and (7) periodically reviewing all taxable possessory interests with stated terms of possession for decline in value.

Obtain copies of lease agreements that create taxable possessory interests.

The assessor does not consistently obtain copies of current leases for taxable possessory interests. The assessor primarily relies on historical information or information obtained from the public agencies.

Rule 21 describes the various approaches to value and how to determine the term of possession for the valuation of taxable possessory interests. Rule 21(d)(1) explains that the stated term of possession shall be deemed the reasonably anticipated term of possession unless it is demonstrated by clear and convincing evidence that the public owner and the private possessor have reached a mutual understanding that the reasonably anticipated term of possession is shorter or longer than the stated term of possession. In addition, Rule 21(a)(6) provides that the stated term of possession includes any option or options to renew or extend the specified period of possession if it is reasonable to assume that the option or options will be exercised. Further, Rule 21(e)(3)(C) explains how to determine the net operating income for capitalization purposes.

These steps in the valuation process cannot be properly completed if the contract conveying the taxable possessory interest is not reviewed. For example, the assessor may have some information relating to the initial lease term, but may not know of any renewal options contained in the lease or the allocation of operating expenses between the public owner and the possessor. In addition, without the lease, the assessor may not correctly determine the ownership of improvements constructed by the tenant on public land, or which maintenance items or expenses are the responsibility of the public agency. A review of the entire lease is crucial to determine the proper valuation variables.

By not obtaining copies of current leases, the assessor may be unaware of lease terms that can significantly impact the net income to be capitalized and, therefore, would be unable to accurately value the taxable possessory interest.

Recognize lessor expenses when valuing taxable possessory interests by the income approach.

The assessor typically determines the fair market value of a taxable possessory interest using the direct income approach. We found that the assessor is not consistent in making deductions from the gross rent for management and other operating expenses incurred by the public lessor.

Assessors' Handbook Section 510, *Assessment of Taxable Possessory Interests* (AH 510), provides that allowed expenses paid by the public owner should be deducted from the estimated economic rent. Rule 21(e)(3)(C) provides that the income to be capitalized in the valuation of a taxable possessory interest is the "net return," as defined in subsection (c) of Rule 8, attributable to the taxable possessory interest.

A public owner will incur at least some management expenses while overseeing each taxable possessory interest. Some lease agreements may require the public owner to pay for other expenses such as property insurance, maintenance, or utilities. By not recognizing these expenses and deducting them from the gross income to be capitalized, the assessor may be overstating the net income and the value of these taxable possessory interests.

Reappraise all taxable possessory interests upon a change in ownership as required by section 61(b).

We found taxable possessory interests where the assessor failed to do a reappraisal at the end of the reasonably anticipated term of possession.

Section 61(b) provides that a change in ownership includes, but is not limited to, the creation, renewal, extension, or assignment of a taxable possessory interest in tax-exempt real property. Section 61(b)(2) further provides that any renewal or extension of a taxable possessory interest during the reasonably anticipated term of possession used to value that interest does not result in a change in ownership until the end of the reasonably anticipated term of possession. At that time, the assessor must establish a new base year value for the taxable possessory interest based on a new reasonably anticipated term of possession.

By not revaluing taxable possessory interests at the end of the reasonably anticipated term of possession used by the assessor to value the interest initially, the assessor is not in compliance with section 61(b) and is enrolling inaccurate assessments.

Use the term of the lease as stated when valuing taxable possessory interests with a contract that has a stated term.

When valuing taxable possessory interests with a stated term of possession created by a contract, we found instances where the assessor is using an anticipated term of possession as the reasonably anticipated term rather than the term of possession as stated in the contract.

Rule 21(d)(1) provides that the stated term of possession shall be deemed the reasonably anticipated term of possession unless it is demonstrated by clear and convincing evidence that the public owner and the private possessor have reached a mutual understanding or agreement

such that the reasonably anticipated term of possession is shorter or longer than the stated term of possession. We found no evidence of such an understanding or agreement.

The assessor's use of an anticipated term of possession different from the stated contract term is contrary to Rule 21 and most likely results in incorrect assessments.

Issue supplemental assessments for changes in ownership in taxable possessory interests in compliance with section 75.5(b).

We found instances where the assessor is issuing supplemental assessments for taxable possessory interests with month-to-month agreements having full cash values of less than \$50,000.

Section 75.5(b) provides that newly created taxable possessory interests based on month-to-month agreements and having a full cash value of \$50,000 or less are not subject to supplemental assessments.

The assessor's practice is not authorized by law and has resulted in inappropriate assessments.

Properly assess tenant constructed or owned improvements that revert back to the lessor as taxable possessory interests.

