



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

BETTY T. YEE  
First District, San Francisco

BILL LEONARD  
Second District, Ontario/Sacramento

MICHELLE STEEL  
Third District, Rolling Hills Estates

JUDY CHU, Ph.D.  
Fourth District, Los Angeles

JOHN CHIANG  
State Controller

RAMON J. HIRSIG  
Executive Director

No. 2007/044

November 19, 2007

TO COUNTY ASSESSORS AND INTERESTED PARTIES:

GUIDELINES ON THE PROPER HANDLING OF  
CONFIDENTIAL INFORMATION

Board staff has initiated a project to develop *Guidelines on the Proper Handling of Confidential Information*. These guidelines will primarily address documents and procedures in county assessors' offices.

Enclosed is a draft of the proposed guidelines. Interested parties may provide suggested revisions to the guidelines in the form of alternative text. Proposed revisions should be sent by January 25, 2008 to Mr. Michael McDade at michael.mcdade@boe.ca.gov or mailed to the above address.

After reviewing comments received, staff will meet with interested parties to discuss any outstanding issues. It is anticipated that the guidelines will be presented to the Board's Property Tax Committee for discussion in summer 2008.

All documents for this project will be posted to the Board's website at [www.boe.ca.gov/proptaxes/otherprojects07.htm](http://www.boe.ca.gov/proptaxes/otherprojects07.htm). If you have questions regarding this project, you may contact Mr. McDade at 916-445-3150 or Ms. Sherrie Kinkle at 916-322-2921.

Sincerely,

/s/Mickie Stuckey

Mickie Stuckey  
Acting Deputy Director  
Property and Special Taxes Department

MS:mpm  
Enclosure

1 **GUIDELINES ON THE PROPER HANDLING**  
2 **OF CONFIDENTIAL INFORMATION**

3 The purpose of this document is to provide guidance to county assessors for the proper handling  
4 of confidential information by presenting a comprehensive summary of the statutory provisions,  
5 explaining their application in commonly encountered situations, and resolving some of the  
6 apparent conflicts in those provisions.

7 **GENERAL DISCLOSURE PROVISIONS**

8 The right to privacy is a personal and fundamental right protected by section 1 of article 1 of the  
9 California Constitution and by the United States Constitution. All individuals have a right of  
10 privacy in information pertaining to them. In order to protect that privacy, the dissemination and  
11 maintenance of personal information must be subject to strict limits.<sup>1</sup>

12 The California Public Records Act (Act), codified by Government Code section 6250 et seq., is  
13 the general provision governing the public disclosure of information by all state and local  
14 agencies in California. The Act implements the Legislature's finding and declaration that  
15 "mindful of the right of individuals to privacy...access to information concerning the conduct of  
16 the people's business is a fundamental and necessary right of every person in this state."<sup>2</sup> In  
17 enacting those provisions, the Legislature also took measures to protect the confidentiality of  
18 individual members of the public by prohibiting the disclosure of specified types and forms of  
19 information such as property statements, change in ownership statements, and homeowners'  
20 exemption claim forms.

21 **COUNTY ASSESSORS' INQUIRY RIGHTS**

22 Pursuant to the California Constitution, article XIII section 1, and Revenue and Taxation Code  
23 sections 110, 110.1 and 401,<sup>3</sup> county assessors are required to value and enroll all locally  
24 assessable property at its fair market value. To allow a county assessor to perform this task,  
25 every person owning, claiming, possessing, controlling, or managing property shall furnish any  
26 required information or records to a county assessor for examination at any time.<sup>4</sup> Property  
27 owners with business-related personal property having a value in excess of \$100,000 are  
28 obligated to file annual property statements describing the cost of all taxable property acquired or  
29 disposed of during the preceding assessment year.<sup>5</sup> County assessors may also pose specific  
30 property valuation questions and request specific property-related documents.<sup>6</sup>

---

<sup>1</sup> Civil Code section 1798.1.

<sup>2</sup> Government Code section 6250.

<sup>3</sup> All statutory references are to the Revenue and Taxation Code unless otherwise designated.

<sup>4</sup> Section 442.

<sup>5</sup> Section 441, subdivision (a).

<sup>6</sup> Sections 441, 454, and 470.

1 A county assessor's ability to request property information is only limited by the requirements  
2 that the inquiry is within the authority of the agency, the demand is not too indefinite, and the  
3 information sought is reasonably relevant to the discovery and valuation of taxable property.<sup>7</sup> In  
4 accordance with section 19551, for example, a county assessor may request and receive assessee  
5 tax return information from the Franchise Tax Board.<sup>8</sup>

6 **PROPERTY OWNERS' INQUIRY RIGHTS**

7 A property owner is entitled to require a county assessor to disclose the basis and methodology  
8 used for the assessment of the owner's property. The property owner may inspect the county  
9 assessor's records concerning the particular appraisal of his or her property and review publicly  
10 available market data used as basis for the appraisal. In certain instances, the property owner  
11 may secure a court order to force disclosure of confidential business information of others which  
12 the county assessor may have used to value the property.<sup>9</sup>

13 **INFORMATION PROVIDED TO THE PUBLIC**

14 The types of information held by county assessors fall into two general categories:

- 15 (1) Public information filed by taxpayers that a county assessor is statutorily required to  
16 maintain. These include the assessment roll, assessment maps, list of all property  
17 transferred in the last two years, welfare exemption claims and supporting documents,  
18 market data, and information maintained on property characteristics.
- 19 (2) Other information not required by the statute to be kept but that is used for purposes of  
20 conducting appraisals. These include change in ownership statements, personal property  
21 statements, and other appraisal information obtained by a county assessor.

