STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 1799, SACRAMENTO, CALIFORNIA 95808)
(916) 445-6479

GEORGE R. REILLY
First District, San Francisco
ERNEST J. DRONENBURG, JR.
Second District, San Diego
WILLIAM M. BENNETT
Third District, San Rafael
RICHARD NEVINS
Fourth District, Pasadena
KENNETH CORY
Controller, Sacramento
DOUGLAS D. BELL
Executive Secretary

June 11, 1982

No. 82/81

TO COUNTY ASSESSORS, COUNTY COUNSELS,
AND OTHER INTERESTED PARTIES:

PROPERTY TAXES RULES
124, 131, 151, 192, 202-205,
305.1, 311, 316, 321, 324, 460, and 460.1

Enclosed are notices of public hearing to be held Tuesday, July 27, 1982, at 2:00 p.m., in Room 102, 1020 N Street, Sacramento, California, on the proposed amendments of the property taxes rules captioned above. Each amendment is described in detail in the attached notices.

The proposed amendments result from the Board's comprehensive review of the property taxes rules and of comments received from the California Assessors' Association and other interested parties. This review is being conducted under the provisions of State law which require that all rules meet statutory standards of necessity, authority, clarity, consistency and reference.

Written comments for the Board's consideration, requests to present testimony at the public hearing, or questions regarding the rule amendments should be directed to me at the above address.

Sincerely,

Janice Masterton

Janice Masterton
Assistant to Executive Secretary

JM:sw
Enclosures

NOTICE OF PROPOSED REGULATORY ACTION

BY THE

STATE BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN that the State Board of Equalization, pursuant to the authority vested by Section 15606 of the Government Code, and to implement, interpret, or make specific Sections 104, 105 of Chapter 1, Part 1, Division 1 of the Revenue and Taxation Code, proposes to amend Regulation 124, Examples, in Title 18 of the California Administrative Code, relating to property tax.

PUBLIC NOTICE: Notice is further given that a public hearing relevant to this action will be held in Room 102, Consumer Affairs Building, 1020 N Street, Sacramento, California, at 2:00 p.m., on July 27, 1982. Any person interested may present statements or arguments orally at that time and place.

INFORMATIVE DIGEST: This rule is being amended to provide for additional examples of the classification of land and improvements.

ESTIMATE OF COST OR SAVINGS: The State Board of Equalization has determined that the proposed change will result in no direct or indirect cost or savings to any State, local, or Federal agency, school district, nor in Federal funding to the State.

INQUIRIES: Inquiries concerning this matter may be directed to Janice Masterton, at (916) 445-6479.

WRITTEN COMMENTS: Written statements or arguments will be considered by the Board if received by July 27, 1982; written statements or arguments are requested by July 7, 1982.

STATEMENT OF REASONS; EXPRESS TERMS: The Board has prepared a statement of the purpose of the proposed action and the information relied upon in making the change, and a strikeout and underscore version (express terms) of the proposed changes, both of which are available to the public upon request.

STAFF MEMORANDA AFTER PUBLIC HEARING OR REVISIONS TO PUBLISHED VERSION OF THE REGULATION: In the event there are any staff memoranda included in the rule making file after the close of the public hearing these memoranda will be available to the public upon request from Mrs. Masterton for a period of 15 days after the public hearing.

In the event there are any revisions to the published version of the regulation, these revisions will be available to the public from Mrs. Masterton for a period of 15 days after the public hearing.

Following the hearing, the State Board of Equalization, upon its own motion, or at the instance of any interested person, may in accordance with law adopt the changes proposed without further notice.

Dated: May 24, 1982

STATE BOARD OF EQUALIZATION

D D Bell

Douglas D. Bell
Executive Secretary

Rule No. 124 (Cal. Adm. Code) Examples

Reference: Sections ~~110, 401, 401.5, 601,~~ 104, 105, Revenue and Taxation Code.

Authority: Section 15606, Government Code

The listing that follows is illustrative of the application of the foregoing rules to various items of property, and is not intended to be inclusive of all items of property required to be classified. For the specific items listed, the classification shown will be followed unless there are persuasive distinguishing facts which warrant other classification. However, nothing herein requires classification of an item of property to be dependent upon anything more than what is reasonably manifested by outward appearances, and nothing herein shall preclude the application, to a value estimate of a combination of properties of more than one class, of a percentage representing the appraiser's determination of the amount attributable to each class.