We found instances where improvements constructed by the tenant, that become the property of the public owner at the termination of the possession, are not correctly assessed as taxable possessory interests.

According to AH 510, a possessory interest includes all improvements constructed pursuant to a possessory interest in land that become the property of the public owner at the termination of the possession, whether the improvements were constructed at the possessor's or the public owner's expense. If the original lease indicates the improvements become the public owner's upon termination of the lease, then the improvements would also be considered part of the taxable possessory interest.

By not treating these improvements as part of the taxable possessory interest, the assessor's valuation process is improper and may have resulted in incorrect assessments.

Periodically review all taxable possessory interests with stated terms of possession for decline in value.

We found the assessor does not periodically review all taxable possessory interests for possible declines in value. In some instances, the assessor instead enrolls the factored base year value.

Rule 21(a)(6) defines the stated term of possession for a taxable possessory interest as of a specific date as:

"...the remaining period of possession as of that date as specified in the lease, agreement, deed, conveyance, permit, or other authorization or instrument that created, extended, or renewed the taxable possessory interest, including any

option or options to renew or extend the specified period of possession if it is reasonable to assume that the option or options will be exercised."

According to AH 510, taxable possessory interests are valued each lien date at the lesser of their factored base year value or their fair market value, taking into account factors that may cause a decline in value. Among the factors that may cause a decline in value is a reduction in the reasonably anticipated term of possession used to value the taxable possessory interest. If the reasonably anticipated term of possession is based on the stated term of possession, the term of possession will decline each lien date.

By not accounting for the diminishing interest in the leased property leading to a decline in value, the assessor is not in compliance with Rule 21(a)(6) and may be enrolling incorrect assessments.

Mineral Property

By statute and case law, mineral properties are taxable as real property. They are subject to the same laws and appraisal methodology as all real property in the state. However, there are three mineral-specific property tax rules that apply to the assessment of mineral properties. They are Rule 468, *Oil and Gas Producing Properties*, Rule 469, *Mining Properties*, and Rule 473, *Geothermal Properties*. These rules are interpretations of existing statutes and case law with respect to the assessment of mineral properties.⁵

There are no petroleum or high temperature geothermal properties located in Calaveras County. The chief appraiser appraises mineral properties. Our review of mineral properties found one area in need of improvement.

RECOMMENDATION 3: Reevaluate the current market value of mineral properties based on the projected physical and economic operating conditions on the current lien date.

Mineral properties are income producing properties and, therefore, they are typically appraised using either a discounted cash flow analysis of the net income to the property (full income approach) or an analysis of the royalty income on the property and then adding value for the improvements and fixtures on the property (royalty approach). The assessor makes use of each of these approaches depending on what information is available for each property.

To establish a base year value, the assessor projects the expected production and income for the property, determining "a per unit value of production." In subsequent years, to determine the current market value, it appears that the assessor uses the initial projection of production, adjusts for changes to income based on the annual reports filed by the taxpayer to derive a current "per unit value," and then multiplies this per unit value by the quantity of remaining reserves. The resulting value is then compared to the base year value of the reserves to determine which value

⁵ For a detailed description of the scope of our review of this topic, please refer to the document entitled *Mineral Property*, available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/mineralprop_general.pdf. Additionally, detailed descriptions of assessment practices survey topics, authoritative citations, and related information can be found at <http://www.boe.ca.gov/proptaxes/apscont.htm>.

to enroll. However, unless the prior years' actual production is the same as the initial projected production, the characteristics of the cash flow are changed and the value generated does not represent the current market value of the reserves.

Rule 469 states that proved reserves are minerals that are expected "to be recoverable in the future, taking into account reasonably projected physical and economic operating conditions." A change in the production profile of the property from prior years is a change in the physical and economic operating conditions of the property. To reflect the current market value of a property accurately, a new projection of production should be part of the income analysis for each year.

This error in the assessor's valuation procedure may or may not result in the enrollment of an incorrect taxable value. The error only affects the estimate of the current market value, and if the base year value is the proper value to enroll, the taxable value would be correct.

ASSESSMENT OF PERSONAL PROPERTY AND FIXTURES

Audit Program

County assessors are required to annually conduct a significant number of audits as specified in section 469. The significant number of audits required is at least 75 percent of the fiscal year average of the total number of mandatory audits the assessor was required to have conducted during the 2002-03 fiscal year to the 2005-06 fiscal year, with at least 50 percent of those to be selected from a pool of those taxpayers with the largest assessments.⁶

For Calaveras County, the minimum required number of audits to be conducted each year is four: two from the pool of taxpayers with the largest assessments and two from the pool of all others. Although the assessor has budgeted a half-time position, the auditor-appraiser function remains unfilled. To fulfill this function, the assessor relies on the intercounty cooperative property tax audit program referred to as California Counties Cooperative Audit Services Exchange (CCCASE). Through the CCCASE program, certified auditor-appraisers from other counties conduct the audits. The assessor then reviews the audit results.