22 Government Code section 6253, subdivision (a),<sup>10</sup> provides in relevant part that:

23 Public records are open to inspection at all times during the office hours of the  
24 state or local agency and every person has a right to inspect any public record,  
25 except as hereafter provided. Any reasonably segregable portion of a record shall  
26 be available for inspection by any person requesting the record after deletion of  
27 the portions that are exempted by law.

28 Public records that are generally subject to inspection and copying as defined under the Act  
29 include "any writing containing information relating to the conduct of the public's business

---

<sup>7</sup> *Roberts v. Gulf Oil Co.* (1983) 147 Cal.App.3d 770, 796.  
<sup>8</sup> *Lyons v. Estes* (1969) 6 Cal.App.3d 979.  
<sup>9</sup> *Henderson v. Bettis* (1975) 53 Cal.App.3d 486.  
<sup>10</sup> For ease of reference in this document, we may refer to subdivisions as, for example, section 6253(a).



- 1 • Staff appraisers of the Department of Financial Institutions
- 2 • State Department of Transportation
- 3 • State Department of General Services
- 4 • State Board of Equalization
- 5 • State Lands Commission
- 6 • State Department of Social Services
- 7 • State Department of Child Support Services
- 8 • State Department of Water Resources
- 9 • Other duly authorized legislative or administrative bodies of the state pursuant to their
- 10 authorization to examine records

## 11 **ASSESSMENT ROLL**

12 Section 601 instructs a county assessor to prepare an assessment roll showing all assessable  
13 property within the county. The assessment roll must contain the following information:<sup>14</sup>

- 14 • The name and address, if known, of the assessee. (A county assessor is not required to  
15 maintain electronic mail addresses.)
- 16 • Land, by legal description.
- 17 • A description of possessory interests sufficient to identify them.
- 18 • Personal property. (A failure to enumerate personal property in detail does not invalidate  
19 the assessment.)
- 20 • The assessed value of real estate, except improvements.
- 21 • The assessed value of improvements on the real estate.
- 22 • The assessed value of improvements assessed to any person other than the owner of the  
23 land.
- 24 • The assessed value of possessory interests.
- 25 • The assessed value of personal property, other than intangibles.
- 26 • The revenue district in which each piece of property assessed is situated.
- 27 • The total taxable value of all property assessed, exclusive of intangibles.

---

<sup>14</sup> Section 602.

1 Section 1602 provides that the information contained on the roll is public and must be made  
2 available for inspection during regular office hours.

### 3 **ORGANIZATIONAL EXEMPTIONS**

4 Organizational exemption claims and related documents are available for public inspection  
5 pursuant to the Act and section 408.2. All documents filed with an organizational exemption  
6 claim may be inspected, including supplemental affidavits, financial statements, organizational  
7 documents, and federal or state tax exempt letters.

8 These exemptions include cemetery, college, church, religious, welfare, and lessor.

### 9 **PROPERTY CHARACTERISTICS**

10 Property characteristics information maintained by a county assessor is a public record and must  
11 be open to public inspection.<sup>15</sup> Property characteristics include, but are not limited to, the  
12 following:<sup>16</sup>

- 13 • The year of construction of improvements to a property
- 14 • The square footage
- 15 • The number of bedrooms and bathrooms of all dwellings
- 16 • The property's acreage
- 17 • Other attributes of or amenities to a property, such as swimming pools, views, zoning  
18 classifications or restrictions, use code designations, and the number of dwelling units of  
19 multiple-family properties

### 20 **COUNTY ASSESSOR'S MAPS**

21 Section 327 provides that where any county or county officer possesses a complete, accurate  
22 map of any land in the county, the map or a copy of it must be displayed publicly at all times in  
23 the office of the county assessor.

24 Parcel boundary map data maintained by a county assessor in an electronic format is also subject  
25 to public inspection and copying under provisions of the Act. When requested by a member of  
26 the public, a copy of parcel boundary map data must be furnished upon request.<sup>17</sup>

### 27 **LIST OF TRANSFERS**

28 Section 408.1 provides in part that a county assessor must maintain a list of property transfers  
29 within the county that have occurred within the preceding two-year period. The list must be open  
30 for public inspection and must contain the following information:

- 31 • Transferor and transferee, if available

---

<sup>15</sup> Section 408.3(a).

<sup>16</sup> Section 408.3(b).

<sup>17</sup> Attorney General Opinion No. 04-1105, October 3, 2005.

