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March 27, 2001

TO INTERESTED PARTIES:

PROPERTY TAX RULE 305.3  
APPLICATION FOR EQUALIZATION AFTER A MANDATORY AUDIT

Enclosed is a matrix compiled from suggestions and comments received in response to our January 10, 2001 letter inviting input on the draft of Property Tax Rule 305.3, *Application for Equalization After a Mandatory Audit*. Also enclosed is a revised version of the draft rule. This revised rule shows, in strikeout-and-underscore format, how the language in the draft rule would change if all changes shown on the matrix that are acceptable to staff are made. This information is provided to you in advance of the interested parties meeting since these suggestions will form the primary discussion topics at the meeting.

The interested parties meeting to resolve issues regarding Property Tax Rule 305.3 will be on April 20, 2001 in Sacramento at 450 N Street, Room 122, at 9:30 a.m. After the meeting, the project will proceed as follows:

- Staff to submit issue paper and other required material for the Property Tax Committee meeting by May 16, 2001.
- The Board's Property Tax Committee will hear discussion of any unresolved issues at its May 30, 2001 meeting.

All documents relating to this project are available on the Board's Web site ([www.boe.ca.gov](http://www.boe.ca.gov)) and can be accessed through Property Tax Committee Work Plans.

If you plan to attend the interested parties meeting, please advise Ms. Sherrie Kinkle at (916) 322-2921; e-mail [skinkle@boe.ca.gov](mailto:skinkle@boe.ca.gov); fax number (916) 323-8765. Thank you for your continued interest in this project.

Sincerely,

/s/ Richard C. Johnson

Richard C. Johnson  
Deputy Director  
Property Taxes Department

RCJ:sk  
Enclosures

**PROPERTY TAX RULE 305.3  
APPLICATION FOR EQUALIZATION AFTER A MANDATORY AUDIT**

**Comments on January 10, 2001 Draft**

<b>No.</b>	<b>SOURCE</b>	<b>PROPOSED LANGUAGE</b>	<b>SBE STAFF POSITION</b>
1	California Taxpayers' Assoc. (Turner)	Change title: RULE 305.3. APPLICATION FOR EQUALIZATION <u>UNDER SECTION 469 AFTER A MANDATORY AN</u> AUDIT	Disagree— Inconsistent with 11/1/00 PTC position that limited this rule to certain mandatory audits as defined.
2	Fresno County Assessor (Greenwood)	I am concerned with issue #3 [What is the meaning of the phrase "result of the audit discloses property subject to an escape assessment"?]. Because property is declared by dollar amounts of acquisition and normally valued by a cost/factor/depreciation method, there will always be some property valued high and/or low. On the average, all pluses or minuses will balance out. We at one time did value individual pieces of personal property. That was changed with the support of industry more than 25 years ago. It would be impossible to value any group of personal property by this method and not raise the question that some may be overassessed. The only way each individual piece of personal property can be enrolled at market value is to require separate identification and purchase price for each property. The current legislative process was created as a more convenient and effective way for property owners and the assessor to comply with their part of the property tax system.	11/1/00 PTC position defined <i>property subject to escape assessment</i> as any item of property.

No.	SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
3	California Taxpayers' Assoc. (Turner)	<p>Change Subsection (a): <u>In addition to any rights of appeal of escape or supplemental assessments as described in regulation 305(d)(1) and (2) of this subchapter, if the result of a mandatory an audit discloses property subject to an escape assessment for any year covered by the audit, then pursuant to section 1605 of the Revenue and Taxation Code the assessee a person affected may file an application for review, equalization, and adjustment of:</u></p> <p><del>(1) The escape assessment, and</del></p> <p><del>(2) The original assessment of all property of the assessee at the location of the profession, trade, or business for that year, except any property that has previously been equalized for the year in question.</del></p>	<p>Disagree—</p> <ol style="list-style-type: none"> <li>1. Regulation 305(d)(1) is an incorrect reference.</li> <li>2. Applies to mandatory audits as defined at 11/1/00 PTC only, not all audits.</li> <li>3. Assessee may file application, not person affected, per 11/1/00 PTC decision.</li> <li>4. Sections 469 &amp; 1605(e) pertain to <i>all property of the assessee</i> at the location, not <i>all property at the location</i> of the assessee's profession, etc.</li> </ol> <p>See Item No. 4</p>
4	SBE Staff	<p>Change Subsection (a): <u>In addition to any rights of appeal of escape or supplemental assessments as described in Rule 305(d)(2) of this subchapter, if the result of a mandatory audit discloses property subject to an escape assessment for any year covered by the audit, then pursuant to section 1605 of the Revenue and Taxation Code the assessee or his or her authorized agent may file an application for review, equalization, and adjustment of:</u></p> <p><del>(1) The escape assessment, and</del></p> <p><del>(2) The original assessment of all property of the assessee at the location of the profession, trade, or business for that year, except any property that has previously been equalized for the year in question.</del></p>	Accepted

