



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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No. 92/05

January 15, 1992

TO COUNTY ASSESSORS:

PROPERTY TAXES LEGISLATION ENACTED IN 1991

This is a summary of the legislation affecting property taxes enacted in 1991, the first year of the 1991-92 Legislative Session. This letter briefly describes each piece of legislation. Certain bills, as noted, will be discussed in greater detail in following letters to assessors. All bills other than urgency statutes are effective as of January 1, 1992.

Sincerely,

Verne Walton, Chief
Assessment Standards Division

VW:sk
Enclosure

ASSEMBLY BILL 43 (FLOYD) CHAPTER 8

Repeals, adds and repeals Section 74.5 of the Revenue and Taxation Code.

SEISMIC SAFETY IMPROVEMENTS

Implements Senate Constitutional Amendment 33 as approved by the voters on November 6, 1990, to provide that "newly constructed" and "new construction" shall not include seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies, as defined. Requires the property owner, primary contractor, civil engineer, or architect to certify to the building department those portions of the project that are seismic retrofitting improvements or earthquake hazard mitigation improvements. Also requires the building department to report the value of those improvements to the county assessor.

Establishes that the taxpayer, in order to receive the exclusion from "new construction" or "newly constructed" under this section, must notify the assessor prior to, or within 30 days after, the completion of the specified improvements. Requires the Board of Equalization to prescribe the manner and form for claiming the exclusion, which is required to be filed by the property owner with the assessor by the following April 15. Provides that this exclusion shall not be applied to seismic safety reconstruction and improvements qualifying for the exclusion under Section 70 of the Revenue and Taxation Code.

Repeals the above provisions as of July 1, 2000.

Urgency statute; effective December 13, 1990, operative January 1, 1991.

See letter to assessors 91/26 for detailed information and Claim Form PT 64, for the "Claim for Seismic Safety Exclusion from Assessment"

ASSEMBLY BILL 429 (FARR) CHAPTER 782

Repeals and adds Division 8.5 (commencing with Section 8900) of the Public Resources Code.

GEOGRAPHIC INFORMATION TASK FORCE

Creates a Geographic Information Task Force, to be convened by the Governor, consisting of 13 members as specified. Requires the task force to submit to the Governor and the Legislature by October 1, 1992, a report including recommendations regarding eight specific areas of concern in the development and exchange of geographic information.

Repeals the above enacted provisions as of January 1, 1993.

Urgency statute; effective October 10, 1991.

ASSEMBLY BILL 1080 (HANNIGAN) CHAPTER 199

Amends Section 480.3 of the Revenue and Taxation Code.

PRELIMINARY CHANGE IN OWNERSHIP REPORT

Provides that the filing of a Preliminary Change in Ownership Report (PCOR) or the payment of an additional recording fee shall not be required of any trustee issuing a trustee's deed to the mortgagee or beneficiary of a mortgage or deed of trust, or his or her assignees, pursuant to the exercise of a power of sale contained in a deed of trust or mortgage.

ASSEMBLY BILL 1771 (HARVEY) CHAPTER 1034

Amends Section 211 of the Revenue and Taxation Code.

1990 FREEZE DAMAGED TREES AND GRAPEVINES

Establishes that for purposes of the exemption specified in subdivision (i) of Section 3 of Article XIII of the California Constitution, any fruit- or nut-bearing tree, or any grapevine, severely damaged during the exemption period (four years from planting for trees, and three years from planting for grapevines) by the December 1990 freeze so as to require pruning to the trunk or bud union to establish a new shoot as a replacement for the damaged tree or grapevine, shall be considered a new planting.

Urgency statute; effective October 14, 1991.

Subject of future letter to assessors to be issued in early 1992.

ASSEMBLY BILL 2045 (HANNIGAN) CHAPTER 1148

Amends Sections 469 and 470 of the Revenue and Taxation Code.

MANDATORY AUDIT MINIMUM VALUE

Increases to \$300,000 from \$200,000 the threshold full value of locally assessable trade fixtures and business tangible personal property owned, claimed or possessed, or controlled by a taxpayer engaged in a profession, trade or business, which requires an audit of the books and records of that profession, trade or business, by the assessor, at least once each four years.