- 1 • Assessor's parcel number
- 2 • Address of the sales property
- 3 • Date of transfer
- 4 • Date of recording and recording reference number
- 5 • Consideration paid for such property (if known)

6 A county assessor is prohibited from including information on the list which relates to:

- 7 • The business or business affairs of the owner of the property or the income or income  
8 stream generated by the property<sup>18</sup>
- 9 • Information from the Preliminary Change of Ownership Report (PCOR) or Change of  
10 Ownership Statement (COS) which is not otherwise public information<sup>19</sup>

### 11 **MARKET DATA**

12 If a county assessor bases the assessment of property on comparable sales, then upon the  
13 assessee's request, the following information must be provided:

- 14 • The names of the seller and buyer of each property on which the comparison is based
- 15 • The location of each property
- 16 • The date of each sale
- 17 • The consideration paid for each property (if known)

18 Section 408(d) defines *market data* as any information in a county assessor's possession, whether  
19 or not required by law to be prepared or kept by a county assessor, relating to the sale of any  
20 property comparable to the property of the assessee.

### 21 **COST OF PROVIDING DATA**

22 Section 409(a) provides that if a county assessor, pursuant to the request of any party, provides  
23 information or records that a county assessor is not required by law to prepare or keep, the  
24 county may require that a fee reasonably related to the actual cost of developing and providing  
25 that information be paid by the party receiving the information.

26 The actual cost of providing the information is not limited to duplication or reproduction costs,  
27 but may include recovery of developmental and indirect costs, such as overhead, personnel,  
28 supply, material, office, storage, and computer costs.<sup>20</sup> The county may impose this fee for  
29 information and records maintained for county use, as well as for information and records not  
30 maintained for county use.

---

<sup>18</sup> Section 408.1(b)(7).

<sup>19</sup> Section 481.

<sup>20</sup> Section 408.3(c).

1                   **INFORMATION PROVIDED TO OR OBTAINED FROM OTHER AGENCIES**

2 Section 408(b) provides that a county assessor is required to disclose information, or permit  
3 access to all records in a county assessor's office, to:

- 4       • Law enforcement agencies
- 5       • The county grand jury
- 6       • The board of supervisors or their duly authorized agents, employees or representatives  
7        when conducting an investigation of a county assessor's office pursuant to section 25303  
8        of the Government Code
- 9       • The State Controller
- 10      • Probate referees
- 11      • Employees of the Franchise Tax Board for tax administration purposes only
- 12      • The State Board of Equalization
- 13      • Other duly authorized legislative or administrative bodies of the state pursuant to their  
14      authorization to examine the records

15 Examples of *other duly authorized legislative or administrative bodies* include agencies or  
16 committees authorized to investigate matters to which access to county assessors' records is  
17 necessary and proper such as legislative committees, the State Auditor, and any other agency  
18 having specific statutory authority.

19                   **INFORMATION PROVIDED TO OTHER DEPARTMENTS**

20 There is a general prohibition of disclosure contained in section 408. Only specific agencies  
21 listed in the statutes are allowed access to confidential taxpayer information gathered for tax  
22 collection and assessment purposes. There is a public purpose to promoting full disclosure from  
23 taxpayers. Since taxpayers are required by the law to provide the information for the particular  
24 purpose of taxation, public policy is against revealing that information. Inspection is permitted  
25 only if it is necessary in the administration of tax law.<sup>21</sup>

26                   **County Planning Commission**

27 County planning commissions are agencies created by the Legislature pursuant to Government  
28 Code section 65101, and are authorized by section 65106 to request information from all public  
29 officials as may be required for their work. Such a commission qualifies as a legislative or  
30 administrative body authorized under section 408 to examine the records of a county assessor.

---

<sup>21</sup> *Franchise Tax Board v. Superior Court* (1950) 36 Cal.2d 538.



1 **County and Local Planning Departments**

2 Although county and local planning departments are responsible for enforcing county and local  
3 ordinances with respect to the regulation of construction of buildings, they are not law  
4 enforcement agencies pursuant to section 408(b). Law enforcement agencies are those local,  
5 state, or federal, agencies such as the police, sheriff, or the Federal Bureau of Investigation that  
6 enforce the penal statutes. Many state and local administrative agencies enforce one or more  
7 statutes, and in the course of such enforcement conduct investigations.<sup>22</sup> Those agencies are not  
8 allowed the same access to confidential information as other law enforcement agencies.

9 **District Attorneys**

10 The district attorneys, and their deputies and employees, in the 58 California counties are "law  
11 enforcement agencies" within the meaning of section 408(b). Accordingly, county assessors are  
12 required to disclose information, furnish abstracts, or permit access to all records in their offices  
13 to the district attorney or their authorized deputies, agents, and employees.

14 **County Tax Collector**

15 Section 408(c) provides that upon the request of the tax collector, a county assessor is required to  
16 disclose and provide to the tax collector information used in the preparation of that portion of the  
17 unsecured roll for which the taxes are delinquent. The tax collector is to certify to the county  
18 assessor that the information requested is needed for the enforcement of the tax lien in collecting  
19 those delinquent taxes. Information requested by the tax collector may include social security  
20 numbers. A county assessor is authorized to recover from the tax collector reasonable costs for  
21 providing the information.

