



STATE BOARD OF EQUALIZATION

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No. 81/97

TO COUNTY ASSESSORS:

ASSEMBLY BILL 20 AND ASSEMBLY BILL 11

We discussed in Assessors' Letter 81/85 the application of Section 155.21 of the Revenue and Taxation Code as added by Assembly Bill 20. We have since received several requests for further clarification of Section 155.21, and we have also been asked how other provisions of Assembly Bill 20 affect the application of interest and penalties on escape assessments for unsecured 1978-79 properties.

Most of the questions regarding Assessors' Letter 81/85 involve the word "revenue." "Revenue" usually means money received, but the money figure to use for purposes of Section 155.21 is the net revenue shift or the net tax change which would result from revaluation of 1978-79 unsecured real property assessments. If the net tax change which would result from revaluation of property (from an Article XIII A value to fair market value) exceeds the cost of such revaluation, the revaluation must be performed whether the net tax change is positive or negative. An example situation follows to illustrate the mechanics of correcting 1978-79 assessments and taxes.

Example

Data: Properties A and B are a sample of 1978-79 unsecured real property assessments. The 1977-78 secured rate is 3 percent (\$12.00 per hundred assessed).

	<u>Article XIII A Value</u>	<u>Market Value</u>	<u>Difference in Value</u>	<u>Difference in Taxes^{1/}</u>	<u>Cost to Reappraise</u>
Property A	\$10,000	\$14,000	\$4,000	\$120	\$10
Property B	\$15,000	\$11,500	(\$3,500)	(\$105)	\$10
Totals				\$15	\$20

^{1/} The 1977-78 secured rate must be used for this analysis regardless of whether the county previously used that rate or the Article XIII A rate.

County #1 has properties A and B. Since the total cost to reappraise (\$20) exceeds the net revenue shift (\$15), the board of supervisors may adopt the exemption authorized by Section 155.21. If the exemption is adopted, none of the 1978-79 unsecured real property will be reappraised.

County #2 has only property A in its sample. Since the net revenue shift (\$120) exceeds the cost (\$10), all 1978-79 unsecured improvements must be revalued; the board of supervisors may not adopt the ordinance provided by Section 155.21.

County #3 has only property B in its sample. Since the net revenue shift of \$105 exceeds the cost to revalue (\$10), the board of supervisors may not adopt the ordinance provided by Section 155.21, even though the revaluation will result in a tax loss.

Audit-Appraisal Program and Section 155.21

When auditing an account, several counties routinely recompute the entire assessment, especially if there are discrepancies between reported and audited costs. If the board of supervisors adopts the ordinance authorized by Section 155.21, reported costs for 1978 unsecured real property assessments (fixtures, leasehold improvements, etc.) should not be recomputed to market value. However, recomputation of reported costs to verify clerical accuracy would be proper, provided the original Article XIII A valuation factors are used.

Escapes resulting from under-reported costs or assessor's clerical errors should be enrolled at market value and overassessments resulting from reporting errors or assessor's clerical errors should be corrected.

Example

Taxpayer acquired all his equipment in mid-1975, for a reported cost of \$100,000. The assessor allocated 25 percent to fixtures and 75 percent to personal property. Further, the assessor valued the real property under the provisions of Article XIII A. The 1978 unsecured full value was:

Fixtures:	$(\$100,000) \times 25\% \times 1.0404 =$	\$26,010
Personal Property:	$(\$100,000 \times 75\%) \times 96\% \frac{1}{1} =$	<u>72,000</u>
		\$98,010

An audit reveals the cost should have been \$120,000. If the Section 155.21 ordinance is not adopted, the audit results are processed as follows:

1/ Combined price index and percent good factor

	<u>Audited</u> <u>Value</u>	<u>Original</u> <u>Value</u>	<u>Escape</u>
Fixtures: (\$120,000 x 25%) x 96% =	\$28,800	\$26,010	\$2,790
Personal: (\$120,000 x 75%) x 96% =	86,400	72,000	14,400
Totals	<u>\$115,200</u>	<u>\$98,010</u>	<u>\$17,190</u>

If the Section 155.21 ordinance is adopted, the audit results are computed as follows:

1. Determine discrepancy in fixture cost:

Fixtures: \$120,000 x 25% = \$30,000	Cost per audit
\$100,000 x 25% = 25,000	Reported cost
\$20,000 x 25% = <u>\$5,000</u>	Escaped fixture cost

2. Process audit results:

	<u>Audited</u> <u>Value</u>	<u>Original</u> <u>Value</u>	<u>Escape</u>
Fixtures: (\$100,000 x 25%) x 1.0404=	\$26,010	\$26,010	\$ 0
(20,000 x 25%) x 96% =	4,800	0	4,800
Personal: (\$120,000 x 75%) x 96% =	86,400	72,000	14,400
Totals	<u>\$117,210</u>	<u>\$98,010</u>	<u>\$19,200</u>

In the above calculations for fixtures, the original figures are recomputed only for purposes of verifying original clerical accuracy. The escaped fixture costs are appraised at market value.

In the above case, it is obvious that the recommended procedure results in an overvaluation of the property (total value of \$117,210 versus \$115,200 market value). Other audits are likely to reveal instances where an escape situation will exist if the 1978 fixtures are not revalued to market value. In either case, the Section 155.21 ordinance prohibits the assessor from revaluing the 1978 fixtures which were assessed under the provisions of Article XIII A.

