

FRESNO COUNTY ASSESSMENT PRACTICES SURVEY

JANUARY 2015

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No. 2015/002

January 13, 2015

TO COUNTY ASSESSORS:

**FRESNO COUNTY
ASSESSMENT PRACTICES SURVEY**

A copy of the Fresno 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 each county and city and county 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 Paul Dictos, Fresno County Assessor-Recorder, 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 Fresno 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 January through February 2013. The report does not reflect changes implemented by the assessor after the fieldwork was completed.

Mr. Dictos and his 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
Acting 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 every county assessor's office. This report reflects the BOE's findings in its current survey of the Fresno County Assessor-Recorder's Office.¹

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 Fresno 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 Paul Dictos, Fresno County Assessor-Recorder, elected to file his initial response prior to the publication of our survey; it is included in this report following the Appendixes.

¹ This report covers only the assessment functions of this office.

OBJECTIVE

The survey shall "...show the extent to which assessment practices are consistent with or differ from state law and regulations."² 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, review each county's property assessment practices and procedures once every five years, and publish 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.

Pursuant to Revenue and Taxation Code³ 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.

This survey included an assessment sample of the 2012-13 assessment roll to determine the average level (ratio) of assessment for all properties and the disparity among assessments within the sample. The ideal assessment ratio is 100 percent, and the minimum acceptable ratio is 95 percent. Disparity among assessments is measured by the sum of absolute differences found in the sample; the ideal sum of absolute differences is 0 percent and the maximum acceptable number is 7.5 percent. If the assessment roll meets the minimum standards for ratio and disparity, the county is eligible to continue to recover the administrative cost of processing supplemental assessments.

Our survey methodology of the Fresno County Assessor-Recorder's Office included reviews of the assessor's records, interviews with the assessor and his staff, and contacts with officials in

² Government Code section 15642.

³ 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.

other public agencies in Fresno County who provided information relevant to the property tax assessment program.

For a detailed description of the scope of our review of county assessment practices, please refer to the Assessment Practices Survey, which is available on the BOE's website at <http://www.boe.ca.gov/Assessors/pdf/Scopemaster.pdf>.

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, staff property and activities, and assessment appeals.

- 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, decline-in-value assessments, and certain properties subject to special assessment procedures, such as California Land Conservation Act (CLCA) "Williamson Act" property 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, and business equipment valuation.

EXECUTIVE SUMMARY

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.

During our survey, we noted that the assessor has implemented changes to the California Land Conservation Act (CLCA) "Williamson Act" property program in an effort to make positive improvements. These changes included performing studies in order to apply appropriate risk rates and to bring rents and expenses up to current market levels as required by state law.

The following areas concern portions of programs which 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 is effectively managing the staffing, workload, and assessment appeals programs. However, we made a recommendation for improvement in the staff property and activities program.

In the area of real property assessment, the assessor has effective programs for new construction and California Land Conservation Act (CLCA) "Williamson Act" property. However, we made recommendations for improvement in the change in ownership, declines in value, and mineral property programs.

In the area of personal property and fixtures assessment, we made recommendations for improvement in the audit, business property statement, and business equipment valuation programs.

Despite the recommendations noted in this report, we found that most properties and property types are assessed correctly, and that the overall quality of the assessment roll meets state standards.

The Fresno County assessment roll meets the requirements for assessment quality as established by section 75.60. Our sample of the 2012-13 assessment roll indicated an average assessment ratio of 99.85 percent, and the sum of the absolute differences from the required assessment level was 1.06 percent. Accordingly, the BOE certifies that Fresno County is eligible to receive reimbursement of costs associated with administering supplemental assessments.

OVERVIEW OF FRESNO COUNTY

Fresno County is located in California's Central Valley. The county encompasses an area of 6,011 square miles, which consists of 5,958 square miles of land and 53 square miles of water. Created in 1856, Fresno County was formed from parts of Mariposa, Merced, and Tulare Counties. Fresno County is bordered on the north by Merced and Madera Counties, on the east by Mono and Inyo Counties, on the south by Tulare and Kings Counties, and on the west by Monterey and San Benito Counties.



As of 2012, Fresno County had a population of 947,581. Fresno County has 15 incorporated cities: Clovis, Coalinga, Firebaugh, Fowler, Fresno, Huron, Kerman, Kingsburg, Mendota, Orange Cove, Parlier, Reedley, San Joaquin, Sanger, and Selma. The county seat is the city of Fresno.

Fresno County continues to be the top producing county in the Nation based on gross value of agricultural production. The total gross production value of agricultural commodities in 2012 was well over \$6.5 billion, with grapes being the leading crop at \$1.1 billion.

FINDINGS AND RECOMMENDATIONS

As noted previously, our review concluded that the Fresno 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.