RECORDS OUTSIDE OF CALIFORNIA - TRAVEL EXPENSES

Provides that a taxpayer having its principal place of business outside California, and having been requested to make business records available pursuant to Section 470(a) of the Revenue and Taxation Code, may, as an alternative to making the records available at its principal address in California or other mutually agreeable location, pay the county the amount of reasonable

and ordinary expenses incurred by the assessor's representative, in traveling to the place outside California where the requested business records are available for examination and in performing his or her official duties with respect to examination of those records.

Urgency statute; effective October 14, 1991.

Subject of future letter to assessors to be issued in early 1992.

ASSEMBLY BILL 2227 (MAYS) CHAPTER 796

Amends the heading of Part 13 (commencing with Section 5800) of Division 1 of, and amends Sections 5800, 5801, 5802, 5803, 5804, 5805, 5810, 5811, 5812, 5813, 5814, 5825, 5830, 5831, 5832, 5841, and 5842 of, and adds Section 5815 to, the Revenue and Taxation Code.

MANUFACTURED HOME PROPERTY TAX LAW

Renames the Mobilehome Property Tax Law (Part 13 of Division 1 of the Revenue and Taxation Code) as the "Manufactured Home Property Tax Law," and defines "manufactured home" for purposes of property taxation to include both a manufactured home as defined in Section 18007 of the Revenue and Taxation Code, and a mobilehome as defined in Section 18008 of the Revenue and Taxation Code. Makes conforming changes throughout the Manufactured Home Property Tax Law.

MANUFACTURED HOMES ON PERMANENT FOUNDATIONS ARE REAL PROPERTY

Establishes that "manufactured home," for purposes of Part 13, does not include that which has become real property by being affixed to land on a permanent foundation system pursuant to Section 18551 of the Health and Safety Code.

ALL MANUFACTURED HOMES NOT ON A PERMANENT FOUNDATION ARE SUBJECT TO TAXATION UNDER THE MANUFACTURED HOME PROPERTY TAX LAW

Establishes that except for becoming real property by being affixed to land on a permanent foundation system pursuant to Section 18551, a manufactured home shall not be classified as real property for property taxation purposes that would cause it to be excluded from taxation under Part 13.

MANUFACTURED HOME DEALER'S INVENTORY

Provides that a manufactured home otherwise subject to taxation pursuant to Part 13, which has been removed from its situs and returned to a dealer's established place of business for purposes of resale, shall not be subject to property taxation during the period it is held in the dealer's inventory, provided it remains personal property.

Subject of future letter to assessors to be issued in early 1992.

SENATE BILL 53 (LOCKYER) CHAPTER 465

Amends Section 98.9 of the Revenue and Taxation Code.

UTILITY PROPERTY TAX REVENUES

Provides, with respect to property that on July 1, 1990, was undeveloped, owned by a utility, and located within a city, county, or city and county that adopts a specified resolution and transmits a copy of that resolution to the county auditor prior to August 1, 1991, that the auditor shall annually allocate to the subject city, county, or city and county the amount of property tax revenues which would have been derived were the qualified property subject to assessment by the county assessor rather than the Board. Authorizes pro-rata reductions in allocations to other local agencies in order to complete the special allocation of tax revenues to the city, county, or city and county filing the resolution.

SENATE BILL 103 (MORGAN) CHAPTER 28

Adds and repeals Section 73 of the Revenue and Taxation Code.

ACTIVE SOLAR ENERGY SYSTEMS

Reenacts and extends through the lien date for the 1993-94 fiscal year the statutory provisions for exclusion of the construction or addition of any active solar energy system from "new construction" or "newly constructed" pursuant to the authority established under subdivision (c) of Section 2 of Article XIII A of the California Constitution. Repeals the reenacted provisions as of January 1, 1995. Provides, for purposes of supplemental assessment, that the exclusion only applies to qualifying construction completed on or after January 1, 1991.

