



STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0064
916 445-4982 • FAX 916 323-8765
www.boe.ca.gov

CAROLE MIGDEN
First District, San Francisco

BILL LEONARD
Second District, Ontario

CLAUDE PARRISH
Third District, Long Beach

JOHN CHIANG
Fourth District, Los Angeles

STEVE WESTLY
State Controller, Sacramento

October 27, 2004

RAMON J. HIRSIG
Executive Director

No. 2004/064

TO COUNTY ASSESSORS:

AMENDMENTS TO PROPERTY TAX RULES 131, 302, AND 305

Enclosed are copies of the following Property Tax Rules:

- Rule 131, *Fruit and Nut Tree and Grapevine Exemption*
- Rule 302, *The Board's Function and Jurisdiction*
- Rule 305, *Application*

The amendments were initiated pursuant to section 100, Title 1, of the California Code of Regulations.

Property Tax Rule 131

Rule 131 was amended to delete the reference to Property Tax Rule 466 that was repealed effective January 5, 2000. The pertinent assessment provisions formerly in Rule 466 are now covered extensively in Chapter 7 of Assessors' Handbook Section 521, *Assessment of Agricultural and Open-Space Properties*.

Property Tax Rule 302

Rule 302 was amended to delete the reference to Revenue and Taxation Code section 1613, which was repealed effective January 1, 2004 (Stats. 2003, Ch. 199, Senate Bill 1063).

Property Tax Rule 305

Rule 305 was amended to:

- Clarify the date of an assessment notice and the date of a tax bill for assessment appeal purposes, by making the filing date 60 days after the date printed on the notice or tax bill, or the postmark date, whichever is later (Stats. 2000, Ch. 647, Senate Bill 2170).
- Make the equalization provisions contained in Revenue and Taxation Code section 469 applicable to any audit conducted by the county assessor, not just audits with a dollar threshold over \$400,000—commonly referred to as mandatory audits (Stats. 2001, Ch. 238, Assembly Bill 645).
- Change the assessment appeal filing period from 14 days to 6 months for property that has sustained a misfortune or calamity (Stats. 2001, Ch. 407, Senate Bill 1181).

- Make various changes to the regular filing period for assessment appeals for real property on the secured roll (Stats. 2001, Ch. 238, Assembly Bill 645).
- Make various changes to the regular filing period for all property located in a county, and delete the reference to Revenue and Taxation Code section 620.5 which was repealed effective January 1, 2003 (Stats. 2002, Ch. 755, Senate Bill 2092).

If you have any questions regarding these rule amendments, please contact Ms. Sherrie Kinkle at sherrie.kinkle@boe.ca.gov or (916) 322-2921.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:sk
Enclosures

State of California
BOARD OF EQUALIZATION
PROPERTY TAX RULES

Chapter 1. State Board of Equalization – Property Tax
Subchapter 2. Assessment
Article 3. Exemptions and Immunities

Rule 131. FRUIT AND NUT TREE AND GRAPEVINE EXEMPTION.

Authority: Section 15606, Government Code.

Reference: Sections 105, 211, 223, Revenue and Taxation Code.

(a) "ORCHARD" OR "VINEYARD" DEFINED. An orchard or a vineyard is a systematic planting of fruit and nut-bearing trees or grapevines as opposed to individual plantings for ornamental purposes. The exemption under Section 3 (i), Article XIII, California Constitution, applies to such fruit and nut-bearing trees or grapevines planted in orchard or vineyard form. The fruit, nuts, or grapes, until harvested, are growing crops exempt from taxation under Section 3 (h), Article XIII, California Constitution.

(b) LENGTH OF EXEMPTION. The exemption applies to those trees in an orchard until four years after the season of planting in orchard form, and those vines in a vineyard until three years after the season of planting in vineyard form. The exemption ceases on the fifth lien date after the season of planting trees in orchard form, and on the fourth lien date after the season of planting vines in vineyard form. For example, fruit trees planted in orchard form in the 1995 planting season become assessable on the 2000 lien date.