22 **INFORMATION FROM THE STATE BOARD OF EQUALIZATION**

23 Section 833(c) states that except as provided in section 38706, the State Board of Equalization  
24 (Board) may provide any assessment data in its possession to an assessor of any county. When  
25 requested by resolution of the board of supervisors of any county, or the city council of any city  
26 that prepares its own local roll, the Board shall permit the auditor or the assessor of the county or  
27 city, or any duly authorized deputy or employee of that officer, to examine any and all records of  
28 the Board.

29 Documents that are confidential and privileged, such as the property statements of state  
30 assesseees, remain so as long as the privilege is not waived and they do not become public  
31 information. If both the Board and a county assessor receive confidential data under section 833,  
32 then they both are bound by its restrictions and limitations. Further, a county assessor does not  
33 have the authority to share the information received from the Board with either a city council or  
34 board of supervisors.

---

<sup>22</sup> *State of California ex rel. Division of Industrial Safety v. Superior Court* (1974) 43 Cal.App.3d 778.



1 prohibited from producing such information where the state interests in confidentiality outweigh  
2 the federal interests in disclosure.<sup>27</sup>

3 Title 26, United States Code, section 7602(a), provides:

4 For the purpose of ascertaining the correctness of any return, making a return  
5 where none has been made, determining the liability of any person for any  
6 internal revenue tax or the liability at law or in equity of any transferee or  
7 fiduciary of any person in respect of any internal revenue tax, or collecting any  
8 such liability, the Secretary is authorized—

9 (1) To examine any books, papers, records, or other data relevant or material to  
10 such inquiry.

11 (2) To summon the person liable for tax or required to perform the act, or any  
12 officer or employee of such person, or any person having possession, custody, or  
13 care of books of account containing entries relating to the business of the person  
14 liable for tax or required to perform the act, or any other person the Secretary may  
15 deem proper, to appear before the Secretary at a time and place named in the  
16 summons and to produce such books, papers, records, or other data, and to give  
17 such testimony, under oath, as may be relevant or material to such inquiry.

18 (3) To take such testimony of the person concerned, under oath, as may be  
19 relevant or material to such inquiry.

20 ***Example***

21 The Internal Revenue Service requests an examination of the homeowners'  
22 exemption claims to determine the accuracy of the federal tax returns filed by  
23 certain individuals.

24 Opinion 84-1104 of the California Attorney General considered the issue of releasing  
25 confidential records in a county assessor's possession in response to a summons issued under  
26 Title 26, section 7602. The Attorney General set factors which would weigh in favor of  
27 disclosure, and others that would weigh in favor of nondisclosure.

28 Considerations that weigh in favor of disclosure include, but are not limited to:

- 29 1. The importance of the federal proceedings;
- 30 2. The information would directly affect the resolution of a primary issue;
- 31 3. Under similar circumstances, disclosure by the federal government of federal tax  
32 information would be permitted;

---

<sup>27</sup> Attorney General Opinion No. 84-1104, July 30, 1985.

1 4. Under similar circumstances, disclosure by the state to another state taxing agency would  
2 be permitted;

3 5. The taxpayer whose records are to be disclosed is a party or is directly interested in the  
4 investigative proceeding.

5 However, a county assessor is prohibited from producing such information where the state  
6 interest in confidentiality outweighs the federal interest in disclosure. Considerations which  
7 would weigh in favor of nondisclosure would include:

8 1. The information sought may be readily acquired from another source;

9 2. The information sought would be cumulative of other competent evidence acquired or  
10 available;

11 3. The disclosure of information not otherwise a matter of public record or knowledge  
12 would constitute a substantial invasion of privacy or impairment of competitive  
13 advantage;

14 4. Disclosure of information would have a substantial adverse effect upon voluntary  
15 compliance with revenue requirements;

16 5. Disclosure of information would identify a confidential informant or impair a state  
17 investigation in progress.

18 **CONFIDENTIAL INFORMATION**

19 Certain documents filed by taxpayers contain personal information, and are statutorily required  
20 to be kept confidential. These include property statements, Preliminary Change of Ownership  
21 Report (PCOR),<sup>28</sup> Change of Ownership Statement (COS),<sup>29</sup> and the Claim for Homeowners'  
22 Property Tax Exemption.<sup>30</sup>

23 **PROPERTY STATEMENTS**

24 Each person owning taxable personal property, other than a manufactured home, having an  
25 aggregate cost of \$100,000 or more for any assessment year must file a signed property  
26 statement with the assessor of the county where the property is located. Every person owning  
27 personal property that does not require the filing of a property statement, upon request of a  
28 county assessor, must file a signed property statement.<sup>31</sup>

---

<sup>28</sup> Form BOE-502-A.

<sup>29</sup> Form BOE-502-AH.

<sup>30</sup> Form BOE-266.

<sup>31</sup> Section 441(a).