No.	SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
5	California Taxpayers' Assoc. (Turner)	Change Subsection (b)(1): " <del>Mandatory</del> <u>An audit</u> " means an <del>audit</del> <u>inspection or review</u> of a taxpayer's books and records <del>which an assessor is required to conduct at least once every four years as prescribed by regulation 192 of subchapter 2 for</del> <u>of</u> a taxpayer engaged in a profession, trade, or business who owns, claims, possesses, or controls locally assessable business personal property and fixtures that have a value in excess of the amount set forth in section 469 of the Revenue and Taxation Code: <del>for any year for which the assessor may enroll escape assessments.</del> <u>An audit includes audits of locations in other counties if the auditor reviews the records for those locations.</u>	Disagree— 1. Purpose is to define what audits are covered by this rule, not to define an audit. 2. Escapes do not need to be enrolled to open equalization process.  See Item No. 6
6	SBE Staff	Change Subsection (b)(1): "Mandatory audit" means <del>an any</del> <u>an</u> audit of a taxpayer's <del>the</del> books and records <del>which an assessor is required to conduct at least once every four years as prescribed by regulation 192 of subchapter 2 for</del> <u>of</u> a taxpayer engaged in a profession, trade, or business who owns, claims, possesses, or controls locally assessable business <u>tangible</u> personal property and <u>trade</u> fixtures that have a value in excess of the amount set forth in section 469 of the Revenue and Taxation Code.	Accepted
7	California Taxpayers' Assoc. (Turner)	Add new definition: " <u>Assessee</u> " means <u>a. the named assessee on the original assessment</u> <u>b. the legal owner of the trade or business that is the subject of the audit</u> <u>c. the assessee's spouse</u> <u>d. an individual, co-owners, or entity that owns an identical proportional ownership interest in the named assessee or legal owner of the trade or business and other property at the location of the trade or business, whether represented by stock, partnership interest, or otherwise, any entity that qualifies with the named assessee or legal owner of the trade or business as a member of an "affiliated group" as defined in section 64(b) of the Revenue and Taxation Code.</u>	Disagree— Inconsistent with 11/1/00 PTC decision. Enlarges definition of <i>assessee</i> in R&T Code section 23.
8	Santa Clara County Counsel (Rees)	Change Subsection (b)(2): "Property subject to an escape assessment" means any <del>individual item</del> <u>portion</u> of the assessee's property that, <u>at the conclusion of the audit the assessor has determined to have been</u> <del>was</del> underassessed or not assessed at all when the assessor made the original assessment of the assessee's property, <u>and which has not been previously equalized by the county board of equalization,</u> regardless of whether the assessor actually makes or enrolls an escape assessment. . .	Disagree— Inconsistent with 11/1/00 PTC decision.  See Item No. 10

No.	SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
9	California Taxpayers' Assoc. (Turner)	Change Subsection (b)(2): "Property subject to an escape assessment" means any individual item of the assessee's property that was underassessed or not assessed at all when the assessor made the original assessment of the assessee's property, regardless of whether the assessor actually makes or enrolls an escape assessment- <u>and regardless of whether the county has adopted a low value ordinance permitting the assessor to not enroll an escape assessment wherein the value of a proposed escape assessment is beneath the low value threshold.</u> For purposes of this regulation, property is subject to an escape assessment even if the audit results <del>disclose</del> <u>discloses</u> an overassessment of another <del>portion</del> <u>item</u> of the property, and the amount of the underassessment could be offset completely by the amount of overassessment.	Not accepted— Low value discussion is unnecessary with 11/1/00 PTC definition of "property subject to escape assessment" as <i>any individual item whether enrolled or not.</i> See Item No. 10
10	SBE Staff	Change Subsection (b)(2): "Property subject to an escape assessment" means any individual item of the assessee's property that was underassessed or not assessed at all when the assessor made the original assessment of the assessee's property, <u>and which has not been previously equalized by an appeals board,</u> regardless of whether the assessor actually makes or enrolls an escape assessment. <del>For purposes of this regulation, p</del> Property is subject to an escape assessment even if the audit results disclose an overassessment of another portion <u>of an item</u> of the property, and the amount of the underassessment could be offset completely by the amount of overassessment.	Accepted
11	California Assessors' Association (Parker)	Change Subsection (b)(3): "Result of a mandatory audit" means <del>that information obtained and conclusions</del> <u>the resultant conclusions</u> reached by the assessor <u>from relevant information used in forming the mandatory audit conclusions</u> during the mandatory audit process.	See Item No. 14
12	Santa Clara County Counsel (Rees)	Change Subsection (b)(3): "Result of a mandatory audit" means <del>that information obtained and</del> conclusions reached by the assessor <u>during at the conclusion of</u> the mandatory audit process.	See Item No. 14
13	California Taxpayers' Assoc. (Turner)	Change Subsection (b)(3): "Result of <del>a mandatory an</del> <u>an</u> audit" means <del>that any</del> <u>any</u> information obtained <u>from the taxpayer or other sources and or</u> conclusions reached by the assessor during the <del>mandatory</del> audit process-, <u>including any property classes and location that were not originally specified as the subject of the audit but were reviewed by the auditor during the audit process.</u>	See Item No. 14
14	SBE Staff	Change Subsection (b)(3): "Result of a mandatory audit" means <del>that information obtained and the</del> <u>final</u> conclusions reached by the assessor during the mandatory audit process <u>as described in Rule 191 and shall include a description of any property subject to escape assessment.</u>	Accepted