(c) NURSERY STOCK. Trees and vines in existence but unplanted in orchard or vineyard form on the lien date are not at that time within the coverage of the constitutional exemption. Fruit trees and nut trees and vines which are personal property are exempt pursuant to section 223 of the Revenue and Taxation Code, if owned by a grower but held for subsequent planting in orchard or vineyard form provided they are planted during the assessment year by the grower. Section 223 has no application to plant nurseries.

(d) REPLACEMENT PLANTINGS. The exemption applies not only to complete new orchard and vineyard plantings, but also to those trees or vines in an orchard or vineyard under the age of four or three years respectively which constitute additions to or replacements of plantings in an orchard or vineyard.

(e) GRAFTING. Where a previously exempt tree or vine has attained commercial production and there is a grafting which causes a re-occurrence of a nonproducing period (except for nurse limbs), this shall be treated as a new planting which creates a new exemption period. Any other grafting or budding or inarching does not create a new exemption period.

(f) DATE PALMS. Date palms are subject to all of the foregoing regulations applicable to fruit and nut trees. From the lien date that they become taxable to their eighth year of age their value shall be included in the assessed value of the land. Thereafter they are assessable and taxable as improvements. (See section 105, Revenue and Taxation Code.)

(g) ENROLLMENT. Fruit and nut-bearing trees and grapevines are not improvements while exempt from taxation. If the assessor places a value for such trees and vines on the roll, the entry shall be made in the personal property column. After the exemption expires, their value is to be enrolled in the improvement column. (See section 105, Revenue and Taxation Code.)

(h) STRUCTURAL IMPROVEMENTS. Stakes, trellises, fences, and other structural orchard and vineyard improvements are taxable both during and after the exemption period for trees and vines.

History: Adopted February 9, 1967, effective February 14, 1967.
Amended March 9, 1967, effective March 10, 1967.
Amended July 1, 1969, effective August 2, 1969.
Amended December 17, 1975, effective January 25, 1976.
Amended July 27, 1982, effective February 10, 1983.
Amended June 30, 2004, effective August 23, 2004.

State of California
BOARD OF EQUALIZATION
PROPERTY TAX RULES

Chapter 1. State Board of Equalization – Property Tax
Subchapter 3. Local Equalization
Article 1. Hearing by County Board

Rule 302. THE BOARD'S FUNCTION AND JURISDICTION.

Authority: Section 15606, Government Code.

Reference: Sections 531.1, 1603, 1604, 1605.5, Revenue and Taxation Code.

(a) The functions of the board are:

(1) To lower, sustain, or increase upon application, or to increase after giving notice when no application has been filed, individual assessments in order to equalize assessments on the local tax assessment roll,

(2) To determine the full value and, where appealed, the base year value of the property that is the subject of the hearing,

(3) To hear and decide penalty assessments, and to review, equalize and adjust escaped assessments on that roll except escaped assessments made pursuant to Revenue and Taxation Code section 531.1,

(4) To determine the classification of the property that is the subject of the hearing, including classifications within the general classifications of real property, improvements, and personal property. Such classifications may result in the property so classified being exempt from property taxation.

(5) To determine the allocation of value to property that is the subject of the hearing, and

(6) To exercise the powers specified in section 1605.5 of the Revenue and Taxation Code.

(b) Except as provided in subdivision (a)(4), the board has no jurisdiction to grant or deny exemptions or to consider allegations that claims for exemption from property taxes have been improperly denied.

(c) The board acts in a quasi-judicial capacity and renders its decision only on the basis of proper evidence presented at the hearing.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended May 21, 1968, effective June 26, 1968.
Amended June 4, 1969, effective June 6, 1969.
Amended May 5, 1971, effective June 10, 1971.
Amended December 17, 1975, effective January 25, 1976.
Amended January 6, 2000, effective April 22, 2000.
Amended June 30, 2004, effective August 25, 2004.

