

can be corrected to a lesser figure when an audit discloses that property was overassessed. Also, if the assessment is decreased, can the 10 percent penalty under Section 463 be decreased?

Prior to 1979, when the third and fourth paragraphs of Section 469 were added, an assessor's estimate could be reduced or canceled only by a proper and timely application to the local appeals board, or because the taxpayer proved nonexistent property had been assessed. After the addition of the fourth paragraph in Section 469, which states:

"If the audit for any particular tax year discloses that the property of the taxpayer 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 such incorrect valuation or misclassification not occurred, then the assessor shall notify the taxpayer of the amount of the excess valuation or misclassification, and the fact that a claim for cancellation or refund may be filed with the county as provided by Sections 4986 and 5096."

the taxpayer had the right, based on an audit by the assessor, to either have the overassessment reduced, canceled, or to have taxes refunded.

Effective 1-1-86, Chapter 749 (SB 581, Vuich) adds Section 1603.1 to the Revenue and Taxation Code.

This section permits an application for reduction on the current roll or supplemental roll to be filed at any time, if the party affected and the assessor stipulate to the existence of an error in the assessment as a result of the assessor's determination of value. It also requires that the county assessment appeals board hear all of the evidence pertinent to the application including facts giving rise to the erroneous assessment and prohibits acceptance of a written stipulation as to full cash value of the property or waiver of appearance of the party affected. The assessors' stipulation, of course, is not required during the regular appeals period.

The law is not specific on the question of decreasing Section 463 penal when assessments are reduced. The Board's legal staff is of the opinion in the event an overassessment is discovered and reduced, the applic penalty must be reduced as it was based on the amount of assessment.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

VW:wpc
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