We found areas in the audit program where improvements are needed.

RECOMMENDATION 4: Develop and implement written procedures to improve the audit program, and monitor the program to ensure compliance with sections 469, 531, and 532.

The assessor does not have written procedures in place to manage the audit program and to assist staff with conducting the audit function. An effective audit program verifies the reporting of a significant number of business property accounts, from small to large, and helps prevent potential errors or escape assessments. An audit program is an essential component of an equitably administered assessment program. A weak audit program can leave a business property assessment program with no means of verifying the accuracy of taxpayer reporting or correcting noncompliant reporting practices. Without clearly defined written procedures, uniformity and consistency in performing audits is difficult to achieve. Assessors' Handbook Section 506, *Property Tax Audits and Audit Program* (AH 506) offers guidance on each of the following procedures and practices.

- Perform the minimum number of audits of professions, trades, and businesses pursuant to section 469.

We found the assessor completed the minimum number of audits in only two of the last four years, leaving the assessor out of compliance with section 469 and Rule 192. As specified in

⁶ For a detailed description of the scope of our review of this topic, please refer to the document entitled *Audit Program*, available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/auditprogram_general.pdf. Additionally, detailed descriptions of assessment practices survey topics, authoritative citations, and related information can be found at <http://www.boe.ca.gov/proptaxes/apscont.htm>.

Letter To Assessors No. 2009/049, the assessor must conduct a minimum of four audits each year.

Section 469(a) provides the assessor shall annually conduct a significant number of audits of the books and records of taxpayers engaged in a profession, trade, or business who own, claim, possess, or control locally assessable trade fixtures and business tangible personal property. Rule 192 prescribes the computation establishing minimum required audit production and provides the basis for the audit selection process.

- Select the taxpayers to be audited each year utilizing the methodology prescribed in section 469 and Rule 192.

The assessor does not follow the audit selection methodology prescribed by section 469. Section 469 and Rule 192 provide that 50 percent of the audits must be conducted on taxpayers selected from the pool of taxpayers with the largest assessments of locally assessable trade fixtures and business tangible personal property in the county. The remaining 50 percent of the audits must be conducted on taxpayers selected from the pool of all other taxpayers. AH 506, Chapter 2: Audit Program, offers guidance to assessors in the selection of taxpayers to be audited.

- Develop and maintain an audit tracking schedule.

The assessor does not maintain an audit tracking schedule. An effective audit program involves the organization and documentation of the audit workload. An audit tracking schedule provides management with a snapshot of the audit workload and assists in monitoring assignments, audit completions, and audit results. Furthermore, the audit tracking schedule serves as a useful tool when preparing for future audit workloads and provides management with a tool for verifying compliance with section 469. Without an audit tracking schedule, it is difficult to effectively manage the required annual workload. BOE guidance on tracking the audit workload and developing the audit tracking schedule can be found in Chapter 2 of AH 506.

- Obtain a waiver of the statute of limitations pursuant to section 532.1 when an audit will not be completed timely.

We found the assessor did not seek waivers of the statute of limitations on audits that were not completed within the statutory period defined by section 532. Section 532 provides that, when the assessor discovers property has escaped assessment, an assessment of such property must be enrolled within four years after July 1 of the assessment year during which the property escaped assessment. If the assessor cannot complete an audit within the prescribed time, the assessor may request, pursuant to section 532.1, a waiver of the statute of limitations from the taxpayer to extend the time for making an escape assessment, correction, or refund. A signed waiver allows the assessor to enroll an escape assessment if a reporting deficiency is found and can protect the taxpayer during the audit process should an overassessment be discovered. Seeking these waivers is a standard procedure in a well-managed audit program.

- Use a comprehensive audit checklist as a standard component of all audits.

We found frequent examples where we could not determine the scope of the assessor's audit investigations because an audit checklist was not completed or was only partially completed during the review.

An audit checklist can serve to remind auditor-appraisers of the various issues to research and procedures to follow during an audit. It may also provide an outline of topics and pertinent issues covered in the audit. Furthermore, it serves as a useful research tool when preparing for subsequent audits of the same business entity. Most importantly, without a comprehensive audit checklist, it is difficult for a reviewer to know what topics were covered during the course of the audit and whether the findings are sufficiently supported.