State of California
BOARD OF EQUALIZATION
PROPERTY TAX RULES

Chapter 1. State Board of Equalization – Property Tax
Subchapter 3. Local Equalization
Article 1. Hearing by County Board

Rule 305. Application.

Authority: Section 15606, Government Code.

Reference: Sections 51, 166, 170, 408.1, 469, 619, 1603, 1603.5, 1604, 1605, 1636, 5097, and 5097.02, Revenue and Taxation Code.
Section 25105.5, Government Code.

No change in an assessment sought by a person affected shall be made unless the following application procedure is followed.

(a) ELIGIBLE PERSONS. (1) An application is filed by a person affected or the person's agent, or a relative mentioned in regulation 317 of this division. If the application is made by an agent, other than an authorized attorney licensed to practice in this state who has been retained and authorized by the applicant to file the application, written authorization to so act must be filed with the application. For purposes of signing an application on behalf of an applicant, an agent shall be deemed to have been duly authorized if the applicant's written agent authorization is on the application or attached to each application at the time it is filed with the board. The attached authorization shall include the following:

- (A) The date the authorization statement is executed;
- (B) A statement to the effect that the agent is authorized to sign and file applications in the specific calendar year in which the application is filed;
- (C) The specific parcel(s) or assessment(s) covered by the authorization, or a statement that the agent is authorized to represent the applicant on all parcels and assessments located in the specific county;
- (D) The name, address, and telephone number of the specific agent who is authorized to represent the applicant;
- (E) The applicant's signature and title; and
- (F) A statement that the agent will provide the applicant with a copy of the application.

(2) If a photocopy of the original authorization is attached to the application, the agent shall be prepared to submit an original signed authorization if requested by the board. The application form shall show that the agent's authorization was attached to the application. An agent must have authorization to file an application at the time the application is filed; retroactive authorizations are not permitted.

(3) If the applicant is a corporation, limited partnership, or a limited liability company, the agent authorization must be signed by an officer or authorized employee of the business entity.

(4) No application shall be rejected as a duplicate application by the clerk unless it qualifies as a duplicate application within the meaning specified in section 1603.5 of the Revenue and Taxation Code.

(b) SIGNATURE AND VERIFICATION. The application shall be in writing and signed by the applicant or the applicant's agent with declaration under penalty of perjury that the statements made in the application are true and that the person signing the application is one of the following:

(1) The person affected, a relative mentioned in regulation 317 of this division, an officer of a corporation, or an employee of a corporation who has been designated in writing by the board of directors or corporate officer to represent the corporation on property tax matters;

(2) An agent authorized by the applicant as indicated in the agent's authorization portion of the application; or

(3) An attorney licensed to practice law in this state who has been retained by the applicant and who has been authorized by the applicant, prior to the time the application is filed, to file the application.

Rule 305. (Continued)

(c) FORM AND CONTENTS. The county shall provide, free of charge, forms on which applications are to be made.

(1) The application form shall be prescribed by the State Board of Equalization and shall require that the applicant provide the following information:

(A) The name and address of the applicant.

(B) The name and address of the applicant's agent, if any. If the applicant is represented by an agent, both the applicant's actual mailing address and the agent's mailing address shall be provided on the application.

(C) The applicant's written authorization for an agent, if any, to act on the applicant's behalf.

(D) A description of the property that is the subject of the application sufficient to identify it on the assessment roll.

(E) The applicant's opinion of the value of the property on the valuation date of the assessment year in issue.

(F) The roll value on which the assessment of the property was based.

(G) The facts relied upon to support the claim that the board should order a change in the assessed value, base year value, or classification of the subject property. The amount of the tax or the amount of an assessed value increase shall not constitute facts sufficient to warrant a change in assessed values.