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ADMINISTRATION

Staff Property and Activities

The BOE's assessment practices survey includes a review of the assessor's internal controls and safeguards as they apply to staff-owned properties and conflicts of interest. This review is done to ensure there are adequate and effective controls in place to prevent the assessor's staff from being involved in the assessment of property in which they have an ownership interest and to prevent conflicts of interest.⁴

We reviewed the assessor's procedures and policies involving staff-owned property, and we reviewed several staff-owned property record files. We found an area of the staff property and activities program in need of improvement.

RECOMMENDATION 1: Develop written procedures for the assessment of staff-owned property.

We found that the assessor has only informal policies and no written procedures in place to address the assessment of staff-owned property. While we did not find any problems with the assessor's handling of staff-owned properties, the assessor should have written procedures in place to fully address the assessment of real and personal property in which staff in the assessor's office holds an interest.

Conversion of the informal policies to written procedures to formalize existing policies is good business practice. Written procedures are preferred because they are more easily tracked and can be referenced when questions arise; their existence commonly results in a greater degree of compliance. Letter To Assessors (LTA) No. 2008/058 was issued as a guide to assist assessors in establishing procedures relative to the assessment of staff-owned property.

The procedures for the assessment of staff-owned property need not be lengthy or complicated, but should be formalized in a written format and provided to all staff. The procedures adopted by the assessor should:

- Clearly define the assessor's policies and procedures,
- Establish staff's responsibilities,
- Create a file or listing of all staff-owned property in the county,
- Contain well-defined review procedures, and
- Accurately track and document all events with potential assessment implications.

⁴ For a detailed description of the scope of our review of Staff Property and Activities, please refer to the Assessment Practices Survey, which is available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/staffproperty_general.pdf.

Development of written procedures for staff-owned property that includes the above bulleted practices is recommended. The written procedures should provide staff with clearly established procedures and will help ensure that staff is aware of and follows office policy.

ASSESSMENT OF REAL PROPERTY

Change in Ownership

Section 60 defines change in ownership as a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee simple interest. Sections 61 through 69.5 further clarify what is considered a change in ownership and what is excluded from the definition of a change in ownership for property tax purposes. Section 50 requires the assessor to enter a base year value on the roll for the lien date next succeeding the date of the change in ownership; a property's base year value is its fair market value on the date of the change in ownership.⁵

We examined several recorded documents and found that the assessor conducts a proper and thorough review of recorded documents experiencing a change in ownership. In addition, we reviewed several property records recently involving a change in ownership and found that the assessor is following proper valuation procedures. However, we found several areas in the change in ownership program that are in need of improvement.

Penalties

When a recorded document is received without a BOE-502-A, *Preliminary Change of Ownership Report* (PCOR), or the PCOR is incomplete, an office assistant (OA) in the Property Transfer Division sends the property owner a BOE-502-AH, *Change in Ownership Statement* (COS). The OA does not track or monitor the COS, and if the property owner does not return the COS or return the COS timely, the OA does not apply a penalty. Fresno County has not adopted an ordinance pursuant to section 483(b), which allows the assessor to automatically abate penalties.

We found an area in need of improvement when applying the penalty process for failure to timely file a COS.

RECOMMENDATION 2: Improve the change in ownership program by correctly implementing the penalty process in accordance with section 482(a).

It is the assessor's current practice not to apply penalties when a property owner fails to return a COS or fails to return the COS timely. In addition, the assessor does not have a tracking system in place to monitor whether the COS is filed timely.

Section 482(a) provides that if a person or legal entity required to file a statement described in section 480 fails to do so within 90 days (45 days prior to January 1, 2012) from the date of a written request by the assessor, a specific penalty is applied. When the property owner fails to

⁵ For a detailed description of the scope of our review of Change in Ownership, please refer to the Assessment Practices Survey, which is available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/cio_general.pdf.

return the COS timely, the assessor should notify the property owner of the penalty being applied and inform them of the abatement process as described in section 483(a).

The information contained in a properly completed COS is important because it assists the assessor in making an accurate assessment of a property. The assessor's current practice of not applying penalties to property owners who fail to file a COS or fail to file a COS by the deadline is contrary to statute and results in unequal treatment of taxpayers. The assessor should put a tracking system in place to monitor the date a COS is sent and the date the COS is returned in order to determine whether the COS is filed timely.

Transfer Lists

Pursuant to section 408.1(a), the assessor maintains a two-year transfer list for public use. The transfer list is available to the public for a \$10 fee. In compliance with section 408.1(b), the transfer list is divided into geographical areas by APN and it is updated on a quarterly basis. Pursuant to section 408.1(c), the transfer list contains the transferee, APN, address of the property, date of transfer, date of recording, recording reference number, and consideration paid. The assessor observes the confidentiality provisions of section 481, which precludes the disclosure of information on a PCOR or COS. While the assessor's transfer list meets most of the requirements of section 408.1(c), there is required information that is not included on the transfer list.