1 A county assessor is authorized to examine information or records related to the assessee's  
2 property or any other personal property located on the assessee's premises that is considered  
3 essential to the proper discharge of an assessor's duties. This information may include:<sup>32</sup>

- 4 • Details of property acquisition transactions such as price paid, delivery and installation  
5 cost
- 6 • Construction and development costs
- 7 • Rental income
- 8 • Other data relevant to the determination of an estimate of value

9 All information requested by a county assessor or furnished in the property statement will be  
10 held secret by the county assessor. The statement is not a public document and is not open to  
11 inspection, except as provided in section 408.<sup>33</sup>

12 *Property statements* include:

- 13 • Mutual or Private Water Company Property Statement (BOE-540-S)
- 14 • Oil, Gas and Geothermal Personal Property Statement (BOE-566-J)
- 15 • Agricultural Property Statement (BOE-571-A and BOE-571-F)
- 16 • Power Plant Property Statement (BOE-571-C)
- 17 • Horse Property Statement (BOE-571-K)
- 18 • Business Property Statement (BOE-571-L)
- 19 • Miscellaneous Property Statement (BOE-571-M)
- 20 • Pipeline Property Statement (BOE-571-P)
- 21 • Apartment House Property Statement (BOE-571-R)
- 22 • Right-of-Way Property Statement (BOE-571-RW)
- 23 • Insurance Company Separate Account Property Statement (BOE-572)
- 24 • Vessel Property Statement (BOE-576-D)

25 **Business Property Statement Electronic Filing**

26 Section 441(k) authorizes electronic filing (e-filing) and authentication of business property  
27 statements. Some county assessors are participating in a program whereby business property  
28 statements may be filed electronically via the Internet. In the California Assessor Standard Data

---

<sup>32</sup> Section 441(d)(1).  
<sup>33</sup> Section 451.

1 Record (SDR) Network Group, the confidentiality of data is addressed in the Conditions of Use  
2 Policy.<sup>34</sup>

3 Other county assessors are currently working with their property tax software providers to permit  
4 online filing.

5 In using either the SDR filings or online filing, the Internet transactions must use secure websites  
6 to prevent unauthorized exposure of the data.

7 County assessors are also prohibited from releasing information related to the property or  
8 business affairs of other taxpayers.

9 Civil Code section 1798.3 provides the following definition of *personal information*:

10 Any information that is maintained by an agency that identifies or describes an  
11 individual, including, but not limited to, his or her name, social security number,  
12 physical description, home address, home telephone number, education, financial  
13 matters, and medical or employment history. It includes statements made by, or  
14 attributed to, the individual.

## 15 **HOMEOWNERS' EXEMPTION**

16 Section 408(a) provides that property receiving the homeowners' exemption must be clearly  
17 identified on the assessment roll. A county assessor must maintain records that are open to public  
18 inspection to identify those claimants who have been granted the homeowners' exemption.

19 Certain documents, however, are not open to public inspection. The Claim for Homeowners'  
20 Property Tax Exemption contains confidential information, such as social security numbers.  
21 Therefore, the **claims** may not be disclosed.<sup>35</sup>

## 22 **VETERANS' EXEMPTIONS**

23 The Claim for Disabled Veterans' Property Tax Exemption<sup>36</sup> is confidential because it contains  
24 the applicant's social security number.

25 However, the Claim for Veterans' Exemption<sup>37</sup> is not considered confidential because it does not  
26 contain the applicant's social security number.

## 27 **CHANGE IN OWNERSHIP STATEMENTS**

28 Anytime there is any change in ownership of real property or of a manufactured home that is  
29 subject to local property taxation, the transferee is required to file a signed change in ownership  
30 statement in the county where the property is located. The type of information provided on the  
31 statement includes:

---

<sup>34</sup> <http://www.sdrtest.org>, Section D: Public Disclosure.

<sup>35</sup> Property Tax Rule 135, subsection (e)(4).

<sup>36</sup> Form BOE-261-G.

<sup>37</sup> Form BOE-261.

- 1 • A description of the property
- 2 • Identification of the parties to the transaction
- 3 • The date of acquisition
- 4 • The amount paid for the property measured in money or otherwise
- 5 • The terms of the transaction

6 All information furnished in the change in ownership statement must be held secret by those  
 7 authorized by law to receive or have access to this information. These statements are not public  
 8 documents and are not open to inspection, except as provided in section 408.<sup>38</sup>

9 **SUMMARY OF CONFIDENTIAL CLAIMS AND FORMS**

10 The following claims and forms contain confidential information and are not subject to public  
 11 inspection:

12 **CONFIDENTIAL—SOCIAL SECURITY NUMBERS**

Form	Title
BOE-58-AH	Claim for Reassessment Exclusion for Transfer Between Parent and Child
BOE-58-G	Claim for Reassessment Exclusion for Transfer from Grandparent to Grandchild
BOE-60-AH	Claim of Person(s) at Least 55 Years of Age for Transfer of Base Year Value to Replacement Dwelling
BOE-60-NR	Notice of Rescission of Claim to Transfer Base Year Value to Replacement Dwelling
BOE-62	Disabled Persons Claim for Transfer of Base Year Value to Replacement Dwelling
BOE-261-G	Claim for Disabled Veterans' Property Tax Exemption
BOE-266	Claim for Homeowners' Property Tax Exemption

13

14 **CONFIDENTIAL—BUSINESS AFFAIRS OF OTHERS**

Form	Title
BOE-502-A	Preliminary Change of Ownership Report
BOE-502-AH	Change of Ownership Statement
BOE-502-G	Change of Ownership Statement, Oil and Gas Property
BOE-502-P	Possessory Interests Annual Usage Report
BOE-540-S	Mutual or Private Water Company Property Statement
BOE-560-A	Aggregate Production Report
BOE-560-B	Mining Production Report
BOE-560-C	Mining Claim Production Report

<sup>38</sup> Section 481.