(2) The form shall also include:

(A) A notice that a list of property transfers within the county, that have occurred within the preceding two-year period, is open to inspection at the assessor's office to the applicant upon payment of a fee not to exceed ten dollars (\$10). This requirement shall not apply to counties with a population under 50,000 as determined by the 1970 decennial census.

(B) A notice that written findings of fact will be prepared by the board upon request if the applicable fee is paid. An appropriate place for the applicant to make the request shall be provided.

(3) An application may include one or more reasons for filing the application. Unless permitted by local rules, an application shall not include both property on the secured roll and property on the unsecured roll.

(4) An application that does not include the information required by subsection (c)(1) of this regulation is invalid and shall not be accepted by the board. Prompt notice that an application is invalid shall be given by the clerk to the applicant and, where applicable, the applicant's agent. An applicant or the applicant's agent who has received notice shall be given a reasonable opportunity to correct any errors and/or omissions. Disputes concerning the validity of an application shall be resolved by the board.

(5) An application that includes the correct information required by subdivision (1) is valid and no additional information shall be required of the applicant on the application form.

(6) If the county has appointed hearing officers as provided for in Revenue and Taxation Code section 1636, the application form shall advise the applicant of the circumstances under which the applicant may request that the application be heard by such an officer.

(7) If an application appeals property subject to an escape assessment resulting from an audit conducted by the county assessor, then all property, both real and personal, of the assessee at the same profession, trade, or business location shall be subject to review, equalization, and adjustment by the appeals board, except when the property has previously been equalized for the year in question.

(d) TIME OF FILING. (1) An application appealing a regular assessment shall be filed with the clerk during the regular filing period. A regular assessment is one placed on the assessment roll for the most recent lien date, prior to the closing of that assessment roll. The regular filing period for all real and personal property located in a county is:

(A) July 2 through September 15 when the county assessor elects to mail assessment notices, as defined in section 619 of the Revenue and Taxation Code, by August 1 to all owners of real property on the secured roll; or

(B) July 2 through November 30 when the county assessor does not elect to mail assessment notices by August 1 to all owners of real property on the secured roll.

Additionally, an application appealing a base year value for the most recent lien date, where that value is not the value currently on the assessment roll, shall be filed with the clerk during the regular filing period beginning July 2 but no later than September 15 or November 30, as applicable.

Rule 305. (Continued)

(2) An application appealing an escape assessment or a supplemental assessment must be filed with the clerk no later than 60 days after the date of mailing printed on the notice of assessment or the postmark date, whichever is later, or no later than 60 days after the date of mailing printed on the tax bill or the postmark date, whichever is later, in the county of Los Angeles and in those counties where the board of supervisors has adopted a resolution to that effect, pursuant to Section 1605 of the Revenue and Taxation Code.

(3) An application appealing a proposed reassessment made for property damaged by misfortune or calamity pursuant to section 170 of the Revenue and Taxation Code must be filed with the clerk no later than six months after the date of mailing of the notice of proposed reassessment by the assessor. The decision of the board regarding the damaged value of property shall be final, however, the decision regarding the reassessment made pursuant to section 170 shall create no presumption regarding the value of the property subsequent to the date of the damage.

(4) An application may be filed within 60 days of receipt of a notice of assessment or within 60 days of the mailing of a tax bill, whichever is earlier, when the taxpayer does not receive the notice of assessment described in section 619 of the Revenue and Taxation Code at least 15 calendar days prior to the close of the regular filing period. The application must be filed with an affidavit from the applicant declaring under penalty of perjury that the notice was not timely received.

(5) An application will be deemed to have been timely filed:

(A) If it is sent by U.S. mail, properly addressed with postage prepaid and is postmarked on the last day of the filing period or earlier within such period; or

(B) If proof satisfactory to the board establishes that the mailing occurred on the last day of the filing period or within such period. Any statement or affidavit made by an applicant asserting such a timely filing must be made within one year of the last day of the filing period.