No.	SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
15	California Taxpayers' Assoc. (Turner)	<p>Change Subsection (b)(4): "Original assessment" means the assessment and any subsequent roll corrections or roll changes <u>through the date of the commencement of the audit</u> for the roll year for which the result of <del>the mandatory an</del> audit discloses property subject to an escape assessment.</p> <p><b><u>SBE REWRITE:</u></b></p> <p>"Original assessment" means the assessment and any subsequent roll corrections or roll changes through the date of the commencement of the audit for the roll year for which the result of the <u>mandatory</u> audit discloses property subject to an escape assessment.</p>	Accepted— with minor rewrite
16	Santa Clara County Counsel (Rees)	Change Subsection (b)(5): "All property of the assessee" means any property, real or personal, <del>assessed to the assessee</del> at the location of the profession, trade, or business for the year of the mandatory audit, <u>except real property leased by the assessee.</u>	Disagree—Not consistent with 11/1/00 PTC decision. Would exclude property leased and assessed to the assessee.
17	California Taxpayers' Assoc. (Turner)	Change Subsection (b)(5): "All property of the assessee" means any <u>and all</u> property, real or personal, <del>assessed</del> <u>assessable</u> to the assessee at the location of the profession, trade, or business <del>for the year of the mandatory audit.</del> <u>and any leased tangible personal property that is used at the location of the profession, trade, or business, if the audited taxpayer is responsible for the payment of property taxes on the leased property.</u>	Disagree—Not consistent with 11/1/00 PTC definition of <i>property of the assessee</i> . Assessee is the person or entity to whom the property is assessed, not the person or entity responsible for payment of the taxes.
18	California Assessors' Association (Parker)	Change Subsection (b)(6): . . . For purposes of this regulation, a "location of the profession, trade, or business" may include multiple parcels of real property, noncontiguous parcels, parcels with separate addresses, and parcels in <del>separate the same assessment jurisdictions</del> <u>jurisdiction.</u>	See Item No. 21
19	Santa Clara County Counsel (Rees)	Change Subsection (b)(6): . . . For purposes of this regulation, a "location of the profession, trade, or business" may include multiple parcels of real property, noncontiguous parcels, parcels with separate addresses, and parcels in <del>separate the same assessment jurisdictions</del> <u>jurisdiction.</u>	See Item No. 21

No.	SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
20	California Taxpayers' Assoc. (Turner)	Change Subsection (b)(6): "Location of the profession, trade, or business" means <del>a distinct and separate location, as determined by the board, of the assessee's business personal property and fixtures that are the subject of the mandatory audit. the site or sites upon which the assessee conducts a distinct profession, trade or business. However, a</del> <u>A</u> location of the profession, trade, or business may include sites where the assessee's business personal property and fixtures are not located, <del>when that site is part of the same appraisal unit as the business personal property and fixtures that are the subject of the mandatory audit. For purposes of this regulation, a</del> <u>A</u> "location of the profession, trade, or business" may also include multiple parcels of real property, noncontiguous parcels, parcels with separate addresses, and parcels in separate assessment jurisdictions.	Disagree—The property's location must be relevant to the property that was subject to the mandatory audit.  See Item No. 21
21	SBE Staff	Change Subsection (b)(6): "Location of the profession, trade, or business" means <del>a distinct and separate location</del> <u>site</u> , as determined by the board, <del>of the assessee's business personal property and fixtures that are the subject of the mandatory audit. However, a location of the profession, trade, or business may include sites where the assessee's business personal property and fixtures are not located, when that site is part of the same appraisal unit as the business personal property and fixtures that are the subject of the mandatory audit. For purposes of this regulation, a</del> <u>where the property subject to the escape assessment is located. Site includes all property, real and personal, of the assessee within the same appraisal unit as the property that is subject to escape assessment. Site also includes other property not within the same appraisal unit as the property that is subject to escape assessment, when the other property and the property that escaped assessment function as part of the same distinct, separate, and integrated economic unit of the profession, trade, or business. A</u> "location of the profession, trade, or business" may include multiple parcels of real property, noncontiguous parcels, parcels with separate addresses, and parcels in separate <del>assessment jurisdictions</del> <u>revenue districts within the county.</u>	Accepted
22	California Assessors' Association (Parker)	Change Example 1: . . . If an audit discloses personal property subject to an escape assessment at one building, then all property of the assessee at each building is eligible for equalization as they function and operate as one distinct location; <del>if the board determines that the property is part of the same appraisal unit as prescribed in subsection (b) of regulation 324 of this subchapter.</del>	See Item No. 26
23	Industry Representative (Keegan)	Change Example 1: . . . If an audit discloses personal property subject to an escape assessment at one building, then all property of the assessee at each building is eligible for equalization <del>as they function and operate as one distinct location.</del>	See Item No. 26
24	Santa Clara County Counsel (Rees)	Change Example 1: . . . If an audit discloses personal property subject to an escape assessment at one building, then <u>the board may determine that</u> all property of the assessee at each building is eligible for equalization <del>as if</del> <u>if</u> they function and operate as one distinct <del>location</del> <u>appraisal unit.</u>	See Item No. 26