<b>Form</b>	<b>Title</b>
BOE-566-D	Oil and Dissolved Gas Production Report
BOE-566-F	Dry Gas Production, Equipment, New Well, Redrill and Rework Report
BOE-566-J	Oil, gas and Geothermal Personal Property Statement
BOE-566-K	Annual Oil and Gas Operating Expense Data
BOE-567-D	Geothermal Production Report
BOE-567-K	Annual Geothermal Operating Expense Data
BOE-571-A	Agricultural Property Statement
BOE-571-C	Power Plant Property Statement
BOE-571-F	Agricultural Property Statement
BOE-571-K	Horse Property Statement
BOE-571-L & S	Business Property Statement
BOE-571-M	Miscellaneous Property Statement
BOE-571-P	Pipeline Property Statement
BOE-571-R	Apartment House Property Statement
BOE-571-RW	Right-of-Way Property Statement
BOE-572	Insurance Company Separate Account Property Statement
BOE-572-A	Insurance Company Statement of Transfer
BOE-576-D	Vessel Property Statement
BOE-510 through 530	Appraisal Records <sup>39</sup>

- 1 The following claims do not contain confidential information and therefore are subject to public  
2 inspection:

<b>Form</b>	<b>Title</b>
BOE-63	Disabled Persons Claim for Exclusion of New Construction
BOE-64	Claim for Seismic Safety Construction Exclusion from Assessment
BOE-65-CP	Claim for Transfer of Base Year Value from Qualified Contaminated Property to Replacement Property
BOE-65-PT	Claim for Intercounty Transfer of Base Year Value from Principal Residence Damaged or Destroyed in a Governor-Declared Disaster to Replacement Property
BOE-261	Claim for Veteran's Exemption

### 3 **RECONCILIATION OF SECTIONS 408.1 AND 481**

- 4 Section 481 requires a county assessor to hold secret all information furnished on either the  
5 PCOR or COS. Section 408.1 requires a county assessor to maintain a list of transfers of property  
6 that have occurred within the preceding two years and hold that list open for public inspection. In  
7 most instances, the source of information for that list is obtained from the PCOR or COS.

<sup>39</sup> These are not Board-prescribed forms. County assessors may be using different forms or the records may exist in a computer file. In any case, the information contained therein is confidential except for property characteristics in accordance with section 408.3.



1 The specific information required to be placed on the transfer list under section 408.1 constitutes  
2 an exception to the *hold secret* requirement in section 481. However, subdivision (f) of section  
3 408.1 mandates that a county assessor include on the transfer list only information from the  
4 PCOR or COS that is otherwise public information.

5 In this context, *public information* means any information concerning real property transfers that  
6 is available from documents accessible by the public. For example, the name of the transferor  
7 and transferee, the assessor's parcel number, the property address, date of transfer, and date of  
8 recording is information that is typically available to the public from the recorder's office. The  
9 consideration paid for the property can usually be calculated from the amount of documentary  
10 transfer tax shown on the recorded deed. In some cases, real estate publications and Realtors'  
11 Multiple Listing Service databases disclose information to the public concerning the sales price  
12 or liabilities assumed.

13 **INFORMATION RELATED TO BUSINESS AFFAIRS OF OTHERS**

14 A county assessor is prohibited from disclosing to one taxpayer information and records that  
15 relate to the property or business affairs of another taxpayer. An exception occurs when the  
16 disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to  
17 challenge the validity of the assessment of his or her property.<sup>40</sup>

18 Government Code section 6254(i) describes records that may not be disclosed by a county  
19 assessor:

20 Information required from any taxpayer in connection with the collection of local  
21 taxes that is received in confidence and the disclosure of the information to other  
22 persons would result in unfair competitive disadvantage to the person supplying  
23 the information.

24 Section 408 states that a county assessor shall permit the assessee or representative to inspect or  
25 copy all information, documents, and records, including auditors' narrations and workpapers,  
26 whether or not required to be kept or prepared by a county assessor, relating to the appraisal and  
27 the assessment of the assessee's property.

28 Subsequent to a change in ownership, a prior owner is not permitted to have the same access to  
29 those confidential records because he or she is no longer the assessee.

30 **CONTRACTORS HIRED BY COUNTY ASSESSORS**

31 Section 674(e) defines a *contractor* as any person who is not an employee of the state, any  
32 county, or any city who performs appraisal work pursuant to a contract with a county assessor.

---

<sup>40</sup> Section 408(e)(3).