- Coordinate assessment activities with the real property section as a standard component of the audit process.

We found several audits where there was no evidence the business property section had coordinated the assessments with the real property section. To ensure accurate and valid assessments are made, proper classification should be verified; coordination between the business property and real property sections is an integral step in this process. According to AH 506, classification is an important element of the local assessment function for several reasons. Principally, it is important because property tax law requires the assessment roll to show separate values for land, improvements (including fixtures), and personal property. It is also significant because of the assessment differences between real property and personal property. Those differences include: (1) only real property receives special assessments; (2) personal property is appraised annually at market value, while fixtures are assessed at the lower of current market value or factored base year value; and (3) fixtures are typically a separate appraisal unit when measuring declines in value.

- Ensure that a supervisory review is conducted on all audits.

We reviewed various audit files and were unable to verify that all audits were reviewed once completed and received by the assessor; we found no evidence that a supervisory review was conducted.

The review is a fundamental component of the audit process. Reviews of completed audits are conducted to ensure technical and legal correctness. AH 506 indicates the audit report, audit findings, and all working papers are to be reviewed to ensure that the proper audit procedures have been performed and that findings are supported by evidence and substantiating documents.

- Inform taxpayers of audit results.

We found several instances where we could not determine if the assessor informed taxpayers of their audit results, including audits with escapes and overassessments. In one instance, 11 months after the audit was completed, the assessor had yet to inform the taxpayer of the audit results.

Section 469(c)(1) provides that upon completion of an audit, the assessor is required to notify the assessee, in writing, of the audit findings with respect to data that would alter any previously enrolled assessments. Section 469(c)(4) further states, if an audit for any particular tax year discloses that the property was incorrectly valued or misclassified for any cause, to the extent that this error caused the property to be assessed at a higher value than the assessor would have entered on the roll had the incorrect valuation or misclassification not occurred, then the assessor shall notify the taxpayer of the amount of the excess valuation or misclassification. Additionally, section 408(e)(1) permits the assessee or the assessee's representative to inspect or copy all information, documents, and records, including auditor-appraisers' narrations and workpapers, relating to the assessment of the assessee's property.

- Enroll all escape assessments discovered during an audit.

We found that the assessor's current practice is to make no assessment roll changes when the net results of differences from one year to the next are considered minimal or not cost effective. In addition, we found the assessor does not enroll all escapes found during an audit.

Section 531 requires that, if any property belonging on the local roll escapes assessment, the assessor shall assess the property on discovery at its value on the lien date for the year in which it escaped assessment. When incorrect assessments are discovered for multiple years as a result of an audit, section 533 requires that the tax refunds resulting from incorrect assessments shall be offset against proposed tax liabilities, including accumulated penalties and interest; it does not allow for an offset of underassessments against overassessments. Offsetting tax refunds against tax liabilities is the responsibility of the county auditor, not the assessor.

Although section 531.9 permits a county board of supervisors to adopt an ordinance to prohibit an assessor from making escape assessments where the amount of taxes due is less than the cost of assessing and collecting them, Calaveras County currently has no such ordinance.

Business Equipment Valuation

Assessors value most machinery and equipment using business property valuation factors. Some valuation factors are derived by combining price index factors with percent good factors, while other valuation factors result from valuation studies. A value indicator is obtained by multiplying a property's historical cost by an appropriate value factor.⁷

We reviewed the assessor's factor tables and found the majority of them to be correctly compiled. However, we found a problem with the agricultural and construction equipment factors.

⁷ For a detailed description of the scope of our review of this topic, please refer to the document entitled *Business Equipment Valuation*, available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/businessequipval_general.pdf. Additionally, detailed descriptions of assessment practices survey topics, authoritative citations, and related information can be found at <http://www.boe.ca.gov/proptaxes/apscont.htm>.

RECOMMENDATION 5: Use the Board-prescribed factor tables as intended when valuing business equipment.

We reviewed the assessor's factor schedules for the 2014 assessment year and found several significant errors in the factor schedule compilation. For example, the combined factor should include both the index factor and the percent good factor, but in some instances only included the percent good factor. In addition, some of the factor schedules were mislabeled as "new" instead of "average" and "average" instead of "new." We confirmed the use of the incorrect factors by reviewing a number of assessments involving mobile and non mobile agricultural and construction equipment.

Accurate assessments depend on the judicious application of the tables in the Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors*. To ensure the most accurate value indicator possible, accurate valuation tables should be utilized. The assessor's use of inaccurate tables likely results in inaccurate assessments.