No.	SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
25	California Taxpayers' Assoc. (Turner)	Change Example 1: <del>An assessee conducted a profession, trade, or A business on a campus that is composed of three separate buildings that have an interrelated purpose in the assessee's business operation.</del> Each building has its own address and assessor's parcel number, <u>and</u> is owned and operated by the same assessee, <del>and the personal property and fixtures are reported as a single location.</del> If an audit discloses personal property subject to an escape assessment at one building, then all property of the assessee <u>on the campus at each building</u> is eligible for equalization as they function and operate as one distinct location <u>of a profession, trade or business.</u>	See Item No. 26
26	SBE Staff	Change Example 1: <u>An assessee conducts a profession, trade, or A business on a campus-like setting that is composed of three separate buildings that have an interrelated purpose in the assessee's business operation.</u> Each building has its own address and assessor's parcel number, <u>and</u> is owned and operated by the same assessee, <del>and the personal property and fixtures are reported as a single location.</del> If an audit discloses <del>personal</del> <u>any</u> property subject to an escape assessment <del>at one building,</del> then all property of the assessee <u>on the campus at each building</u> is eligible for equalization <u>if the board determines that it as they functions and operates as one distinct location integrated economic unit of a profession, trade, or business.</u>	Accepted
27	Industry Representative (Keegan)	Change Example 2: . . . If the property subject to an escape assessment is discovered only at one store, the property at that store's location is subject to equalization following an audit. <del>The other four stores are distinct and separate locations and therefore are not considered property at the location of the profession, trade, or business where the escape assessment occurred.</del>	See Item No. 29
28	California Taxpayers' Assoc. (Turner)	Change Example 2: An assessee operates five grocery stores in a county. Although the stores are owned and operated by one assessee, carry the same type of merchandise, and share in common advertising, each store operates independently <del>at a separate location</del> <u>as a distinct profession, trade, or business.</u> If property subject to an escape assessment is discovered only at one store, the property at that store's location is subject to equalization following an audit. The other four stores are distinct and separate <del>locations</del> <u>businesses</u> and therefore are not considered property at the location of the profession, trade, or business where the escape assessment occurred.	See Item No. 29
29	SBE Staff	Change Example 2: An assessee operates five grocery stores in a county. Although the stores are owned and operated by one assessee, carry the same type of merchandise, and share in common advertising, each store operates independently <del>at a separate location.</del> If property subject to an escape assessment is discovered only at one store, the property at that store's location is subject to equalization following an audit. The other four stores are <del>distinct and separate locations and therefore are not considered property at the location</del> <u>not considered property at the site of the profession, trade, or business where the escape assessment occurred, as they operate independently as separate and district economic units.</u>	Accepted

No.	SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
30	California Taxpayers' Assoc. (Turner)	Change Example 3: . . . If an audit discloses personal property subject to an escape assessment for the department store, the parking garage would also be eligible for equalization if the board determines that the parcels with the garage and the store are part of the same appraisal unit as prescribed in subsection (b) of regulation 324 of this subchapter profession, trade or business.	See Item No. 31
31	SBE Staff	Change Example 3: . . . If an audit discloses personal property subject to an escape assessment for the department store, the parking garage would also be eligible for equalization if the board determines that the parcels with the garage and the store are part of the same appraisal unit as prescribed in subsection (b) of regulation 324 of this subchapter or integrated economic unit of the profession, trade, or business.	Accepted
32	California Assessors' Association (Parker)	Change Subsection (b)(7): . . . agreement approved by the board. <del>An item, category, or class of property, or portion thereof, shall be deemed to have been the subject of a hearing or of a stipulated agreement only to the extent the board's decision or the stipulated agreement specifically identify the value of such item, category, or class, or portion thereof, as a value determined by the board hearing or stipulated agreement.</del>	Disagree— AAB must consciously be determining <i>a property's value</i> in order for it to be a board-set value—not just have <i>a property's value</i> be enrolled as part of the mechanics of the stipulation.
33	Santa Clara County Counsel (Rees)	Change Subsection (b)(7): . . . agreement approved by the board. <del>An item, category, or class of property, or portion thereof, shall be deemed to have been the subject of a hearing or of a stipulated agreement only to the extent the board's decision or the stipulated agreement specifically identify the value of such item, category, or class, or portion thereof, as a value determined by the board hearing or stipulated agreement.</del>	Disagree— AAB must consciously be determining <i>a property's value</i> in order for it to be a board-set value—not just have <i>a property's value</i> be enrolled as part of the mechanics of the stipulation.

No.	SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
34	California Taxpayers' Assoc. (Turner)	Change Subsection (b)(7): "Property that has been previously equalized for the year in question" means that, <del>for any year covered by the mandatory audit</del> , the board has previously made a final determination of full value for that item, category, or class of property that was the subject of an assessment appeal hearing or was the subject of a stipulated agreement approved by the board. An item, category, or class of property, or portion thereof, shall be deemed to have been the subject of a hearing or of a stipulated agreement only to the extent the board's decision or the stipulated agreement specifically identify the value of such item, category, or class, or portion thereof, as a value <del>determined</del> <u>contested and resolved</u> by the board hearing or stipulated agreement.	Accepted  Disagree— AAB can make a determination of value without that value being contested.
35	California Assessors' Association (Parker)	Change Subsection (c): . . . of the mandatory audit. The assessor shall give the taxpayer written findings with respect to any data that would alter any previously enrolled assessment- <u>for each roll year of the mandatory audit.</u>	See Item No. 39
36	CA Association of Clerks and Election Officials (McKibben)	Change Subsection (c): . . . of the mandatory audit. The assessor shall give the taxpayer written findings with respect to any data that would alter any previously enrolled assessment- <u>for each year of the mandatory audit.</u>	See Item No. 39
37	Industry Representative (Keegan)	Change Subsection (c): . . . The assessor shall give the taxpayer written findings with respect to any data that would alter any previously enrolled assessment. <u>The written findings shall include the auditor's conclusions either granting the taxpayer's submitted issue request or denial of the taxpayer's submitted issue request as provided in California Code of Regulations Title 18 – Rule 191.</u> At the request of the assessee, the . . .	See Item No. 39