Excludes solar swimming pool heaters and hot tub heaters from "active solar energy system," and provides that an active solar energy system which uses solar energy in the production of electricity includes and excludes certain items, as specified. Provides that pipes, ducts and equipment used in the production or transport of electricity derived from both solar and other energy sources shall be excluded from "new construction" only to the extent of 75% of their full cash value regardless of the actual relative input of solar and non-solar energy to that item. States the Legislature's intent, in defining "active solar energy system" that uses solar energy in the production of electricity, to define that term as "solar energy property" as defined by Section 48(1)(4) of the Internal Revenue Code of 1986 and Section 1.48-9(d)(3),(4) and (6) of Title 26 of the Code of Federal Regulations, with specified exceptions.

Urgency statute; effective May 14, 1991.

See letter to assessors 91/51 for detailed information.

SENATE BILL 180 (DEDDEH) CHAPTER 236

Amends Sections 6275, 6292, 6395.4, 6368, 6368.1, 6376.1, 6487, 6591.5, 6701, 6812, 6907, 6936, 7056, 7096, 7202, 7202.6, 7203, 7261, 7262, 8951, 9022, 11522, 11524, 38501, 38562, 38564, 43102, 45102, and 50108. 2 of, and adds Section 6362.3 to, the Revenue and Taxation Code, and amends Section 20 of and repeals Section 18 of, Chapter 85 of the Statutes of 1991.

**PRIVATE RAILROAD CAR TAX
TIMBER YIELD TAX LAW**

In part, a Board-sponsored technical and housekeeping measure, which, among other things, establishes statutes of limitations within the Private Railroad Car Tax Law and Timber Yield Tax Law for purposes of successor liability. Provides that the last date on which the obligation of the successor may be enforced shall be not later than three years after the date the Board is notified of the purchase of the business, and that the notice of successor liability shall be served on the taxpayer not later than three years after the date the Board is notified of the purchase of the business. Also makes a clarifying change within the Timber Yield Tax Law regarding the handling of security held in trust by the Board.

Urgency statute; effective July 29, 1991.

SENATE BILL 299 (DEDDEH) CHAPTER 646

Amends Sections 201.2, 217.1, 255.2, 270, 998, and 38351 of, adds Section 759 to, and repeals Sections 214.12 and 434.6 of, the Revenue and Taxation Code.

STATE ASSESSEES REASSESSMENT PETITIONS

As a technical and housekeeping measure sponsored by the Board, establishes, for centrally assessed property taxpayers, that if an assessee fails to timely file a declaration of intent to petition for reassessment, an escape assessment or roll correction shall become final at the expiration of the specified period for the filing of a declaration of intent. Further provides that if the assessee files a petition for reassessment within the period specified for filing a declaration of intent, no declaration of intent shall be required, and that if a petition for reassessment is not timely filed following the timely filing of a declaration of intent, an escape assessment or roll correction shall become final at the expiration date of the specified period for filing a petition for reassessment. States that the Board may extend the period for filing a petition for reassessment once for up to 15 days, provided a written request for extension is filed prior to the expiration of the specified filing period for the petition for reassessment.

CHRISTMAS TREES

Also adds timber owners, who own timber maintained for eventual harvest as Christmas trees, to the categories of taxpayers required to register with the Board for purposes of the Timber Yield Tax Law.

SENATE BILL 367 (CRAVEN) CHAPTER 441

Amends Sections 75.55 and 155.20 of the Revenue and Taxation Code.

MOBILEHOME ACCESSORIES

Increases, only in the case of eligible mobilehome accessories, 1) the maximum amount of tax on a supplemental tax bill which may be canceled (as authorized by local ordinance) to \$50, and 2) the maximum amount of value for which a supplemental assessment may be canceled (as authorized by separate local ordinance pertaining to cancellation where tax assessment and collection costs exceed the amount of taxes due) to an amount on which the tax would equal \$50. Defines "eligible mobilehome accessories," for purposes of this section, to mean mobilehome accessories as defined in Section 18008.5 of the Health and Safety Code, with a base year value of \$5,000 or less, that are installed on or added to mobilehomes purchased prior to July 1, 1980, and subject to vehicle license fees. Distinct from supplemental roll provisions, includes such eligible mobilehome accessories (up to \$5,000 in value) within the category of property which a county board of supervisors may exempt from property taxation due to that property having a low value.

SENATE BILL 493 (BOATWRIGHT) CHAPTER 510

Amends Section 72 of the Revenue and Taxation Code.