RECOMMENDATION 3: Include all required information on the two-year transfer list pursuant to section 408.1(c).

Although the two-year transfer list contains the transferee, APN, address of the property, date of transfer, date of recording, recording reference number, and the consideration paid for the property, it does not include the transferor.

Section 408.1(c) sets forth the specific items of information that must be included on the two-year transfer list. Without including all required items on the transfer list, the public does not have access to all of the information that must be made available.

Legal Entity Ownership Program (LEOP)

The assessor is in the process of creating and implementing policies and procedures for discovering and processing properties owned by legal entities having experienced a change in control or ownership. Currently, the assessor's main source of discovery for these changes in control or ownership is by reviewing the monthly LEOP reports received from the BOE.

While we noted that the assessor is working on improving the LEOP program, we found areas in need of improvement.

RECOMMENDATION 4: Improve the LEOP program by: (1) timely reassessing all properties owned by a legal entity undergoing a change in control, and (2) properly implementing the penalty process in accordance with section 482(b).

Timely reassess all properties owned by a legal entity undergoing a change in control.

We found several properties owned by legal entities having undergone a change in control that had not been reassessed, even though the assessor was notified of the change in control for those legal entities by the BOE's LEOP Section.

Section 64(c)(1) provides that when a legal entity acquires controlling interest of another legal entity by obtaining more than 50 percent of the voting stock or a majority ownership interest in that legal entity, there is a change in ownership of the real property owned by the legal entity being acquired.

By not reassessing properties owned by legal entities identified as having undergone a change in control, the assessor may be enrolling incorrect assessments for those properties.

Properly implement the penalty process in accordance with section 482(b).

We found several instances where penalties were not applied when an entity had failed to file a BOE-100-B, *Statement of Change in Control and Ownership of Legal Entities*, or filed a BOE-100-B late, even though the assessor had been notified by the BOE's LEOP Section to apply the penalty.

Section 482(b) states that if a legal entity required to file a statement described in section 480.1 or 480.2 fails to do so within 90 days from the earlier of (1) the date of the change in control or the change in ownership of the legal entity, or (2) the date of a written request by the BOE, a specific penalty shall be applied.⁶

The BOE provides the assessor with several reports, as well as copies of BOE-100-Bs, indicating whether a penalty applies. The assessor should review these reports and the BOE-100-Bs to identify entities with late-filings or failures to file and apply penalties accordingly. By failing to apply the required section 482(b) penalty, the assessor is not following statutory requirements and is not treating all taxpayers equitably.

Change in Ownership Exclusions – Section 63.1

We reviewed several section 63.1 claims for exclusion and found them to be properly processed and granted when appropriate. In addition, we found that the assessor protects confidential information contained on claim forms pursuant to section 63.1(i) by keeping all claim forms in a secure file not accessible to the public.

⁶ Effective January 1, 2012, Senate Bill 507 (Stats. 2011, ch. 708) amended the filing requirement in section 482(b) from 45 days to 90 days for a person or legal entity to report a change in control or change in ownership, or to comply with a written request from the BOE, whichever occurs earlier. At the time of our survey, it was 90 days.

During our review of the section 63.1 transfer exclusions, we noted that the assessor does not submit optional quarterly reports to the BOE, which list approved section 63.1 transfer exclusions involving property other than the transferor's principal residence. The assessor relies on the property owner to accurately report all prior transfers in all counties where they own property as a means of tracking the \$1 million limit. While it is not required, we suggest that the assessor submit quarterly reports to the BOE in an effort to efficiently and accurately track section 63.1 claims that exceed the \$1,000,000 limit, not only for the assessor's benefit, but also to benefit other California assessors.

In addition to our suggestion to submit quarterly reports to the BOE, we found an area in need of improvement when processing section 63.1 transfer exclusions.

RECOMMENDATION 5: Track transfers of property, other than the principal residence, to enforce the \$1 million limit as provided by section 63.1.

The assessor elects not to report section 63.1 transfers to the BOE and he does not have a system in place to track or monitor the \$1 million limit on transferred property other than the principal residence.

Section 63.1(a)(2) provides that the definition of a change in ownership does not include the transfer of the first \$1 million of real property other than the principle residence. In order to enforce this provision, the BOE established a database to track these types of transfers statewide. While not mandatory, the assessor is encouraged to notify the BOE, on a quarterly basis, of any section 63.1 transfer applications. The assessor may choose not to notify the BOE of these section 63.1 applications; however, in order to enforce the \$1 million limit, the assessor must have some other means in place of tracking these types of transfers within his county to ensure correct treatment of the exclusion. As of the date of our survey, the assessor did not have a tracking system in place.