Aircraft

General Aircraft

General aircraft are privately owned aircraft that are used for pleasure or business, but that are not authorized to carry passengers, mail, or freight on a commercial basis. Section 5363 requires the assessor to determine the market value of all aircraft according to standards and guidelines prescribed by the BOE. Section 5364 requires the BOE to establish such standards.⁸

We reviewed several general aircraft records for valuation methodology, and the application of failure to file penalties pursuant to section 5367. We found the assessor's methods for the discovery, valuation, and assessment of general aircraft conform to statutory provisions and guidelines set forth in the Assessors' Handbook 577, *Assessment of General Aircraft*.

Historical Aircraft

Aircraft of historical significance can be exempted from taxation if they meet certain requirements. Section 220.5 defines "aircraft of historical significance" as: (1) an aircraft that is an original, restored, or replica of a heavier than air powered aircraft 35 years or older; or (2) any aircraft of a type or model of which there are fewer than five such aircraft known to exist worldwide.

In Calaveras County, historical aircraft owners are provided the BOE-260-B, *Claim for Exemption from Property Taxes of Aircraft of Historical Significance*, forms to complete annually. However, we found that the assessor is granting the historical exemption even though not all of the conditions have been met.

⁸ For a detailed description of the scope of our review of this topic, please refer to the document entitled *Aircraft*, available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/aircraft_general.pdf. Additionally, detailed descriptions of assessment practices survey topics, authoritative citations, and related information can be found at <http://www.boe.ca.gov/proptaxes/apscont.htm>.

RECOMMENDATION 6: Grant the historical aircraft exemption only when all conditions have been met pursuant to section 220.5.

We found the historical aircraft exemption claim forms for all three of the historical aircraft receiving the exemption are lacking the proper certificate of attendance signed by the event coordinator when the aircraft was displayed to the public. The assessor has been granting the historical aircraft exemption when the BOE-260-B, *Claim for Exemption from Property Taxes of Aircraft of Historical Significance*, is incomplete and the certificates of attendance are not attached as required.

Section 220.5(b) provides that an aircraft of historical significance shall be exempt from taxation only if all of the following conditions are satisfied:

- The assessee is an individual owner who does not hold the aircraft primarily for purposes of sale.
- The assessee does not use the aircraft for commercial purposes or general transportation.
- The aircraft is available for display to the public at least 12 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed. When applying for an exemption pursuant to this section, the claimant shall attach to that application a certificate of attendance from the event coordinator of the event at which the aircraft was displayed.

Section 220.5(c) further provides that the claimant shall provide all information required and answer all questions contained in an affidavit furnished by the assessor. The claimant shall sign the affidavit under penalty of perjury. The assessor may require additional proof of the information or answers provided in the affidavit before allowing the exemption.

Before allowing the historical aircraft exemption, the assessor should verify that all conditions have been met, and when there is a discrepancy, the assessor should follow up with a field inspection or request that the claimant provide further documentation to support the claim. When the assessor grants historical aircraft exemptions without following the provisions of section 220.5, there is a potential loss of revenue by allowing full or partial exemptions that the owner may not be entitled to receive.

Vessels

The primary sources used for the discovery of assessable vessels include reports from the State Department of Motor Vehicles, referrals from other counties, information provided by the vessel owners themselves, certificates of documentation issued by the United States Coast Guard, harbor masters' reports, and field canvassing.⁹

⁹ For a detailed description of the scope of our review of this topic, please refer to the document entitled *Vessels*, available on the BOE's website http://www.boe.ca.gov/Assessors/pdf/vessels_general.pdf. Additionally, detailed descriptions of assessment practices survey topics, authoritative citations, and related information can be found at <http://www.boe.ca.gov/proptaxes/apscont.htm>.

We sampled a number of assessments where the vessel owner was required to submit a vessel property statement pursuant to section 441(a) and found that when the taxpayer failed to file a vessel property statement, the assessor correctly applied a 10 percent penalty assessment in accordance with section 463. However, we found that the assessor does not consistently add sales tax as a component of market value.

RECOMMENDATION 7: Consistently include sales tax as a component of market value when appraising vessels.

The assessor initially values vessels by referring to widely recognized value guides and Internet sales data. However, value guides and Internet sales data do not include California sales tax, an element of value. We found numerous cases where the assessor developed a value conclusion derived from these sources but there is no indication that a sales tax component is included. Since the assessor applies BOE annual valuation factors to this initial value for subsequent lien dates, this error is perpetuated.

Generally, the addition of sales or use tax to a value estimate is required to approximate the market value to the consumer. Assessors' Handbook Section 576, *Assessment of Vessels*, provides that the addition of taxes, freight, and transportation charges to the list price of a vessel is consistent with an appraisal approach that considers the consumer's total cost in arriving at market value. Furthermore, the court case of *Xerox Corp. v. Orange County*, 66 Cal.App.3d 746, established that under the market value concept, where price is the basis of value, the sales tax and freight charges are elements of value.