(6) An application filed by mail that bears both a private business postage meter postmark date and a U.S. Postal Service postmark date will be deemed to have been filed on the date that is the same as the U.S. Postal Service postmarked date, even if the private business postage meter date is the earlier of the two postmarked dates. If the last day of the filing period falls on Saturday, Sunday, or a legal holiday, an application that is mailed and postmarked on the next business day shall be deemed timely filed. If the county's offices are closed for business prior to 5 p.m. or for the entire day on which the deadline for filing falls, that day shall be considered a legal holiday.

(7) Except as provided in sections 1603 and 1605 of the Revenue and Taxation Code, the board has no jurisdiction to hear an application unless filed within the time periods specified above.

(e) AMENDMENTS AND CORRECTIONS. (1) An applicant or an applicant's agent may amend an application until 5:00 p.m. on the last day upon which the application might have been timely filed.

(2) After the filing period has expired:

(A) An invalid application may be corrected in accordance with subsection (c)(4) of this regulation.

(B) The applicant or the applicant's agent may amend an application provided that the effect of the amendment is not to request relief additional to or different in nature from that originally requested.

(C)(i) Upon request of the applicant or the applicant's agent, the board, in its discretion, may allow the applicant or the applicant's agent to make amendments to the application in addition to those specified in subdivisions (A) and (B) to state additional facts claimed to require a reduction of the assessment that is the subject of the application.

(ii) The applicant or the applicant's agent shall state the reasons for the request, which shall be made in writing and filed with the clerk of the board prior to any scheduled hearing, or may be made orally at the hearing. If made in writing, the clerk shall provide a copy to the assessor upon receipt of the request.

(iii) As a condition to granting a request to amend an application, the board may require the applicant to sign a written agreement extending the two-year period provided in section 1604 of the Revenue and Taxation Code.

(iv) If a request to amend is granted, and upon the request of the assessor, the hearing on the matter shall be continued by the board for no less than 45 days, unless the parties mutually agree to a different period of time.

(3) An applicant or an applicant's agent shall be permitted to present testimony and other evidence at the hearing to support a full value that may be different from the opinion of value stated on the application. The presentation of such testimony or other evidence shall not be considered a request to amend or an amendment to the application.

Rule 305. (Continued)

(f) CLAIM FOR REFUND. If a valid application is designated as a claim for refund pursuant to section 5097 of the Revenue and Taxation Code, the applicant shall be deemed to have challenged each finding of the board and to have satisfied the requirements of section 5097.02 of the Revenue and Taxation Code.

(g) RETENTION OF RECORDS. The clerk may destroy records consisting of assessment appeal applications when five years have elapsed since the final action on the application. The records may be destroyed three years after the final action on the application if the records have been microfilmed, microfiched, imaged, or otherwise preserved on a medium that provides access to the documents. As used in this subsection, "final action" means the date of the final decision by the board.

(h) CONSOLIDATION OF APPLICATIONS. The board, on its own motion or on a timely request of the applicant or applicants or the assessor, may consolidate applications when the applications present the same or substantially related issues of valuation, law, or fact. If applications are consolidated, the board shall notify all parties of the consolidation.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended December 11, 1967, effective January 13, 1968.
Amended May 21, 1968, effective June 26, 1968.
Amended November 20, 1968, effective November 22, 1968.
Amended June 4, 1969, effective June 6, 1969.
Amended May 6, 1970, effective June 6, 1970.
Amended April 14, 1972, effective May 14, 1972.
Amended June 13, 1974, effective June 14, 1974.
Amended April 7, 1977, effective May 22, 1977.
Amended July 31, 1980, effective November 19, 1980.
Amended July 27, 1982, effective December 30, 1982.
Amended and effective October 23, 1997.
Amended April 5, 2000, effective June 30, 2000.
Amended June 30, 2004, effective August 25, 2004.