1 County assessors contract with non-employee appraisers (contractors) to perform appraisal work,  
2 typically for specialized properties such as petroleum and mining properties. Section 674  
3 requires specific standards of confidentiality to be included in all contracts executed between  
4 county assessors and contractors. Some of the provisions include:

- 5 • Any request for information and records from an assessee must be made by a county  
6 assessor. A county assessor may authorize a contractor to request additional information  
7 or records, if needed. However, a contractor is not allowed to request information or  
8 records without the written authorization of the county assessor.<sup>41</sup>
  
- 9 • A contractor shall not provide appraisal data in his or her possession to the county  
10 assessor or a contractor of another county who is not a party to the contract. A county  
11 assessor may provide that data to the assessor of another county as provided in  
12 section 408(b).<sup>42</sup>
  
- 13 • A contractor may not retain information contained in, or derived from, an assessee's  
14 confidential information and records after the conclusion, termination, or nonrenewal of  
15 the contract. Within 90 days of the conclusion, termination, or nonrenewal of the  
16 contract, the contractor must do the following:<sup>43</sup>
  - 17 ○ Purge and return to the county assessor any assessee records, whether originals,  
18 copies, or electronically stored, provided by the county assessor or otherwise obtained  
19 from the assessee.
  - 20 ○ Provide a written declaration to the county assessor that the contractor has complied  
21 with this subdivision.

22 **INTERNET PUBLICATION RESTRICTIONS**

23 Government Code section 6254.21(a) prohibits the publication on the Internet of home addresses  
24 or telephone numbers of any state or local agency official, whether elected or appointed, without  
25 first obtaining the written permission of that individual.

26 Government Code section 6254.21(f) defines *elected or appointed official* to include, but not be  
27 limited to, all of the following:

- 28 1. State constitutional officers
- 29 2. Members of the Legislature
- 30 3. Judges and court commissioners
- 31 4. District attorneys

---

<sup>41</sup> Section 674(b)(1).  
<sup>42</sup> Section 674(b)(2).  
<sup>43</sup> Section 674(c).

- 1 5. Public defenders
- 2 6. Members of a city council
- 3 7. Members of a board of supervisors
- 4 8. Appointees of the Governor
- 5 9. Appointees of the Legislature
- 6 10. Mayors
- 7 11. City attorneys
- 8 12. Police chiefs and sheriffs
- 9 13. A public safety official as defined in Government Code section 6254.24
- 10 14. State administrative law judges
- 11 15. Federal judges and federal defenders
- 12 16. Members of the United States Congress and appointees of the President

13 **E-MAIL CONFIDENTIALITY**

14 The most widely used Internet e-mail protocol, Simple Mail Transfer Protocol (SMTP), is  
15 inherently not secure. Messages sent in this fashion are easily readable by others. A general  
16 recommendation is that confidential information should not be exchanged via e-mail.

17 **ASSESSMENT APPEALS**

18 Section 1605.4 and Rule 313 require that appeals board hearings must be open, accessible, and  
19 audible to the public. When a portion of a hearing involves evidence regarding trade secrets for  
20 which the county assessor or applicant wishes to maintain confidentiality, that portion of the  
21 hearing may be closed to the public. If the appeals board grants the request of the county assessor  
22 or applicant to close a portion of the hearing, only evidence relating to the confidential  
23 information may be presented during the time the hearing is closed to the public.

24 *A trade secret:*<sup>44</sup>

25 ...means information, including a formula, pattern, compilation, program, device,  
26 method, technique, or process, that:

- 27 (1) Derives independent economic value, actual or potential, from not being
- 28 generally known to the public or to other persons who can obtain economic value
- 29 from its disclosure or use; and

---

<sup>44</sup> Civil Code section 3426.1(d).

1 (2) Is the subject of efforts that are reasonable under the circumstances to  
2 maintain its secrecy.

3 When the county assessor presents detailed information on the methodology employed to arrive  
4 at a value during an appeals hearing, such information may have been derived from confidential  
5 data submitted by the assessee.<sup>45</sup> If the information is included as an exhibit, or if the minutes of  
6 the hearing delineate the information, confidentiality would not be maintained. Therefore, the  
7 confidential information must be redacted/deleted from the published minutes.

8 ***Example***

9 In the minutes of a gas well appeal, the county assessor's exhibits include appraisal  
10 calculations that contain the taxpayer's name, current and prior years' production, and  
11 estimated reserves.

12 The Oil, Gas and Geothermal Personal Property Statement (form BOE-566-J) contains the  
13 statement "The information contained herein will be held secret by the Assessor (Code section  
14 451)..." Therefore, prior to inclusion in the minutes, all confidential information should be  
15 redacted.

16 ***Example***

17 The minutes of a cable television appeal contain specific references, by the county assessor  
18 and assessee, to growth rate, market rent, discount rate, expense ratios, contract terms, and  
19 competitive issues.

20 This portion of the hearing could have been closed, at either party's request, if confidentiality had  
21 been a concern.

22 Local county rules of notice and procedure<sup>46</sup> should include procedures for maintaining the  
23 confidentiality of transcripts and exhibits presented during closed portions of appeals hearings.

24 **OBTAINING INFORMATION FOR THE HEARING**

25 For an appeals hearing to be most effective, taxpayers and county assessors should provide the  
26 board members with comprehensive information regarding the subject property and the  
27 taxpayer's and the county assessor's opinions of value for the subject property. There are various  
28 means for both the taxpayer and a county assessor to obtain pertinent information for the hearing.