Failing to track the \$1 million limit may result in properties escaping proper assessment.

Declines in Value

Section 51 requires the assessor to enroll on the lien date an assessment that is the lesser of a property's factored base year value (FBYV) or its current full cash value, as defined in section 110. Thus, if a property's full cash value falls below its FBYV on any given lien date, the assessor must enroll that lower value. If, on a subsequent lien date, a property's full cash value rises above its FBYV, then the assessor must enroll the FBYV.⁷

We reviewed several decline-in-value assessments and found an area in need of improvement.

⁷ For a detailed description of the scope of our review of Declines in Value, please refer to the Assessment Practices Survey, which is available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/declinesinvalue_general.pdf.

RECOMMENDATION 6: Document and support full cash value estimates for properties experiencing a decline in value.

While reviewing properties in decline-in-value status, we found limited or no documentation in the property records to support the values enrolled. Although the assessor maintains spreadsheets and printouts containing comparable sales and other income information for the computer-assisted trending program, we found very little information in the property record files. The assessor cited time constraints and staffing limitations as reasons for the lack of documentation.

Documentation supporting the value conclusion is a necessary element of any appraisal. It is standard appraisal practice to document in the property record the data used to determine market value conclusions. Proper documentation not only facilitates appraisal review, but also provides the means with which to defend values. By not adequately documenting appraisal records, the assessor's value conclusions, even if correct, may not be fully understood by taxpayers or other appraisers.

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.⁸

Petroleum Property

After reviewing the assessor's petroleum property program, we have the following recommendation:

RECOMMENDATION 7: Improve the petroleum property program by revising the annual cover letter sent to petroleum property owners.

Each year, the assessor sends a "Property Tax Package" to each petroleum property owner in Fresno County. The annual "Property Tax Package" includes several Board-prescribed forms, as well as a cover letter instructing the property owner to return the completed statements pursuant to section 441. The assessor's cover letter goes on to inform the property owner that if they fail to file a "complete return" by April 1, a 10 percent late-filing penalty will be added pursuant to section 463. We found that one of the forms the assessor is requesting to be completed is an old, outdated form, which is no longer a Board-prescribed form and, therefore, penalties would not apply if this form was not returned timely. In addition, Letter To Assessors (LTA) No. 2004/049 provides that if there is a Board-prescribed form available, the assessor must use the Board-prescribed form.

⁸ For a detailed description of the scope of our review of Mineral Property, please refer to the Assessment Practices Survey, which is available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/mineralprop_general.pdf.

In addition, the assessor's cover letter asks the property owner to include additional data, such as engineering data, gas sales/natural gas liquids (NGL) data, and financial data. Since this data is being requested along with the Board-prescribed statements, the assessor's cover letter gives the impression that failure to include these items of requested data by the indicated deadline would cause the property owner to be subjected to late-filing penalties. While the assessor has the authority under section 441(d) to request additional information from the property owner, the assessor does not have the authority to apply the section 463 penalty when the property owner fails to comply when the request is generated from a letter, form, or questionnaire that is not Board-prescribed. Although the cover letter does not specifically state that failure to provide the additional data would result in a penalty, it could be implied based upon the statements in the cover letter regarding the other reporting requirements.

The assessor's current cover letter is misleading and contains outdated forms that are no longer in use. The assessor should revise the cover letter to eliminate outdated forms and to clearly indicate when the section 463 penalty would be applicable.

Mining Property

After reviewing the assessor's mining property program, we have the following recommendation:

RECOMMENDATION 8: Measure declines in value for mineral properties using the entire appraisal unit as required by Rule 469.

We found that when measuring for declines in value for mineral properties, the assessor does not track the adjusted base year value of the fixtures and equipment. Instead, the assessor uses the current market value of the fixtures and equipment when adding components to arrive at the adjusted base year value of the appraisal unit. This procedure conflicts with the intent of Rule 469(e)(2)(C).

In accordance with article XIII A of the California Constitution, all real property receives a base year value and, on each lien date, the taxable value of the real property unit should be the lesser of its adjusted base year value or current market value. Section 105 defines fixtures as a type of improvement and, hence, as real property.

For most properties, fixtures are treated as a separate appraisal unit for the purpose of determining a decline in value. Mineral properties, however, are treated differently. Rule 469(e)(2)(C) specifically defines the appraisal unit of a mineral property to include land, improvements including fixtures, and reserves. The assessor should use this unit for the purpose of measuring a possible decline in value.