If the taxpayer requests a reappraisal, we suggest the assessor provide appropriate 1978 market value guides, such as trend factors and percent good tables that were used for personal property appraisals in 1978. The taxpayer could then make his own market value appraisal and decide whether he wishes to apply for a refund pursuant to Section 5096 of the Revenue and Taxation Code.

Petition for Refund

We stated in Assessors' Letter 81/85 that Assembly Bill 20 is silent on the question of allowing the taxpayer to file a claim for refund if the Section 155.21 ordinance is adopted. Presumably, the board of supervisors would want to know the assessor's opinion of market value in the case of a refund claim.

If the Section 155.21 ordinance is adopted, we suggest that the ordinance contain language which either authorizes or prohibits a reappraisal by the assessor if a claim for refund is filed by a taxpayer for unsecured 1978 real property taxes.

Penalties and Interest

We have been asked whether the addition of Section 37 to the Revenue and Taxation Code affects the application of penalties and interest on escape assessments.

Section 37 provides that there cannot be any penalties or interest on any property tax levy which resulted from either (1) revaluation of 1978 unsecured real property from an Article XIII A value to market value or (2) adjustment of the tax rate from the 1978 Article XIII A rate to the 1977-78 secured rate. This prohibition of interest and penalties applies only to taxes which are paid by December 31, 1981.

Section 37 does not affect interest and any penalties which are appropriate to escape assessments which were caused by the taxpayer's failure to file a property statement or by the taxpayer's failure to report accurately on his property statement.

It may be necessary to issue more than one tax bill if any escape assessment is to be enrolled and the property is also subject to revaluation or tax rate adjustment as a result of the Lonergan decision. To illustrate:

1. Data for 1978 Unsecured Fixture Assessment

Both the tax rate and the value were based on Article XIII A.

1978 assessment (full value) based on Article XIII A:	\$87,500
1978 market value:	\$92,000
1978 Article XIII A tax rate:	1.20%
1977-78 secured rate (\$10 per hundred assessed):	2.50%
Section 155.21 ordinance is <u>not</u> adopted	

2. Tax Change Due to Revaluation

Market value:	\$92,000
Original value:	\$87,500
Tax change:	\$ 4,500 x 1.20% = <u>\$54.00</u>

No interest or penalty may be added if paid by December 31, 1981.

3. Tax Change Due to Rate

1977-78 secured rate:	2.50%
1978 Article XIII A rate:	<u>1.20%</u>
Supplemental tax rate:	<u>1.30%</u>

Supplemental tax levy: $\$92,000 \times 1.30\% =$ \$1,196 1/

No interest or penalty may be added if paid by December 31, 1981. This "supplemental tax levy" of \$1,196 is the amount that will be considered in the state-administered refund as proposed by Assembly Bill 11.

4. Change Required Due to Audit

Audited cost of fixtures: \$150,000
Reported cost: \$100,000
Escaped cost: $\$150,000 - \$100,000 = \$50,000$
The escaped fixtures are appraised by the assessor at \$92,000.
Escaped assessment: \$46,000
Interest pursuant to Section 506 must be added.

If the escape was caused by willful misreporting, a 25 percent penalty should be added.

If the original assessment included a Section 463 penalty for late filing or nonfiling, the escape assessment must also include a penalty. The assessment should be made immediately.

Assembly Bill 11

Assembly Bill 11, if enacted, will authorize full or partial refunds for "supplemental unsecured property tax levies," and the refund procedure, as proposed, will be administered by the State Board of Equalization. Until Assembly Bill 11 is enacted, signed, and chaptered, and appropriate instructions are issued by this Board and the State Controller's Office, the counties should not issue supplemental tax bills or make tax adjustments for 1978 unsecured taxes, nor should escape assessments be billed for 1978 unsecured properties. However, when Assembly Bill 11 becomes law and the instructions are issued, it will be necessary to issue the tax bills immediately so that the taxpayers may pay their bills without interest or penalty and apply for appropriate refunds prior to December 31, 1981.

1/ It is essential that the "supplemental tax levy" be computed separately from additional taxes or refunds which result from revaluation. The separate computations are necessary because Assembly Bill 11, when enacted, will authorize refunds based on the difference in tax rates only. If both the change in assessed value and the increase due to the tax rate change are reflected in a single tax bill, the taxpayer will be required to obtain from the tax collector an apportionment which shows the amount of tax resulting from the rate increase only.

COUNTY ASSESSORS

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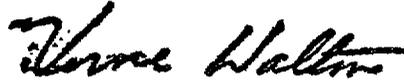
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Most of the Assembly Bill 11 workload at the county level will fall on the county auditor and tax collector. The assessor can help by making all the necessary assessment changes, including escapes discovered by audit, as soon as possible. If the ordinance authorized by Section 155.21 is being considered, we urge that the decision to enact it or reject it be made quickly so that the 1978 unsecured assessed values can be considered proper "as is" or can be adjusted to market value.

We will provide additional information concerning Assembly Bill 11 as amendments are made or instructions are formulated which concern assessors.

Please contact Charlie Knudsen at (916) 445-4982 if you have questions or comments regarding this letter.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

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