29 **INSPECTION OF COUNTY ASSESSOR'S RECORDS**

30 Section 408 allows an assessee, or a representative of the assessee, to inspect records at a county  
31 assessor's office regarding the assessment of his or her property, as well as market information  
32 regarding any comparable properties that the county assessor used in the valuation of the  
33 assessee's property. The assessee or representative may inspect or copy all information,  
34 documents, and records, including auditors' narrations and workpapers, whether or not required

---

<sup>45</sup> *Chanslor-Western Oil v. Cook* (1980) 101 Cal.App.3d 407.

<sup>46</sup> Article XIII, section 16 of the California Constitution.

1 to be kept or prepared by a county assessor, relating to the appraisal and the assessment of the  
2 assessee's property, and any applicable penalties and interest. A county assessor is prohibited by  
3 law from disclosing market information that relates to the business affairs of another taxpayer  
4 unless the county assessor is provided with a written waiver from that taxpayer allowing the  
5 county assessor to disclose the information.

6 Information obtainable under section 408 is relevant to a determination of value and may be  
7 introduced at an appeals hearing. County assessors are expected to comply with an assessee's  
8 reasonable request pursuant to that provision.<sup>47</sup> A taxpayer has a right to inspect records under  
9 section 408 whether or not an appeal has been formally filed.

10 **INFORMATION FROM TAXPAYER'S RECORDS**

11 Section 441(d) requires a taxpayer to make available to a county assessor, for assessment  
12 purposes, information or records regarding the taxpayer's property or any other personal property  
13 located on premises the taxpayer owns or controls. A county assessor may obtain details of  
14 property acquisition transactions, construction and development costs, rental income, and other  
15 data relevant to the determination of an estimate of value, and this information may be  
16 introduced at an appeals board hearing.

17 Taxpayers are expected to comply with a county assessor's reasonable requests pursuant to the  
18 provisions of section 441(d).

19 **INFORMATION FROM THIRD PARTY RECORDS**

20 Section 441 permits a county assessor to gather information from as many sources as necessary  
21 to arrive at an opinion of value. Information from other taxpayer records may be used as  
22 reference data as long as confidentiality is maintained.

23 ***Example***

24 In a multi-unit apartment appeal, data supporting the county assessor's use of the income  
25 approach was obtained from several recent sales of comparable apartment buildings. To  
26 maintain confidentiality, the comparable properties are identified in the assessor's exhibits as  
27 A, B, C, and D, with no references to owner's name, APN, street address, or other similar  
28 items.

29 **SUBPOENAS**

30 Rule 322 allows an applicant or a county assessor to request that the appeals board issue a  
31 subpoena for attendance of witnesses at a hearing, or to produce books, records, maps, and  
32 documents relevant to the issues contemplated in the application. Additionally, the appeals board  
33 may issue a subpoena on its own motion. Subpoenas will be restricted to compelling the  
34 appearance of a person or the production of things at the hearing and will not be used for  
35 purposes of prehearing discovery.

---

<sup>47</sup> *Henderson v. Bettis*, (1975) 53 Cal.App.3d 486.

1 When subpoenaed to appear before an assessment appeals board, a county assessor remains  
2 subject to the confidentiality requirements of sections 408, 451 and 481.<sup>48</sup> If a county assessor is  
3 requested by the subpoena to disclose confidential documents and records concerning the  
4 property owner which constitute *trade secrets*, the county assessor may present such evidence  
5 but should request that the evidence should only be examined in closed session.

6 If an applicant has subpoenaed confidential information in a county assessor's possession  
7 concerning the business affairs of third parties, the county assessor must invoke the  
8 confidentiality provisions of sections 408, 451, and 481 and refuse to offer evidence on that  
9 matter unless the applicant has first sought and obtained a judicial order for disclosure.<sup>49</sup> In order  
10 to obtain such a disclosure, the applicant must successfully convince a court that the applicant's  
11 *due process* need for access to all of the information on which the county assessor relies for the  
12 valuation of the applicant's property outweighs the third party taxpayer's confidentiality rights.  
13 The applicant must also prove that adequate protections are in place to prevent the misuse of the  
14 third party confidential information.

15 Evidence Code section 1040(a) defines *official information* as information acquired in  
16 confidence by a public employee in the course of his or her duty that is not open, or officially  
17 disclosed, to the public prior to the time the claim of privilege is made. A public entity has a  
18 privilege to refuse to disclose official information, and to prevent another from disclosing official  
19 information, if the following conditions are met:

- 20 • The privilege is claimed by a person authorized by the public entity to do so.
- 21 • Disclosure is forbidden by an act of the Congress of the United States or a statute of this  
22 state.
- 23 • Disclosure of the information is against the public interest because there is a necessity for  
24 preserving the confidentiality of the information that outweighs the necessity for  
25 disclosure in the interest of justice.

26 County assessors cannot claim the privilege of refusing to release confidential information if the  
27 person to whom the information relates authorizes the release and consents that the information  
28 be disclosed in the proceeding. In determining whether disclosure of the information is against  
29 the public interest, the interest of the public entity as a party in the outcome of the proceeding  
30 may not be considered.<sup>50</sup>

---

<sup>48</sup> Section 1609.6.

<sup>49</sup> Section 408(e)(3).

<sup>50</sup> Evidence Code section 1040(b).