No.	SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
38	California Taxpayers' Assoc. (Turner)	Change Subsection (c): NOTICE OF <del>MANDATORY</del> AUDIT RESULTS. Upon completion of an audit of the assessee's books and records, the assessor shall notify the assessee in writing of the <del>results of conclusions reached during the mandatory</del> audit for all property, locations, and years that were <del>the subject of</del> <u>examined during the mandatory</u> audit. The assessor shall give the taxpayer written findings with respect to any <u>and all</u> data that would alter any previously enrolled assessment. <u>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 the incorrect valuation of 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 Section 4986 and 5096.</u> At the request of the assessee, the assessor shall permit the assessee or his or her designated representative to inspect or copy any information, documents, or records relating to the audit in accordance with the provisions of Revenue and Taxation Code section 408.	See Item No. 39  Not accepted—contained in definition of <i>result of a mandatory audit</i> via reference to Rule 191 (Item No. 14).
39	SBE Staff	Change Subsection (c): Upon completion of an audit of the assessee's books and records, the assessor shall notify the assessee in writing of the results of the mandatory audit <u>as defined in subsection (b)(3) of this rule</u> for all property, locations, and years that were the subject of the mandatory audit. <del>The assessor shall give the taxpayer written findings with respect to any data that would alter any previously enrolled assessment.</del> At the request of the assessee, the assessor shall permit the assessee or his or her designated representative to inspect or copy any information, documents, or records relating to the audit in accordance with the provisions of Revenue and Taxation Code section 408.	Accepted

No.	SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
40	California Assessors' Association (Parker)	<p>Change Subsection (d): <del>(1)</del> An application shall be filed with the clerk no later than 60 days after the date of mailing by <del>on</del> which the assessee is notified that the result of the mandatory audit has disclosed property subject to escape assessment. The notice for purposes of filing an application shall <del>include</del> <u>be one of the following, depending upon the conclusion(s) of the mandatory audit:</u></p> <p><del>(A) A notice of escape assessment as provided by Revenue and Taxation Code section 534. If the county elects not to send such a notice, then the tax bill shall serve as notice.</del></p> <p><del>(B) (1) Where an escape assessment is enrolled by the assessor, the notice shall be</del> <u>The the tax bill based upon the results of the mandatory audit and resulting escape assessment(s), for counties of the first class or any county that has adopted a resolution pursuant to section 1605, subdivision (e), of the Revenue and Taxation Code, section 1605, subdivision (c). If the auditing county is not a county of the first class or has not adopted a resolution pursuant to Revenue and Taxation Code, section 1605, subdivision (c), the notice of escape assessment pursuant to Revenue and Taxation code section 534 shall serve as the notice.</u></p> <p><del>(C) (2) Where the assessor does not enroll an escape assessment resulting from the mandatory audit, The the assessor's written notification to the assessee of the results of the mandatory audit results for all the property, locations, and years year(s) that were the subject of the mandatory audit as described in subsection (c) of this regulation, shall be the notice. The notice of mandatory audit results showing property subject to escape assessment shall indicate that it is the notice of the assessee's right to file an application.</del></p> <p><del>(2) Any notice or tax bill sent pursuant to (A), (B), and (C) of subsection (d)(1) of this regulation, that is intended to serve as notice for purposes of filing an application, shall clearly indicate that it is intended to serve such purpose and shall apprise the assessee of his or her right to file an application within 60 days of the mailing of the notice or tax bill.</del></p>	See Item No. 43

No.	SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
41	Santa Clara County Counsel (Berkman)	<p>Change Subsection (d): (1) An application shall be filed with the clerk <del>no later than 60 days after the date on which the assessee is notified</del> <u>within 60 days after the date of mailing of notice</u> that the result of the mandatory audit has disclosed property subject to escape assessment. <del>The notice for purposes of filing an application shall include the following:</del> <u>Any application filed prior to the mailing or delivery of the notice as described in subsection (d)(3) is invalid and does not vest the appeals board with jurisdiction to hear such application.</u></p> <p><u>(2) Any notice or tax bill sent pursuant to (A), (B), (C) and (D) of subsection (d)(1)(3) of this regulation, that is intended to serve as notice for purposes of filing an application, shall clearly indicate that it is intended to serve as such notice, shall include the date the notice was mailed, and shall apprise the assessee of his or her right to file an application within 60 days of the mailing of the notice or tax bill.</u></p> <p><u>(3) Any of the following may serve as notice for purposes of filing an application:</u></p> <p style="padding-left: 40px;">(A) A notice of escape assessment as provided by Revenue and Taxation Code section 534 and 1605. <del>If the county elects not to send such a notice, then the tax bill shall serve as notice.</del></p> <p style="padding-left: 80px;"><u>(i) A Notice of Proposed Escape Assessment pursuant to Revenue and Taxation Code section 531.8 is not a final notice of escape assessment and does not constitute notice that the result of a mandatory audit has disclosed property subject to escape assessment for purposes of filing an application.</u></p> <p style="padding-left: 40px;"><u>(B) If the county elects not to send a notice of escape assessment, then the tax bill shall serve as notice.</u></p> <p style="padding-left: 40px;"><del>(B)-(C)</del> The tax bill, for counties of the first class or any county that has adopted a resolution pursuant to section 1605, subdivision (c), of the Revenue and Taxation Code.</p> <p style="padding-left: 40px;"><del>(C)</del> <u>(D) The assessor's written notification to the assessee of the final results of the mandatory audit, for all property, locations, and years that were the subject of the mandatory audit as described in subsection (c) of this regulation, provided that such written notification both states that it is intended to serve as notice for purposes of filing an application and apprises the assessee of his or her right to file an application within 60 days of the mailing of such notice or tax bill.</u></p> <p style="padding-left: 40px;"><u>(i) Any written notification by the assessor to the assessee of audit results which does not state that it is intended to serve as notice for purposes of filing an application and does not apprise the assessee of his or her right to file an application within 60 days of the mailing of such notice or tax bill shall not constitute notice for purposes of filing an application.</u></p>	See Item No. 43