BUILDING PLANS TRANSMITTED TO ASSESSOR

Requires that, at the time an assessee files an approved set of building plans with the city, county, or city and county, a scale copy of the floor plans and exterior dimensions of the building designated for the county assessor shall be filed by the assessee. Requires the scale copy to be in sufficient detail to allow the assessor to determine the square footage of the building and, in the case of a residential building, the intended use of each room. Establishes that, where multiple units are to be constructed from the same set of building plans, an assessee may file only one scale copy of floor plans and exterior dimensions, as specified, with certain exceptions. Requires the receiving authority to transmit that copy to the county assessor as soon as possible after the final plans are approved.

SENATE BILL 674 (CRAVEN) CHAPTER 442

Amends Sections 62.1 and 62.2 of the Revenue and Taxation Code.

TENANT PURCHASES OF MOBILEHOME PARKS

Extends the latest applicable date from January 1, 1987, to January 1, 1994, for the exclusion from change in ownership for qualified transfers of rental spaces in a mobilehome park to the individual tenants of the rental spaces.

Adds "governmental entity" to the types of entities which may acquire a mobilehome park, without triggering a change in ownership, under certain conditions. As part of those conditions, increases to one year the length of time in which the park must then be transferred to a tenant organization in an excluded transfer in order to preserve the initial exclusion from change in ownership, and adds the newly reenacted exclusion for transfers of individual spaces as a type of exclusion under which tenants may "acquire" the park and also preserve the initial exclusion.

Urgency statute; effective September 26, 1991.

SENATE BILL 997 (THOMPSON) CHAPTER 897

Amends Section 214.2 of, and adds Section 532.2 to, the Revenue and Taxation Code.

WELFARE EXEMPTION- PROPERTIES UNDER CONSTRUCTION

For purposes of the welfare exemption, further defines "facilities in the course of construction" to include definite on site physical activity connected with construction or rehabilitation of a new or existing building, to be used exclusively for religious, hospital or charitable purposes. Specifies that activity, having been commenced and not yet finished, unless abandoned, shall establish that a building is "under construction" for purposes of Section 5 of Article XIII of the California Constitution. States that construction shall not be considered "abandoned" due to reasonable causes and circumstances beyond the assessee's control, that occur notwithstanding the exercise of ordinary care and the absence of willful neglect. States that these provisions are declaratory of existing law.

Provides, notwithstanding existing statutes of limitations, that the assessor may assess as escaped property any property for which a welfare exemption was granted while that property was "in the course of construction," as defined, if either 1) construction is abandoned, or 2) upon completion of construction, the property is used other than exclusively for religious, hospital or charitable purposes.

Subject of future letter to assessors to be issued in early 1992.

SENATE BILL 1028 (PRESLEY) CHAPTER 84

Amends Sections 11301, 11310, and 11313.5 of the Business and Professions Code, and amends Sections 3 and 5 of Chapter 491 of the Statutes of 1990.

APPRAISER LICENSING AND CERTIFICATION

Among other things, changes the licensing and certification deadline under the Real Estate Appraisers' Licensing and Certification Law from July 1, 1991 to January 1, 1992, and extends the repeal date for the Lancaster-Montoya Appraisal Act from July 1, 1991 to January 1, 1992.

Urgency statute; effective June 30, 1991.

SENATE BILL 1064 (DEDDEH) CHAPTER 532.

Amends Section 6105 of the Commercial Code, amends Section 75.41, 1604, 2188.8, 2188.9, 2188.10, 2191.3, 2505, 2617, 2618, 2619, 2704, 2705, 2705.5, 2759, 2760, 2761, 2762, 2763, 2768, 2821, 2922, 2922.5, 2963, 3101, 3103, 3107, 3351, 3362, 3365, 4217, 4377, 4673.1, 4831, 4832.1, 4834, 4834.5, 4836.5, 4837.5, 4840, 4985, 4985.2, 4986, 4986.8, 5089, 5096, 5096.5, and 5097.2 of, and adds Sections 2503.1, 2503.2, and 3007 to, the Revenue and Taxation Code.

