



STATE BOARD OF EQUALIZATION  
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December 19, 1996

TO COUNTY ASSESSORS,  
COUNTY COUNSELS,  
ASSESSMENT APPEALS BOARDS,  
AND OTHER INTERESTED PARTIES:

No. 96/80

NOTICE OF PROPOSED REGULATORY ACTION  
BY THE  
STATE BOARD OF EQUALIZATION

PROPERTY TAX RULE 309  
HEARING

PUBLIC HEARING: TUESDAY, FEBRUARY 4, 1997 AT 1:30 P.M.

NOTICE IS HEREBY GIVEN:

The State Board of Equalization, pursuant to the authority vested in the Board by Section 15606(c) of the Government Code proposes to amend Regulation 309, Hearing, in Title 18, Division 1 of the California Code of Regulations. A public hearing relevant to this action will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard on Tuesday, February 4, 1997. Any person interested may present statements or arguments orally at that time and place. Written statements or arguments will be considered by the Board if received by February 4, 1997.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

The State Board of Equalization proposes to amend Property Tax Rule 309 (18 California Code of Regulations, Section 309), Hearing. The amendments are to reflect the requirements of Revenue and Taxation Code, Section 1641.2, effective October 16, 1995 (Chapter 958, Statutes of 1995). Section 1641.2 provides for a 90-day extension of the time limit imposed by Section 1604(c), which states that if an assessment appeal case is not heard by the local assessment appeals board within two years, the appellant's estimate of value becomes the new assessed value. The extension takes effect when a taxpayer or taxpayer's agent, within 90 days of the expiration of the two-year limit imposed by Section 1604(c), requests disqualification of an assessment appeals board member for cause, or requests that the hearing officer's recommendation be heard by the assessment appeals board (Section 1624.4). Property Tax Rule 309 clarifies the application of the two-year time limitation for local assessment appeals boards and provides exceptions to this limitation. The proposed amendments would add the ninety-day extension of the two-year time limit, under each of the specified circumstances, to the rule.

The express terms of the proposed action, written in plain English, are available from the agency contact person named in this notice.

**COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS**

The State Board of Equalization has determined that the proposed amendments to Rule 309 do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendments will result in no additional direct or indirect cost or savings to any State agency, any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, and that there are no other nondiscretionary costs or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

**EFFECT ON BUSINESS**

Pursuant to Government Code Section 11346.53(c), the Board of Equalization finds that the amendments of Rule 309 will have no significant adverse economic impact on business.

The amendment of the rule will not be detrimental to California businesses in competing with businesses in other states.

The amendment of the rule will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendment of the rule will not affect small business because it provides an extension of the current two-year statute of limitations in two specified circumstances for local assessment appeals, which is not a business-related program.

**ADVERSE ECONOMIC IMPACT ON PRIVATE PERSONS/BUSINESSES**

No impact.

**FEDERAL REGULATIONS**

There are no comparable federal regulations.

**PLAIN ENGLISH STATEMENT**

Preparation of the amended rule included consideration of the plain English requirement and technical terms are defined in more simple language.

**AUTHORITY**

Section 15606, Government Code.

**REFERENCE**

Sections 1604, 1606, 1641.2 of the Revenue and Taxation Code.

**CONTACT**

Questions regarding the content of the regulation should be directed to Ms. Mary Ann Alonzo, Tax Counsel, at P.O. Box 942879, 450 N Street, MIC:82, Sacramento, CA 94279-0082. Telephone: (916) 324-1392, FAX (916) 323-3387.

Written comments for the Board's consideration or requests to present testimony and bring witnesses to the public hearing should be directed to Ms. Mary Ann Stumpf, Regulations Coordinator, (916) 322-9569, and at P.O. Box 942879, 450 N Street, MIC:80, Sacramento, CA 94279-0080.

**ALTERNATIVES CONSIDERED**

The Board must determine that no alternative considered would be more effective in carrying out the purpose for which this action is proposed or be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Board has prepared a statement of reasons and a strike-out and underscore version (express terms) of the proposed regulation.