No.	SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
42	California Taxpayers' Assoc. (Turner)	<p>Change Subsection (d): (1) An application shall be filed with the clerk no later than 60 days after the date on which the <del>assessee</del> <u>taxpayer</u> is notified <del>that of the result</del> <u>results</u> of <del>the mandatory an</del> <u>audit has disclosed property subject to escape assessment at the location designated by the taxpayer for receipt of such notice.</u> The notice for purposes of filing an application shall include the following:</p> <p>(A) A notice of escape assessment as provided by Revenue and Taxation Code section 534. If the county elects not to send such a notice, then the tax bill shall serve as notice.</p> <p>(B) The tax bill, for counties of the first class or any county that has adopted a resolution pursuant to section 1605, subdivision (c), of the Revenue and Taxation Code.</p> <p>(C) The assessor's written notification to the assessee of the results of <del>the mandatory an</del> <u>audit for all property, locations, and years that were the subject of the mandatory audit as described in subsection (c) of this regulation.</u></p> <p><u>(2) The notice sent pursuant to (A), (B), and (C) of subsection (d)(1) of this regulation shall identify the locations and years where the assessor has determined that the equalization provisions of this regulation apply.</u></p> <p><del>(2)</del> <u>(3)</u> Any notice or tax bill sent pursuant to (A), (B), and (C) of subsection (d)(1) of this regulation, that is intended to serve as notice for purposes of filing an application, shall clearly indicate that it is intended to serve such purpose and shall apprise the assessee of his or her right to file an application within 60 days of the mailing of the notice or tax bill.</p>	See Item No. 43

No.	SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
43	CA Association of Clerks and Election Officials (McKibben)	<p>Change Subsection (d): <del>(1)</del> An application shall be filed with the clerk no later than 60 days after the date of mailing by <del>on</del> which the assessee is notified that the result of the mandatory audit has disclosed property subject to escape assessment. The notice for purposes of filing an application shall <del>include</del> be one of the following, depending upon the conclusion(s) of the mandatory audit:</p> <p><del>(A) A notice of escape assessment as provided by Revenue and Taxation Code section 534. If the county elects not to send such a notice, then the tax bill shall serve as notice.</del></p> <p><del>— (B) The tax bill, for counties of the first class or any county that has adopted a resolution pursuant to section 1605, subdivision (c), of the Revenue and Taxation Code.</del></p> <p><del>— (C) The assessor's written notification to the assessee of the results of the mandatory audit for all property, locations, and years that were the subject of the mandatory audit as described in subsection (c) of this regulation.</del></p> <p><del>(2) Any notice or tax bill sent pursuant to (A), (B), and (C) of subsection (d)(1) of this regulation, that is intended to serve as notice for purposes of filing an application, shall clearly indicate that it is intended to serve such purpose and shall apprise the assessee of his or her right to file an application within 60 days of the mailing of the notice or tax bill.</del></p> <p><u>(1) Where an escape assessment is enrolled by the assessor, the notice shall be the tax bill based upon the results of the mandatory audit and resulting escape assessment(s) for counties of the first class or any county that has adopted a resolution pursuant to Revenue and Taxation Code, section 1605, subdivision (c). If the auditing county is not a county of the first class or has not adopted a resolution pursuant to Revenue and Taxation Code, section 1605, subdivision (c), the notice of escape assessment pursuant to Revenue and Taxation Code section 534 shall serve as the notice.</u></p> <p><u>(2) Where the assessor does not enroll an escape assessment resulting from the mandatory audit, the assessor's written notification of the mandatory audit results for the property, locations and year(s) that were the subject of the mandatory audit as described in subsection (c) of this regulation shall be the notice. The notice of mandatory audit results showing property subject to escape assessment shall indicate that it is the notice of the assessee's right to file an application.</u></p> <p><b><u>SBE REWRITE:</u></b></p> <p>1) . . . Revenue and Taxation Code, section 1605, subdivision (c). If the auditing county is not a county of the first class or has not adopted a resolution pursuant to Revenue and Taxation Code; section 1605, subdivision (c), the notice of escape assessment pursuant to Revenue and Taxation Code section 534 shall serve as the notice.</p> <p>(2) Where the assessor does not enroll an escape assessment resulting from the mandatory audit or when the escape assessment is enrolled but offset pursuant to Revenue and Taxation Code section 533, the assessor's written notification of the mandatory audit results for the property, locations, and year(s) that were the subject of the mandatory audit as described in subsection (c) of this rule shall be the notice. . . .</p>	Accepted, with minor rewrite