In order for the assessor to determine which value to enroll, the assessor should determine the current market value of the entire appraisal unit and compare it to the adjusted base year value of the entire appraisal unit, enrolling the lower of the two values. To properly determine the adjusted base year value of the appraisal unit, the adjusted base year value of the fixtures needs to be tracked and added to the adjusted base year value of the other components of the appraisal unit.

Failure to properly determine the decline in value of a mineral property by not comparing the adjusted base year value of the entire appraisal unit to the current market value of the entire appraisal unit is contrary to statute and may cause the assessor to enroll incorrect assessments.

ASSESSMENT OF PERSONAL PROPERTY AND FIXTURES

Audit Program

Effective January 1, 2009, county assessors are required to annually audit 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.⁹

We reviewed the assessor's audit program and found that the assessor has exceeded the minimum number of audits required as defined by section 469. According to Letter To Assessors No. 2009/049, the amended statute requires the assessor to complete a minimum of 220 audits per year. The assessor completed a total of 273 audits for the 2009-10 roll year, 279 audits for the 2010-11 roll year, and 257 audits for the 2011-12 roll year.

In addition to exceeding the minimum number of audits required, the assessor appropriately requests signed waivers of the statute of limitations from taxpayers when he anticipates an audit will not be completed in a timely manner.

Overall, we found the assessor's audit program to be effectively managed.

Audit Quality

An audit should follow a standard format so that the auditor-appraiser may easily determine whether the property owner has correctly reported all taxable property.

We found that the assessor performs change in control (ownership) reviews, verifies leased equipment, accounts for supplies, and properly classifies equipment during the audit process. We sampled several recently completed audits and found that in all cases the audit findings were accurate, well documented, and supported by a comprehensive audit checklist defining the areas of investigation. However, we found an area in need of improvement.

RECOMMENDATION 9: Enroll the audit results for each year of a multiple year audit.

In a multiple year audit, there are often underassessments resulting in tax liabilities for some years and overassessments resulting in tax refunds in other years. In Fresno County, we found that the assessor offsets assessment differences resulting from a multiple year audit into the most recent year.

Section 531 requires that if any property belonging on the local roll escapes assessment, the assessor shall enroll the property on discovery at its value on the lien date for the year in which it

⁹ For a detailed description of the scope of our review of the Audit Program, please refer to the Assessment Practices Survey, which is available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/auditprogram_general.pdf.

escaped assessment. When incorrect assessments are discovered for multiple years as a result of an audit, section 533 requires that tax refunds be an offset against proposed tax liabilities, including accumulated penalties and interest. The statute provides only for an offset of tax refunds with tax liabilities from different years, not for an offset of the underassessment with the overassessments. Offsetting the refunds with the tax liabilities is the responsibility of the county auditor, not the assessor. By netting audit results for multiple years into the most recent year of the audit, the assessor is not in compliance with statute.

Business Property Statement Program

Section 441 requires that each person owning taxable personal property (other than a manufactured home) having an aggregate cost of \$100,000 or more annually file a business property statement (BPS) with the assessor; other persons must file a BPS if requested by the assessor. Property statements form the backbone of the business property assessment program.¹⁰

We reviewed all major aspects of the assessor's BPS program, including processing procedures, use of Board-prescribed forms, application of penalties, coordination with the real property division, and record storage and retention. In addition, we reviewed several recently processed BPSs. We found that in all cases observed, BPSs accepted by the assessor evidenced the proper usage of Board-prescribed forms, were completed in sufficient detail, and were properly signed. Overall, the assessor's BPS program is well administered. However, we found areas in need of improvement.

RECOMMENDATION 10: Improve the BPS program by valuing taxable business property in accordance with section 501 when a taxpayer fails to file a BPS.

When a completed BPS is submitted late, the assessor correctly calculates the current market value of reported taxable business property owned and controlled by the property owner and applies the statutorily-defined 10 percent penalty assessment. However, in cases where the BPS is not returned, the assessor does not calculate the current market value of the known taxable business property; he simply carries forward the previous year's enrolled value escalated by 10 percent, and then adds the penalty assessment.

Section 441(b) provides that a penalty shall apply if a BPS is not filed by May 7. If an assessee does not file a BPS by May 7, sections 501 and 463 provide that the assessor shall estimate a value based on available information and add a 10 percent penalty to that estimated value. If a BPS was received during the previous year, it is usually reasonable to use the reported cost data as a basis for estimating the current year's value. However, when allowing estimated assessments to continue for several years without any new information, the values become increasingly susceptible to error.

¹⁰ For a detailed description of the scope of our review of Business Property Statement Program, please refer to the Assessment Practices Survey, which is available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/businesspropstatement_general.pdf.

The assessor's current enrollment methodology as applied to non-filing accounts may lead to erroneous value conclusions and may lead to improper application of the late or non-filing penalty provided for in section 463.