Without including all the elements of the cost, the assessor's values are understated, which leads to a loss in tax revenue.

APPENDIX A: STATISTICAL DATA

Table 1: Assessment Roll

The following table displays information pertinent to the 2014-15 assessment roll:¹⁰

	PROPERTY TYPE	ENROLLED VALUE
Secured Roll	Land	\$1,639,045,892
	Improvements	\$4,165,403,878
	Personal Property	\$23,926,770
	Total Secured	\$5,828,376,540
Unsecured Roll	Land	\$6,617,482
	Improvements	\$48,818,018
	Personal Property	\$88,989,339
	Total Unsecured	\$144,424,839
Exemptions¹¹		(\$111,768,992)
	Total Assessment Roll	\$5,861,032,387

Table 2: Change in Assessed Values

The next table summarizes the change in assessed values over recent years:¹²

YEAR	TOTAL ROLL VALUE	CHANGE	STATEWIDE CHANGE
2014-15	\$5,861,032,000	6.1%	6.2%
2013-14	\$5,524,849,000	0.4%	4.3%
2012-13	\$5,503,941,000	-4.3%	1.4%
2011-12	\$5,753,673,000	-5.0%	0.1%
2010-11	\$6,056,401,000	-12.1%	-1.9%

¹⁰ Roll values are from BOE-822 report.

¹¹ The value of the Homeowners' Exemption is excluded from the exemptions total.

¹² Roll values and statewide changes are from the *State Board of Equalization Annual Report*, Table 7.

Table 3: Gross Budget and Staffing

The assessor's budget has decreased from \$1,065,665 in 2013-14 to \$1,034,117 in 2014-15.

The assessor's current staff officially totals 12.4, although with leaves and vacancies actually totals 11.82 staff, which includes the assessor, 1 part-time chief appraiser, 1 chief of assessment services, 2 appraiser IIIs, 2 appraiser Is, 1 cadastral specialist I, 1 assessment technician IV, and 1 assessment technician I. There is 1 assessment technician III out on leave and 1 assessment technician I vacancy.

The following table shows the assessor's budget and staffing over recent years:¹³

BUDGET YEAR	GROSS BUDGET	PERCENT CHANGE	PERMANENT STAFF
2014-15	\$1,034,117	-3.0%	12.4 ¹⁴
2013-14	\$1,065,665	-1.9%	13.0
2012-13	\$1,086,830	13.3%	13.0
2011-12	\$959,289	-3.6%	11.3
2010-11	\$995,512	-12.5%	12.0

Table 4: Assessment Appeals

The following table shows the assessment appeals workload over recent years:¹⁵

YEAR	ASSESSMENT APPEALS FILED
2014-15	144
2013-14	165
2012-13	140
2011-12	193
2010-11	176

¹³ Gross Budget data from Table A in *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices*.

¹⁴ Funded staff 12.4 – Actual staff with current hour reduction is 11.82 per assessor.

¹⁵ Statistics from *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices* for years 2010-11 through 2012-13, and 2014-15. Statistics for 2013-14 from assessor.

Table 5: Exemptions – Welfare

The following table shows welfare exemption data for recent years:¹⁶

YEAR	WELFARE EXEMPTIONS	EXEMPTED VALUE
2014-15	102	\$69,173,799
2013-14	106	\$59,471,503
2012-13	115	\$58,858,118
2011-12	99	\$57,098,173
2010-11	93	\$54,870,202

Table 6: Change in Ownership

The following table shows the total number of reappraisable transfer in Calaveras County over recent years:¹⁷

YEAR	REAPPRAISABLE TRANSFERS
2014-15	2,014
2013-14	1,983
2012-13	2,389
2011-12	2,044
2010-11	1,526

¹⁶ Statistics from BOE-802, *Report on Exemptions*, for years 2009-10 through 2012-13. Statistics for 2013-14 from assessor.

¹⁷ Statistics from *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices* for years 2010-11 through 2012-13, and 2014-15. Statistics for 2013-14 from assessor.

Table 7: New Construction

The following table sets forth the number of new construction assessments for recent years:¹⁸

YEAR	NEW CONSTRUCTION ASSESSMENTS
2014-15	967
2013-14	739
2012-13	878
2011-12	1,155
2010-11	1,255

Table 8: Declines in Value

The following table sets forth the number of decline-in-value assessments for recent years:¹⁹

YEAR	DECLINE-IN-VALUE ASSESSMENTS
2014-15	15,499
2013-14	17,635
2012-13	20,204
2011-12	19,546
2010-11	17,100

¹⁸ Statistics from *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices* for years 2010-11 through 2012-13, and 2014-15. Statistics for 2013-14 from assessor.