<b>No.</b>	<b>SOURCE</b>	<b>PROPOSED LANGUAGE</b>	<b>SBE STAFF POSITION</b>
44	California Taxpayers' Assoc. (Turner)	Add new Subsection: <u>(e) The appeal rights described in this regulation are in addition to any other appeal rights provided under law. Nothing in this regulation shall be interpreted to limit in any way a board's jurisdiction under regulations 302, 305 or 324 of this subchapter.</u>	See Item No. 45
45	SBE Staff	Add new Subsection: <u><b>(e) JURISDICTION OF THE BOARD.</b> Nothing in this rule shall be interpreted to limit or enlarge a board's jurisdiction under specific statutory provisions or other rules of this subchapter.</u>	Accepted

1 **RULE 305.3. APPLICATION FOR EQUALIZATION AFTER A**  
2 **MANDATORY AUDIT**

3  
4  
5 *Reference:* Sections 23, 408, 469, 531, 531.8, 533, 534, 1603, 1605, Revenue and Taxation  
6 Code.

7 **(a) GENERAL.** In addition to any rights of appeal of escape or supplemental assessments as  
8 described in Rule 305(d)(2) of this subchapter, if the result of a mandatory audit discloses  
9 property subject to an escape assessment for any year covered by the audit, then pursuant to  
10 section 1605 of the Revenue and Taxation Code the assessee or his or her authorized agent may  
11 file an application for review, equalization, and adjustment of:

12 ~~(1) The escape assessment, and~~

13 ~~(2) The original assessment of all property of the assessee at the location of the profession,~~  
14 ~~trade, or business for that year, except any property that has previously been equalized for the~~  
15 ~~year in question.~~

16 **(b) DEFINITIONS.** For purposes of subsection (a) of this regulation:

17 (1) "Mandatory audit" means ~~an~~ any audit of ~~a taxpayer's~~ the books and records ~~which an~~  
18 ~~assessor is required to conduct at least once every four years as prescribed by regulation 192 of~~  
19 ~~subchapter 2 for~~ of a taxpayer engaged in a profession, trade, or business who owns, claims,  
20 possesses, or controls locally assessable business tangible personal property and trade fixtures  
21 that have a value in excess of the amount set forth in section 469 of the Revenue and Taxation  
22 Code.

23  
24 (2) "Property subject to an escape assessment" means any individual item of the assessee's  
25 property that was underassessed or not assessed at all when the assessor made the original  
26 assessment of the assessee's property, and which has not been previously equalized by an appeals  
27 board, regardless of whether the assessor actually makes or enrolls an escape assessment. For  
28 ~~purposes of this regulation, p~~Property is subject to an escape assessment even if the audit results  
29 disclose an overassessment of another portion of an item of the property, and the amount of the  
30 underassessment could be offset completely by the amount of overassessment.

31  
32 (3) "Result of a mandatory audit" means ~~that information obtained and the final~~ conclusions  
33 reached by the assessor during the mandatory audit process as described in Rule 191 and shall  
34 include a description of any property subject to escape assessment.

35 (4) "Original assessment" means the assessment and any subsequent roll corrections or roll  
36 changes through the date of the commencement of the audit for the roll year for which the result  
37 of the mandatory audit discloses property subject to an escape assessment.

1 (5) "All property of the assessee" means any property, real or personal, assessed to the assessee  
2 at the location of the profession, trade, or business for the year of the mandatory audit.

3 (6) "Location of the profession, trade, or business" means a ~~distinct and separate location site,~~  
4 ~~as determined by the board, of the assessee's business personal property and fixtures that are the~~  
5 ~~subject of the mandatory audit. However, a location of the profession, trade, or business may~~  
6 ~~include sites where the assessee's business personal property and fixtures are not located, when~~  
7 ~~that site is part of the same appraisal unit as the business personal property and fixtures that are~~  
8 ~~the subject of the mandatory audit. For purposes of this regulation, a~~ where the property subject  
9 to the escape assessment is located. Site includes all property, real and personal, of the assessee  
10 within the same appraisal unit as the property that is subject to escape assessment. Site also  
11 includes other property not within the same appraisal unit as the property that is subject to escape  
12 assessment, when the other property and the property that escaped assessment function as part of  
13 the same distinct, separate, and integrated economic unit of the profession, trade, or business. A  
14 "location of the profession, trade, or business" may include multiple parcels of real property,  
15 noncontiguous parcels, parcels with separate addresses, and parcels in separate assessment  
16 jurisdictions revenue districts within the county.

17  
18 Example 1: An assessee conducts a profession, trade, or A business on a campus-like  
19 setting that is composed of three separate buildings that have an interrelated purpose in the  
20 assessee's business operation. Each building has its own address and assessor's parcel number;  
21 and is owned and operated by the same assessee, and the personal property and fixtures are  
22 reported as a single location. If an audit discloses personal any property subject to an escape  
23 assessment at one building, then all property of the assessee on the campus at each building is  
24 eligible for equalization if the board determines that it as they functions and operates as one  
25 distinct location integrated economic unit of a profession, trade, or business.