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.¹¹

We reviewed the assessor's valuation procedures, as well as the assessor's application of valuation factor tables to ensure that they were accurate and applied consistently. Samples were analyzed to verify that the assessor was applying the correct valuation factor tables to various business and equipment type, estimating supplies when not reported, making appropriate trade-level adjustments when necessary, appropriately assessing fixtures, and correctly assessing mobile construction and agricultural accounts. We found the assessor's valuation factor coding system to be comprehensive and well managed. We also found the assessor's valuation procedures to be well documented and appropriately implemented. However, we found an area in need of improvement.

RECOMMENDATION 11: Improve the business equipment valuation program by applying the construction and agricultural mobile equipment percent good factors as prescribed in Tables 5 and 6 of Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors* (AH 581), as intended.

We reviewed the assessor's factor tables, in addition to several assessments involving construction and agricultural mobile equipment. We found that the assessor uses the average percent good factors for all construction and agricultural mobile equipment, regardless of whether the taxpayer reported that the equipment was purchased "new" or "used."

Section 401.16(a)(2) allows the assessor to average the new or used percent good factors for both construction and agricultural mobile equipment when the property owner does not indicate on the BPS whether the equipment is first acquired new or used. However, when the condition is known, the assessor may not average the published factors to apply these factors to both classes of new and used property. Mobile equipment depreciates at different rates depending on its condition when purchased. In order to ensure the most accurate value indicator possible, appropriate valuation tables should be utilized when sufficient information is available. When the condition is known, the assessor should apply the appropriate percent good factors.

¹¹ For a detailed description of the scope of our review of Business Equipment Valuation, please refer to the Assessment Practices Survey, which is available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/businessequipval_general.pdf.

By using average percent good factors on all mobile equipment, regardless of whether the condition at the time of purchase is known, the assessor is failing to follow statute and may be enrolling incorrect assessments.

APPENDIX A: STATISTICAL DATA

Table 1: Assessment Roll

The following table displays information pertinent to the 2012-13 assessment roll:¹²

	PROPERTY TYPE	ENROLLED VALUE
Secured Roll	Land	\$17,358,788,013
	Improvements	\$38,277,255,936
	Personal Property	\$1,503,519,837
	Total Secured	\$57,139,563,786
Unsecured Roll	Land	\$23,086,399
	Improvements	\$1,179,635,416
	Personal Property	\$2,197,091,031
	Total Unsecured	\$3,399,812,846
Exemptions¹³		(\$2,475,174,003)
	Total Assessment Roll	\$58,064,202,629

Table 2: Change in Assessed Values

The next table summarizes the change in assessed values over recent years:¹⁴

ROLL YEAR	TOTAL ROLL VALUE	CHANGE	STATEWIDE CHANGE
2012-13	\$58,064,203,000	0.0%	1.4%
2011-12	\$58,088,237,000	0.1%	0.1%
2010-11	\$58,004,991,000	-1.1%	-1.9%
2009-10	\$58,658,148,000	-3.7%	-2.4%
2008-09	\$60,888,239,000	1.3%	4.7%

¹² Statistics provided by BOE-822, *Report of Assessed Values By City*, 10 Fresno County, for year 2012.

¹³ The value of the Homeowners' Exemption is excluded from the exemptions total.

¹⁴ State Board of Equalization Annual Report, Table 7.

Table 3: Gross Budget and Staffing

The assessor's budget has decreased from \$12,141,168 in 2008-09 to \$10,148,388 in 2012-13.

As of the date of our survey, the assessor had 101 budgeted permanent positions. These positions consisted of the assessor, assistant assessor, 4 managers, 31 appraisers, 9 auditor-appraisers, 6 cadastral mapping technicians, 6 computer analysts, 1 other technician and professional position, and 42 support staff.¹⁵

The following table identifies the assessor's budget and staffing over recent years:¹⁶

BUDGET YEAR	GROSS BUDGET	PERCENT CHANGE	PERMANENT STAFF
2012-13	\$10,148,388	-1.7%	101
2011-12	\$10,323,855	0.0%	101
2010-11	\$10,329,440	-13.1%	99
2009-10	\$11,888,981	-2.1%	125
2008-09	\$12,141,168	-0.6%	137

Table 4: Assessment Appeals

The following table shows the number of assessment appeals filed in recent years:¹⁷

YEAR	ASSESSMENT APPEALS FILED
2012-13	1,334
2011-12	2,588
2010-11	2,623
2009-10	3,852
2008-09	3,998

¹⁵ Information provided by *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices* for year 2012-13. Also see County of Fresno Assessor-Recorder's Office Organizational Chart provided in the pre-survey material from the assessor.