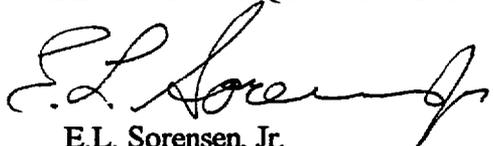
Both of the documents and all information pertaining to the amended regulation are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. Requests for copies should be addressed to Ms. Mary Ann Stumpf, Regulations Coordinator, (916) 322-9569, at P.O. Box 942879, 450 N Street, MIC:80, Sacramento, CA 94279-0080.

**ADDITIONAL COMMENTS**

Following the hearing, the State Board of Equalization may adopt the amended regulation if the text remains substantially the same as described in the text originally made available to the public. The text of any modified regulation will be mailed to those interested parties who commented orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Stumpf. The Board will consider written comments on the modified regulation until such time as the regulation is adopted.

Date: December 3, 1996

STATE BOARD OF EQUALIZATION



E.L. Sorensen, Jr.  
Executive Director

**Rule 309.**

**HEARING.**

(a) In counties having a population in excess of 4,000,000, on the fourth Monday in September of each year, the board shall meet to equalize the assessment of property on the local roll and shall continue to meet for that purpose from time to time until the business of equalization is disposed of. In all other counties the board shall meet on the third Monday in July and shall continue to meet until the business of equalization is disposed of. All hearings before the board shall be conducted in the manner provided in this article. Nothing herein requires the board to conduct hearings prior to the final day for filing applications.

(b) For applications filed on or after January 1, 1983, the hearing must be held and a final determination made within two years of the timely filing of an application for reduction in assessments submitted pursuant to subdivision (a) of ~~section~~ Section 1603 of the Revenue and Taxation Code, unless the taxpayer and the county assessment appeals board mutually agree in writing to an extension of time.

(c) If the hearing is not held and a determination is not made within the time specified in ~~part~~ subdivision (b) of this section, the applicant's opinion of value stated in the application shall be conclusively determined by the board to be the basis upon which property taxes are to be levied, except when:

(1) The applicant has not filed a timely and complete application; or,

(2) The applicant has not submitted a full and complete property statement as required by law with respect to the property which is the subject of the application; or,

(3) The applicant has not complied fully with a request for the exchange of information under ~~section~~ Section 305.1 of this subchapter; or,

(4) Controlling litigation is pending. "Controlling litigation" is litigation which is:

(a) (A) pending in a state or federal court whose jurisdiction includes the county in which the application is filed; and,

(b) (B) directly related to an issue involved in the application, the court resolution of which would control the resolution of such issue at the hearing; or,

(5) The applicant has initiated proceedings to disqualify a board member pursuant to Revenue and Taxation Code Section 1624.4 within 90 days of the expiration of the two year period required by Revenue and Taxation Code Section 1604; or,

6) The applicant has requested that the hearing officer's recommendation be heard by the board pursuant to Revenue and Taxation Code Section 1624.4 within 90 days of the expiration of the two year period required by Revenue and Taxation Code Section 1604.

(d) The applicant shall not be denied a timely hearing and determination pursuant to ~~part~~ subdivision (b) of this section, by reason of any of the exceptions enumerated in ~~parts~~ subdivisions (c)(1), (c)(2), (c)(3),

of (c)(4), (c)(5) or (c)(6) herein, unless, within two years of the date of the application, the ~~Board~~ board gives the applicant written notice of such denial. The notice shall indicate the basis for the denial and inform the applicant of his right to protest the denial at the time of the hearing on his application. When a hearing is postponed or not scheduled because controlling litigation is pending, the notice to the applicant shall identify the controlling litigation by the name of the case, the court number or the docket number of the case, and the court in which the litigation is pending. If a hearing is postponed because controlling litigation is pending, the hearing must be held and a final determination made within a period of two years after the application is filed, excluding the period of time between the notice of pending litigation and the date that the litigation becomes final.

*Authority:* Government Code Section 15606, subdivision (c).

*Reference:* Revenue and Taxation Code Sections 1604, 1606, 1641.2.

MAA:ba

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