¹⁹ Statistics from *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices* for years 2010-11 through 2012-13, and 2014-15. Statistics for 2013-14 from assessor.

APPENDIX B: COUNTY-ASSESSED PROPERTIES DIVISION SURVEY GROUP

Calaveras County

Chief

David Yeung

Survey Program Director:

Diane Yasui

Manager, Property Tax

Survey Team Supervisor:

Sally Boeck

Supervisor, Property Tax

Survey Team Leader:

Andrew Austin

Supervisor, Property Tax

Survey Team:

James McCarthy

Senior Petroleum and Mining Appraisal Engineer

Teresa Nguyen

Business Taxes Specialist I

Todd Aylward

Associate Property Appraiser

Gary Coates

Associate Property Appraiser

Lee Coleman

Associate Property Appraiser

Jay Price

Associate Property Appraiser

Paula Montez

Associate Property Auditor-Appraiser

Eric Santana

Assistant Property Appraiser

Nancy Le

Assistant Property Auditor-Appraiser

Dany Lunetta

Associate Governmental Program Analyst

APPENDIX C: RELEVANT STATUTES AND REGULATIONS

Reference	Description
<i>Government Code</i>	
§15640	Survey by board of county assessment procedures.
§15641	Audit of records; appraisal data not public.
§15642	Research by board employees.
§15643	When surveys to be made.
§15644	Recommendations by board.
§15645	Survey report; final survey report; assessor's report.
§15646	Copies of final survey reports to be filed with local officials.
<i>Revenue and Taxation Code</i>	
§75.60	Allocation for administration.
<i>Title 18, California Code of Regulations</i>	
Rule 370	Random selection of counties for representative sampling.
Rule 371	Significant assessment problems.

ASSESSOR'S RESPONSE TO BOE'S FINDINGS

Section 15645 of the Government Code provides that the assessor may file with the Board a response to the findings and recommendations in the survey report. The Calaveras County Assessor's response begins on the next page.

Section 15645 also allows the Board to include in the report comments regarding the assessor's response. Our comments follow the assessor's response.



Calaveras County Assessor's Office

Leslie K. Davis
Assessor

July 27, 2016

Mr. Dean Kinnee, Deputy Director
Property Tax Department
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0064

Re: Calaveras County Assessment Practices Survey Response

Dear Mr. Kinnee:

I have reviewed the *2016 Calaveras County Assessment Practices Survey Report* and the recommendations it contains. I have attached my response to those recommendations pursuant to section 15645 of the Government Code. Please include my response in your final survey report.

Your survey team was professional, courteous, and diligent in their review of our assessment practices. We appreciate the time they spent explaining their findings and insights. I believe that the primary value of the Survey Program comes from the interaction between survey team members and my staff. Please convey my sincere thanks to your team for their hard work and professional conduct.

I would like to express my sincere appreciation to the staff of the Calaveras County Assessor's Office for their professionalism and their commitment to provide high quality and responsive public service. It is an honor to work with such a dedicated team. The positive survey results are a direct reflection of their efforts.

Respectfully submitted,

A handwritten signature in blue ink that reads "Leslie K. Davis".

Leslie K. Davis
Assessor

CALAVERAS COUNTY ASSESSMENT PRACTICES SURVEY

July 2016

Recommendations and Responses

Recommendation 1: Properly notify claimants of the process for contesting denials when the property, or portion thereof, is denied the welfare exemption.

Response: We agree. We have corrected the letter to include the process for contesting denials.

Recommendation 2: Improve the taxable possessory interest program by: (1) obtaining copies of lease agreements that create taxable possessory interests; (2) recognizing lessor expenses when valuing taxable possessory interests by the income approach; (3) reappraising all taxable possessory interests upon a change in ownership as required by section 61(b); (4) using the term of the lease as stated when valuing taxable possessory interests with a contract that has a stated term; (5) issuing supplemental assessments for changes in ownership in taxable possessory interests in compliance with section 75.5(b); (6) properly assessing tenant constructed or owned improvements that revert back to the lessor as taxable possessory interests; and (7) periodically reviewing all taxable possessory interests with stated terms of possession for decline in value.

Response: This recommendation is almost an exact duplicate from 2012. At that time, we said the following:

In general, we agree that the assessments of possessory interests have room for improvement. We will, as time and resources permit, make changes to improve the process.