¹⁶ Statistics provided by *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices* for years 2008-09 through 2012-13.

¹⁷ Statistics provided by *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices* for years 2008-09 through 2012-13.

Table 5: Change in Ownership

The following table shows the total number of reappraisable transfers due to changes in ownership processed in recent years.¹⁸

YEAR	REAPPRAISABLE TRANSFERS
2012-13	21,441
2011-12	18,528
2010-11	21,366
2009-10	22,793
2008-09	20,150

Table 6: New Construction

The following table shows the total number of new construction assessments processed in recent years.¹⁹

YEAR	NEW CONSTRUCTION ASSESSMENTS
2012-13	2,853
2011-12	4,863
2010-11	9,645
2009-10	7,305
2008-09	12,377

¹⁸ Statistics provided by *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices* for years 2008-09 through 2012-13.

¹⁹ Statistics provided by *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices* for years 2008-09 through 2012-13.

Table 7: Declines In Value

The following table shows the total number of decline-in-value assessments in recent years.²⁰

YEAR	DECLINE-IN-VALUE ASSESSMENTS
2012-13	108,025
2011-12	101,540
2010-11	75,667
2009-10	85,101
2008-09	48,140

²⁰ Statistics provided by *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices* for years 2008-09 through 2012-13.

APPENDIX B: COUNTY-ASSESSED PROPERTIES DIVISION SURVEY GROUP

Fresno County

Acting Chief

Benjamin Tang

Survey Program Director:

Mike Harris

Manager, Property Tax

Survey Team Supervisor:

David Dodson

Supervisor, Property Tax

Survey Team Leader:

Jody Henning

Senior Specialist Property Appraiser

Survey Team:

James McCarthy

Senior Petroleum and Mining Appraisal Engineer

Michael Ash

Associate Property Appraiser

Jennifer Prince

Associate Property Appraiser

Isaac Cruz

Senior Specialist Property Auditor-Appraiser

Jeff Arthur

Associate Property Auditor-Appraiser

Ardeshir Noroozkhani

Associate Property Auditor-Appraiser

Dany Lunetta

Associate Governmental Program Analyst

APPENDIX C: RELEVANT STATUTES AND REGULATIONS

<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 Fresno 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.



RECEIVED

NOV 26 2014

County of Fresno

County-Assessed Properties Division
State Board of Equalization

Paul Dictos, CPA
Assessor-Recorder

November 21, 2014

Dean R. Kinnee, Chief, County-Assessed Properties Division
State Board of Equalization
Property and Special Taxes Department
P O Box 942879, MIC:64
Sacramento, CA 94279-0062

Dear Mr. Kinnee:

In accordance with Section 15645 of the California Government Code, attached is my response to the recommendations made in the Fresno County Assessment Practices Survey conducted by the State Board of Equalization dated August, 2014. Please include my response in your final survey report.

We appreciate the survey team's kind and positive remarks regarding the efficiency and effectiveness of our office's operations. The team's report found the Fresno County Assessor's Office to be effectively managed and meets the requirements for assessment quality established by Section 75.60.

The Mission of the Assessor's Office is to work together as a team to provide exceptional customer service and fair and equitable assessment. It is a pleasure to see that this survey affirms that commitment and the dedication and hard work of our staff.

This response details those areas where we believe improvements are feasible, notes areas of disagreement in proposals, or, in some areas, rejection where the proposal is deemed impractical or unfeasible.

Additionally, we would like to acknowledge and thank the Board's survey team for their professionalism, courtesy, and kindness during the survey process. They were truly a pleasure to work with.

Sincerely,

Paul Dictos, CPA
Fresno County Assessor-Recorder

Attachment

FRESNO COUNTY RESPONSE TO STATE SURVEY

Recommendation 1:

We agree with the survey and we will develop and document the current practices regarding the assessment of staff-owned property.

Recommendation 2:

We respectfully disagree with the survey assumption that the implementation of the Section 482(a) penalty process will bring improvement to the Change in Ownership program, given Fresno County's tested methods for achieving 70%+ response rates, as discussed below.

Prior to the 1986 introduction of the Preliminary Change of Ownership Report (PCOR), the assessor incurred significant labor and postage costs sending out Change of Ownership Statement (COS) requests asking information on property transfers. The risk of penalties included in the COS mailings resulted in a 70% compliance rate. The assessor believes that with the advent of PCOR, compliance is higher than ever before. Given our current response rates under PCOR, the additional cost associated with the sales letter penalty process does not appear to be cost effective, and will not improve the rate of response. In addition, Fresno County has experienced significant success with our efforts to work with Title Companies and the Recorder's Office to improve PCOR compliance. With limited resources at our disposal, we focus our efforts on low-cost/high return options to ensure the collection of representative Change of Ownership information.

