

Issue Paper Number 04-005



BOARD OF EQUALIZATION
KEY AGENCY ISSUE

- Board Meeting
- Business Taxes Committee
- Customer Services and Administrative Efficiency Committee
- Legislative Committee
- Property Tax Committee
- Other

Amendments to Property Tax Rule 1045, Administration of the Annual Racehorse Tax

I. Issue

Should the Board authorize publication of amendments to Property Tax Rule 1045, *Administration of the Annual Racehorse Tax*?

II. Staff Recommendation

Staff recommends that the attached amendments to Property Tax Rule 1045, *Administration of the Annual Racehorse Tax*, be adopted and authorized for publication.

III. Other Alternative(s) Considered

None

IV. Background

Under Government Code section 15606, subdivision (c), the Board is given the authority to prescribe rules and regulations to govern county assessors when assessing and local boards of equalization when equalizing. Since 1973, owners of racehorses who breed, train, care for, or race their racehorses in California are imposed an annual tax on the racehorses in lieu of the racehorses being subject to property taxation. Property Tax Rule 1045 clarifies and makes specific the administrative procedures associated with the annual racehorse tax. Currently, Rule 1045 requires county assessors to audit the tax records of racehorse owners who have a gross tax liability that exceeds \$2,000 for each of four consecutive calendar years.

In 1983, when Rule 1045 was last amended, the "Statement of Reasons" published with the proposed amendments to the rule contained the following language:

Part (a)(3) of this rule is being amended to increase the mandatory audit level from \$1,000 tax liability to \$2,000. Such limit is being increased to comport with Revenue and Taxation Code Section 469 which now sets an audit limit at \$200,000 thereby resulting in a tax liability level of \$2,000 under a one percent current tax rate liability. Since the audit level expressed for racehorses is in tax liability rather than assessed value, the \$2,000 tax liability expression is used to conform to current statutory mandatory audit level.

Since the current mandatory audit threshold in Revenue and Taxation Code Section 469 has been raised to \$400,000, Rule 1045 should be amended to reflect a higher tax liability threshold for mandatory county audits of owners of racehorses.

Staff announced to interested parties the project to amend Rule 1045 and invited interested parties to participate in the process. The proposed draft language for the rule was distributed to county assessors, county counsels, and racehorse industry associations. The only comment received was from the President of the California Assessors' Association (CAA) indicating that the CAA had no objections to the proposed amendments.

V. Staff Recommendation

A. Description of the Staff Recommendation

Staff recommends that the attached revisions to Property Tax Rule 1045 be authorized for publication. The draft identifies staff's recommended changes arrayed in a strikeout-and-underline format. Proposed changes to the rule include:

1. Raising the mandatory audit threshold for racehorse owners from \$2,000 to \$4,000 tax liability to harmonize with the provisions of Revenue and Taxation Code section 469.
2. Deleting language that does not pertain to any administrative procedures relating to either the Board or county assessors.
3. Making nonsubstantial grammatical and text style changes.

B. Pros of the Staff Recommendation

Amendments to Property Tax Rule 1045 will make the rule's audit provisions correspond to the audit provisions in Revenue and Taxation Code section 469, and will eliminate the mandate for county assessors to audit racehorse owners with smaller tax liabilities in California.

C. Cons of the Staff Recommendation

None

D. Statutory or Regulatory Change

Action by the Board on the attached Property Tax Rule will amend Title 18 of the California Code of Regulations, Chapter, 1, Subchapter 12, section 1045.

E. Administrative Impact

None

F. Fiscal Impact

1. Cost Impact

Rule amendments are routinely prepared and any associated costs are accommodated within the Board's existing budget. There are no other costs.

2. Revenue Impact

None

G. Taxpayer/Customer Impact

Raising the mandatory audit threshold will lessen workloads for county assessors' offices. In addition, some racehorse owners who are currently subject to mandatory audits will no longer be subject to such audits by county assessors.

H. Critical Time Frames

None

VI. Alternative 1

A. Description of the Alternative

Not applicable

Prepared by: Property and Special Taxes Department, Assessment Policy and Standards Division

Current as of: July 1, 2004

RULE 1045. ADMINISTRATION OF THE ANNUAL RACEHORSE TAX.

Authority Cited: Section 15606, Government Code; and Section 5781, Revenue and Taxation Code.

References: Article XIII, Section 1 and Article XIII A, Section 1, California Constitution.
Sections 93, 135, 469, 5701, 5721, 5765, 5768, 5781, and 5790, Revenue and Taxation Code.

(a) The annual tax imposed by ~~S~~section 5721 of the Revenue and Taxation Code on the privilege of breeding, training, caring for, or racing racehorses in this state shall be administered as provided herein.

~~(a) Assessor's Responsibilities.~~

~~(1)(b)~~ Submission of Forms for Board Approval. (1) Annually, on or before October 15, the assessor shall notify the board, on a form provided by the board;

~~(1)(i)~~ of his the assessor's intent to reproduce (a) the Annual Racehorse Tax Return form (BOE-571-J) and (b) the Annual Report of Boarded Racehorses form (BOE-571-J1) by a photocopy process from the current prototype forms and instructions distributed by the board for use for the succeeding reporting period; or

~~(2)(ii)~~ of the forms and/or instructions which ~~he~~ the assessor will produce by means other than a photocopy of the prototype for use for that period; or

~~(3)(iii)~~ that ~~he~~ the assessor will have no need for the forms.