We do not agree with all seven components of the recommendation. Most importantly, we disagree with the suggestion that we obtain copies of all lease agreements or permits that create taxable possessory interests. There is no requirement in state law that supports this recommendation. In fact, the law provides two alternative ways for public agencies to report a possessory interest so there is no need to obtain a copy of the document if it is reported correctly. Also, it should be noted that possessory interests are created by public agencies that are not subject to state law and their responsiveness is not something that the Assessor can control.

Our response has not changed much. We have not had the time or resources to make changes to improve the process. Even if we had, I doubt that obtaining copies of lease agreements would be a high priority.

The balance of the recommendation is technical in nature. This particular recommendation is contained in the majority of Survey Reports issued by the BOE and would imply that the BOE needs to provide more training on

possessory interests. Admittedly, BOE resources are also spread thin. But, “the objective of the survey program is to promote statewide uniformity and consistency in property tax administration.” If you continue to find problems across the state, your time might be better spent developing and providing training in those areas and the valuation of possessory interests is a prime candidate for training.

Recommendation 3: Reevaluate the current market value of mineral properties based on the projected physical and economic operating conditions on the current lien date.

Response: We concur. We have attempted to contact your subject matter expert for guidance. We hope to correct the problem after we have an opportunity to meet.

Recommendation 4: Develop and implement written procedures to improve the audit program, and monitor the program to ensure compliance with sections 469, 531, and 532.

Response: We concur and are working on written procedures.

Recommendation 5: Use the Board-prescribed factor tables as intended when valuing business equipment.

Response: We concur and have taken action to ensure that the factor tables are correctly input into our property tax system.

Recommendation 6: Grant the historical aircraft exemption only when all conditions have been met pursuant to section 220.5.

Response: We agree and have taken action to ensure that all conditions are met before granting the exemption. We appreciate the fact that you noted that there are only three historical aircraft exemptions in the county and they reflect about 4/1000's of the entire assessment roll. Nonetheless we agree that no taxpayer should receive special treatment and the problem has been corrected.

Recommendation 7: Consistently include sales tax as a component of market value when appraising vessels.

Response: We concur and have taken action to ensure that all vessels include sales tax as a component of market value.

BOE COMMENTS TO ASSESSOR'S RESPONSE

Recommendation 2: Improve the taxable possessory interest program by: (1) obtaining copies of lease agreements that create taxable possessory interests; (2) recognizing lessor expenses when valuing taxable possessory interests by the income approach; (3) reappraising all taxable possessory interests upon a change in ownership as required by section 61(b); (4) using the term of the lease as stated when valuing taxable possessory interests with a contract that has a stated term; (5) issuing supplemental assessments for changes in ownership in taxable possessory interests in compliance with section 75.5(b); (6) properly assessing tenant constructed or owned improvements that revert back to the lessor as taxable possessory interests; and (7) periodically reviewing all taxable possessory interests with stated terms of possession for decline in value.

Assessor's Response: This recommendation is almost an exact duplicate from 2012. At that time, we said the following:

In general, we agree that the assessments of possessory interests have room for improvement. We will, as time and resources permit, make changes to improve the process.

We do not agree with all seven components of the recommendation. Most importantly, we disagree with the suggestion that we obtain copies of all lease agreements or permits that create taxable possessory interests. There is no requirement in state law that supports this recommendation. In fact, the law provides two alternative ways for public agencies to report a possessory interest so there is no need to obtain a copy of the document if it is reported correctly. Also, it should be noted that possessory interests are created by public agencies that are not subject to state law and their responsiveness is not something that the Assessor can control.

Our response has not changed much. We have not had the time or resources to make changes to improve the process. Even if we had, I doubt that obtaining copies of lease agreements would be a high priority.

The balance of the recommendation is technical in nature. This particular recommendation is contained in the majority of Survey Reports issued by the BOE and would imply that the BOE needs to provide more training on possessory interests. Admittedly, BOE resources are also spread thin. But, "the objective of the survey program is to promote statewide uniformity and consistency in property tax administration." If you continue to find problems across the state, your time might be better spent developing and providing training in those areas and the valuation of possessory interests is a prime candidate for training.

BOE Comments to Assessor's Response:

The BOE comment pertains to part 1 only.

In order to value a taxable possessory interest, as described in Property Tax Rule 21, pertinent data outlined in lease agreements would need to be considered. Without consistently obtaining current leases, some assessment decisions are based on historical information or summary lease information obtained from the public agencies. Until the files are updated with current leases, the assessor will in some cases be unable to determine what terms were agreed to between the parties. For example, the assessor may be unaware of any renewal options contained in a lease and, therefore, would be unable to accurately value the resulting taxable possessory interest.