Recommendation 3:

We respectfully disagree with the survey claim that all the required information is not present in the two year sales list. The survey specifically refers to the absence of the transferor's name from the Fresno County list as not providing required information, while Section 408.1(c) (1) specifically states "Transferor and transferee, if available."

In the case of Fresno County, the transferor name information is not available because our current IT system does not have adequate data storage capacity to maintain said data. Our current file, from which the two year history is compiled, stores only the current owner information and does not or cannot retain the historical data; therefore, the transferor's name is not electronically available. As "if available" information is not required per Section 408.1(c) (1). The assessor will not include this information until we succeed in replacing the current legacy COBOL based PTS with a modern one.

Recommendation 4:

We agree that we need to do a better job assessing properties reported to the county through the LEOP program. We will therefore, pay closer attention to this area of our operation, notwithstanding personnel and IT constraints.

Recommendation 5:

We agree that we have failed to track the Proposition 58 \$1,000,000 limit. On October 15, 2014, Fresno County was selected to participate in the State-County Assessor's Partnership Agreement Program (SCAPA). We will use the state grant to hire personnel that will help us track this manually.

Recommendation 6:

We agree with the recommendation. However, at present we simply don't have the ability to document in the recommended manner because of personnel and IT system constraints.

The main criticism is that there is no detailed information in each individual parcel record documenting the value conclusion. The state refers to the county not following "standard appraisal practice to document the property record" as the basis for the recommendation. The last 5 years for assessors in California have not been "standard." Staffing levels have dropped and workloads have quadrupled due to the real estate crash.

The office has had to store valuation documentation electronically to avoid handling thousands of records to make hand written notations. We used appraisal and assessment tools that have a long history of accepted use that date back prior to Proposition 13. Trending, multiple regression and neighborhood benchmarking were the standard tools of the trade prior to 1978 when one fourth of the county was reappraised each year. We have had to use every legitimate appraisal methodology available to produce the best assessment roll possible on time. With massive numbers of annual reappraisals on top of regular work loads, we are basically back in the world of 1970 assessment practices. The most important thing is to get the values correct, which we have done successfully. We want to remind the Board that this Assessor is working with an archaic COBOL based PTS which forces us to do most of our work manually and is doing the best, considering IT constraints.

We anticipate to completely rectify the situation when we succeed in replacing the current legacy COBOL based PTS with a modern one.

Recommendation 7:

We agree.

Recommendation 8:

We agree.

Recommendation 9:

We respectfully disagree with the survey and believe this recommendation is contradictory to established BOE direction. LTA 84/38 recognizes the practice of the netting of escapes with refunds at the assessment level following an audit and the fact that an escape assessment may not be enrolled. The BOE recognized an escape notice would not be sent because of this practice and provided specific direction to allow the audit letter to serve as a notice and trigger the 60 day time frame to file an appeal on the escape. This issue is also addressed in Property Tax Annotation 180.0020. Under your interpretation, this LTA would be unnecessary. We therefore, believe that our practice is in compliance with BOE directives.

Recommendation 10:

We respectfully disagree with the survey. Revenue and Taxation Code Section 501 states: "**Failure to furnish information.** If after written request by the assessor, any person fails to comply with any provision of law for furnishing information required by Sections 441 and 470, the assessor, based upon information in his possession, shall estimate the value of the property and, based upon this estimate, promptly assess the property." [Emphasis added]

When a business fails to comply with the assessor's written requests, our practice is to use the previous year's assessment increase it by 10 percent and apply the statutory penalty. It is the assessor's best

estimate that a business that is a going concern would continue growing. We therefore believe that our practice is in compliance with the R&T Code Section 501.

Recommendation 11:

We respectfully disagree with the survey. When the taxpayer files a 571-L the equipment's original cost and year of purchase is reported. Frequently the condition of the equipment is not reported and we therefore assess the equipment as average. When the equipment is reported as new, or is purchased and manufactured in the same year, we assess the equipment as new.

BOE COMMENTS TO ASSESSOR'S RESPONSE

Recommendation 9: Enroll the audit results for each year of a multiple year audit.

BOE Comments to Assessor's Response:

The BOE would like to clarify that LTA 84/38 is referring to property assessed for individual and separate years. The offset described within the letter refers to assessed values for individual property items within each particular year, not an offset of one year against another. Section 533, which is referenced in both LTA 84/38 and Annotation 180.0020, relates to the role of the auditor, not the assessor. The assessor does not issue refunds or collect on tax liabilities. Section 531 defines the role of the assessor, by stating, the assessor shall enroll the property on discovery at its value on the lien date for the year in which it escaped assessment. Section 531.9 provides a mechanism for the assessor to avoid making an escape assessment through a low value ordinance.