(2) When filing a notification that ~~he~~ the assessor will use a form and/or instructions which ~~he~~ the assessor will produce by means other than a photocopy of the prototype, ~~he~~ the assessor shall submit to the board in duplicate for approval a draft copy of each ~~such~~ form and/or instructions. The copies shall be submitted together with the board-prescribed property statement forms required to be submitted by section Regulation 171 of this title. The provisions of section Regulation 171 relative to arrangement and variation of content of such property statement forms shall also be applicable to these forms.

~~(2)(c)~~ Distribution of Forms and Retention of Reports. (1) Copies of the forms prescribed by the board for reporting the tax due and for reporting the names of persons whose racehorses are boarded with others shall be furnished by the assessor no later than December 15 prior to the calendar year in which the tax is due by mailing them to persons believed to be required to use them and by making them available at the assessor's office to any person requesting them.

(2) The assessor shall maintain a record of those persons believed to be liable for the annual racehorse tax to whom ~~he~~ the assessor has furnished copies of the forms. A copy of the record shall be delivered to the tax collector within 10 days of the date when copies of the forms are furnished so that the tax collector can be cognizant of the taxpayers who can reasonably be expected to file returns.

(3) The assessor shall retain ~~his~~ a copy of all tax returns filed by taxpayers for a period of five years from the date the returns became due. They shall be arranged or identified so as to indicate whether or not an audit is required under subsection ~~(3)~~ (d) of this rule regulation.

~~(3)(d)~~ Audits. (1) The assessor shall audit the tax records relative to his or her county of any racehorse owner who, according to the assessor's records, had a gross tax liability (before addition of any penalties) that exceeds ~~\$2,000~~ \$4,000 for each of four consecutive calendar years. This audit shall be performed within five years of the date on which the annual racehorse tax first became due and shall include, but need not be limited to, a comparison of the annual racehorse tax return with records maintained by the taxpayer. The assessor, when performing an audit pursuant to this ~~section~~ regulation of a taxpayer's records of racehorses taxable at a home ranch or other business location, ~~shall~~ may also audit records of the same taxpayer pertaining to ~~(1) personal property taxes and fixtures on property having tax situs at the same location and (2) livestock taxable at the same location.~~

(2) When an assessor schedules an audit of the records of any racehorse owner, whether as part of an audit required by ~~section 492 of this title~~ 469 of the Revenue and Taxation Code or independently thereof, ~~he~~ the assessor shall advise the assessor of any other county in which racehorses of ~~this~~ the taxpayer were taxable, as shown in the Annual Racehorse Tax Return or in any other source, of the date on which the audit will be performed. Upon completion of the audit, ~~he~~ the assessor shall make that portion of the audit findings relevant to the annual racehorse tax available to ~~any such~~ the assessor of any other county in which racehorses of the taxpayer were taxable.

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~~(3) On discovery that horses escaped taxation, the assessor shall determine whether they were subject to the annual racehorse tax, were subject to the property tax, or were exempt, and, if they were if determined taxable, the assessor shall either provide the tax collector with copies of the audit workpapers so that a determination of additional racehorse tax due can be calculated, or enroll an ad valorem assessment of escaped personal property.~~

~~(e) Nothing herein shall be construed to prohibit the assessor from auditing the records of taxpayers for which audits are not required by this ~~rule~~ regulation.~~

~~(b) Tax Collector. The tax collector shall accept returns and payments, verify the mathematical accuracy of the tax returns, and issue receipts upon request and for all cash payments. He shall forward to the assessor and to the auditor their respective copies of each return within 15 days of receipt.~~

~~The tax collector shall issue bills when his review of the tax return indicates additional tax due or when he has determined that additional tax is due under (a) above. He shall also take such action as is appropriate to insure collection of taxes due his county. He shall inform the auditor and the tax collector of any other county of additional tax found to be due that county.~~

~~(c) Auditor. The auditor will receive his copy of all tax returns filed in his county from the tax collector. He shall within 15 days of receipt transmit, in duplicate, to the auditors of other counties copies of returns which show tax liabilities in their respective counties. He will receive tax returns from the auditors of other counties and, on receipt thereof, shall forward copies of each return to both the assessor and the tax collector.~~

~~The auditor shall use the information on the forms to allocate taxes as prescribed in Section 5790 of the Revenue and Taxation Code. Amounts due to other counties may be forwarded periodically rather than as received, but must under any method chosen be accompanied by information which will enable the auditor of the receiving county to make a proper allocation in his county.~~

~~(d) Claims for Refund. Overpayments of this tax are subject to refund pursuant to the provisions of Chapter 1 of Part 3 of Division 3.6 of Title 1 (commencing with § 900) and Chapter 4 of Division 3 of Title 3 (commencing with § 29700) of the Government Code.~~

History: Adopted October 26, 1972, effective December 1, 1972.
Amended October 18, 1973, effective November 25, 1973.
Amended December 7, 1982, effective March 4, 1983.