26  
27 Example 2: An assessee operates five grocery stores in a county. Although the stores are  
28 owned and operated by one assessee, carry the same type of merchandise, and share in common  
29 advertising, each store operates independently ~~at a separate location~~. If property subject to an  
30 escape assessment is discovered only at one store, the property at that store's location is subject  
31 to equalization following an audit. The other four stores are ~~distinct and separate locations and~~  
32 ~~therefore are not considered property at the location~~ not considered property at the site of the  
33 profession, trade, or business where the escape assessment occurred, as they operate  
34 independently as separate and distinct economic units.

35  
36 Example 3: An assessee operates a department store with a parking garage on an  
37 adjacent parcel. The parcel that houses the parking garage has no personal property or fixtures  
38 located on it. If an audit discloses personal property subject to an escape assessment for the  
39 department store, the parking garage would also be eligible for equalization if the board  
40 determines that the parcels with the garage and the store are part of the same appraisal unit as  
41 ~~prescribed in subsection (b) of regulation 324 of this subchapter~~ or integrated economic unit of  
42 the profession, trade, or business.  
43

1 (7) "Property that has been previously equalized for the year in question" means that, ~~for any~~  
 2 ~~year covered by the mandatory audit~~, the board has previously made a final determination of full  
 3 value for that item, category, or class of property that was the subject of an assessment appeal  
 4 hearing or was the subject of a stipulated agreement approved by the board. An item, category,  
 5 or class of property, or portion thereof, shall be deemed to have been the subject of a hearing or  
 6 of a stipulated agreement only to the extent the board's decision or the stipulated agreement  
 7 specifically identify the value of such item, category, or class, or portion thereof, as a value  
 8 determined by the board hearing or stipulated agreement.

9 **(c) NOTICE OF MANDATORY AUDIT RESULTS.** Upon completion of an audit of the  
 10 assessee's books and records, the assessor shall notify the assessee in writing of the results of the  
 11 mandatory audit as defined in subsection (b)(3) of this rule for all property, locations, and years  
 12 that were the subject of the mandatory audit. ~~The assessor shall give the taxpayer written~~  
 13 ~~findings with respect to any data that would alter any previously enrolled assessment.~~ At the  
 14 request of the assessee, the assessor shall permit the assessee or his or her designated  
 15 representative to inspect or copy any information, documents, or records relating to the audit in  
 16 accordance with the provisions of Revenue and Taxation Code section 408.

17 **(d) NOTICE FOR FILING AN APPLICATION.** ~~(1)~~ An application shall be filed with the  
 18 clerk no later than 60 days after the date of mailing by ~~on~~ which the assessee is notified that the  
 19 result of the mandatory audit has disclosed property subject to escape assessment. The notice for  
 20 purposes of filing an application shall include be one of the following, depending upon the  
 21 conclusion(s) of the mandatory audit:

22 ~~— (A) A notice of escape assessment as provided by Revenue and Taxation Code section~~  
 23 ~~534. If the county elects not to send such a notice, then the tax bill shall serve as notice.~~

24 ~~— (B) The tax bill, for counties of the first class or any county that has adopted a resolution~~  
 25 ~~pursuant to section 1605, subdivision (c), of the Revenue and Taxation Code.~~

26 ~~— (C) The assessor's written notification to the assessee of the results of the mandatory audit~~  
 27 ~~for all property, locations, and years that were the subject of the mandatory audit as described in~~  
 28 ~~subsection (c) of this regulation.~~

29 ~~(2) Any notice or tax bill sent pursuant to (A), (B), and (C) of subsection (d)(1) of this~~  
 30 ~~regulation, that is intended to serve as notice for purposes of filing an application, shall clearly~~  
 31 ~~indicate that it is intended to serve such purpose and shall apprise the assessee of his or her right~~  
 32 ~~to file an application within 60 days of the mailing of the notice or tax bill.~~

33 (1) Where an escape assessment is enrolled by the assessor, the notice shall be the tax bill based  
 34 upon the results of the mandatory audit and resulting escape assessment(s) for counties of the  
 35 first class or any county that has adopted a resolution pursuant to Revenue and Taxation Code  
 36 section 1605, subdivision (c). If the county is not a county of the first class or has not adopted a  
 37 resolution pursuant to Revenue and Taxation Code section 1605, subdivision (c), the notice of  
 38 escape assessment pursuant to Revenue and Taxation Code section 534 shall serve as the notice.

1  
2 (2) Where the assessor does not enroll an escape assessment resulting from the mandatory audit  
3 or when the escape assessment is enrolled but offset pursuant to Revenue and Taxation Code  
4 section 533, the assessor's written notification of the mandatory audit results for the property,  
5 locations, and year(s) that were the subject of the mandatory audit as described in subsection (c)  
6 of this rule shall be the notice. The notice of mandatory audit results showing property subject to  
7 escape assessment shall indicate that it is the notice of the assessee's right to file an application.  
8  
9 **(e) JURISDICTION OF THE BOARD.** Nothing in this rule shall be interpreted to limit or  
10 enlarge a board's jurisdiction under specific statutory provisions or other rules of this subchapter.  
11