BUSINESS PROPERTY STATEMENT - BULK SALES

Requires the notice of bulk sale, when sent to the assessor between March 1 and the last Friday in May, to be accompanied by a completed property statement with respect to the property involved in the bulk sale.

SUPPLEMENTAL ASSESSMENTS - TAX RATE

Requires the county auditor to apply the tax rate for the "roll being prepared," if known, to supplemental assessments, rather than applying the rate for the current year to those assessments.

APPEALS BOARD - FAILURE TO MAKE FINAL DETERMINATION

Provides that the taxpayer's opinion of value shall not be controlling if the application for reduction in value is consolidated for hearing with another application by the same taxpayer with respect to which an extension of time for hearing has been granted pursuant to existing provisions.

SEPARATE ASSESSMENTS - FEES

Authorizes the county to charge a fee for the costs of processing an application for separate assessment and for the costs of separate assessments, billings, and mailings, and provides that the fee may be collected with initial and subsequent tax bills, replacing authorization to charge for the costs of assessing only and the requirement to collect the fee with the initial separate assessment.

ELECTRONIC FUND TRANSFERS

Defines "electronic fund transfer" to mean any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct or authorize a financial institution to credit or debit an account.

Provides that the tax collector or treasurer of any city, county, or city and county may, at his or her discretion, accept electronic fund transfers in payment of any tax or assessment, or on a redemption. Addresses recovery of costs incurred by the tax collector, and the acceptance or non-acceptance of fund transfers as payment.

NEGOTIABLE PAPER IN PAYMENT OF TAX

Deletes the authorization for an assessor to accept negotiable paper in payment of tax.

DELINQUENT PENALTIES - CLOSE OF BUSINESS DAY

Provides that the time certain payments are delinquent and incur penalties is the later of 5 p.m. or the close of business on certain days, rather than 5 p.m. on those days.

TAX-DEFAULTED PROPERTY

Provides that property shall not be seized and sold for payment of delinquent taxes on the unsecured roll after three years succeeding the date the taxes became delinquent, rather than three years succeeding the date they became a lien.

Provides that no civil action to recover delinquent taxes, penalties, and costs, where the taxes are not a lien on sufficient real property, shall be commenced within three years of the date the unsecured taxes became delinquent.

Requires both of the above three-year periods to be tolled as required by federal bankruptcy laws or rules, or by court order.

SUMMARY JUDGMENTS

Effects certain changes with respect to the filing of a certificate, the recording of an abstract or copy of a summary judgment, and the satisfaction, instead of the release or discharge, of that judgment.

NOTICE TO SELL TAX-DEFAULTED PROPERTY

Requires the published notice regarding the power and intent of the tax collector to sell all property that will be tax-defaulted, to specify that the power to sell arises if the property remains tax-defaulted on July 1, and requires that the additional notices be mailed to the last known assessee of the property not less than 21 days nor more than 35 days before July 1.

DESTRUCTION OF DELINQUENT TAX ROLL

Deletes the requirement that a delinquent tax roll may be destroyed only after it is twelve years old.

PROCEEDS FROM TAX-DEFAULTED PROPERTY SALES

Deletes the inclusion of amounts representing tax liens disencumbered by the tax sale, from "current taxes and assessments" with respect to distribution of proceeds from the tax sale of property sold between March 1 and July 1.

TAX BILL CORRECTIONS AND CANCELLATIONS

Deletes provisions requiring an order or consent from the county board of supervisors or other specified county officials for certain transfers, corrections, or cancellations with respect to the administration of property taxes.

INSTALLMENT PAYMENTS - UNSECURED TAXES

Requires, in the case of unsecured taxes, that the written request for installment payment must be filed with the tax collector prior to the date those taxes become delinquent, and requires that the annual installment be paid on or before August 31. Where the installment account is paid in full on or before 5 p.m. on June 30 of the year in which the account has become defaulted, and the tax collector has for record a certificate of lien, requires the tax collector to file for record a release of that lien.

CANCEL TAXES UNDER \$20

Increases the maximum amount of unpaid taxes, penalties, and costs which may be cancelled by a county board of supervisors, rather than transferred to the unsecured roll, from \$10 to \$20 for a given fiscal year.

Makes various other nonsubstantive clarifying and technical changes with respect to property taxation.