The foregoing rules of classification, together with the following listing, relate solely to classification of property and not to evaluation thereof.

(a) LAND

Air rights
Alfalfa
Artichokes
Asparagus
Bushes
Contoured ground
Date palms, 4 to 8 years old
Ditches
Embankments
Fill (except on property owned by county, municipal corporation or public district)
Graded ground
Grasses, perennial, natural or planted
Levees
Leveled ground
Minerals
Roads, unpaved
Shrubs
Strawberry plants
Timber, standing
Water rights
Wells, oil and water

(b) IMPROVEMENTS

Air conditioner, built-in
Alarm system
Automated Teller Systems
Awnings
Back bars
Beds, wall
Blast furnaces
Blinds
Boilers, built-in
Booths, restaurant
Booths, spray paint
Bowling lanes
Breakwaters, artificial (above fill)
Buildings
Cabinets, built-in
Carpets, wall-to-wall
Cash boxes, service station, attached to stands
Check-out stands, built-in
Compressors
Computers, EDP large, extensive wiring, building designed to accommodate
Concrete flatwork
Coolers, built-in
Cooler, water evaporator, attached to main line
Counters, bank
Elevators
Escalators
Exhaust systems, built-in
Fences
Fill (on property owned by county, municipal corporation or public district)
Flagpole
Floor covering, hard surface
Flumes
Foundations
Fruit trees, taxable planted (except date palms under 8 years of age)
Furnishings, built-in
Grape stakes, in place
Grape trellises
Kilns
Kitchen appliances, built-in
Laundry machines, launderette
Lighting fixtures
Machinery, heavy or attached, inside or outside of building
Music systems, coin and electric boxes attached to booth or counters
Nut trees, taxable planted
Organs, pipe
Pumps, fixed
Radiators, steam
Railroad spurs
Refrigerator, built-in
Roads, paved
Safe deposit box nests, if attached to building
Safes, imbedded
Scales, truck
Screen, theatre
Shelves, attached
Signs, attached to buildings
Signs, on separate supports
Sink, built-in
Sprinkler system, lawn
Sprinkler system, fire
Sprinkler system, agricultural (except portable)
Stoves, built-in
Tanks, buried
Tanks, butane, propane and water softener, unburied but which remain in place, except household
Tellers' cages
Towers, radio and television
Underground irrigation and drainage pipeline

Counters, restaurant
Cranes, on fixed ways
Dams (except small earthen)
Drinking fountains
Ducts
Ovens, bake, attached
Partitions, affixed
Piling, for support of structure
Printing press, built-in
Utilities, on-site
Vault doors
Vaults
Vines, taxable, planted
Walls

Adopted December 12, 1967, effective January 18, 1968

NOTICE OF PROPOSED REGULATORY ACTION

BY THE

STATE BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN that the State Board of Equalization, pursuant to the authority vested by Section 15606 of the Government Code, and to implement, interpret, or make specific Section 105 of Chapter 1, Part 1, Division 1, and Sections 211, 223 of Article 1, Chapter 1, Part 2, Division 1 of the Revenue and Taxation Code, proposes to amend Regulation 131, Fruit and Nut Tree and Grapevine Exemption, in Title 18 of the California Administrative Code, relating to property tax.

PUBLIC NOTICE: Notice is further given that a public hearing relevant to this action will be held in Room 102, Consumer Affairs Building, 1020 N Street, Sacramento, California, at 2:00 p.m., on July 27, 1982. Any person interested may present statements or arguments orally at that time and place.

INFORMATIVE DIGEST: This proposed amendment is to cause Rule 131 to clearly depict the method of appraising previously exempt trees and vines.

ESTIMATE OF COST OR SAVINGS: The State Board of Equalization has determined that the proposed change will result in no direct or indirect cost or savings to any State, local, or Federal agency, school district, nor in Federal funding to the State.

INQUIRIES: Inquiries concerning this matter may be directed to Janice Masterton, at (916) 445-6479.

WRITTEN COMMENTS: Written statements or arguments will be considered by the Board if received by July 27, 1982; written statements or arguments are requested by July 7, 1982.

STATEMENT OF REASONS; EXPRESS TERMS: The Board has prepared a statement of the purpose of the proposed action and the information relied upon in making the change, and a strikeout and underscore version (express terms) of the proposed changes, both of which are available to the public upon request.

STAFF MEMORANDA AFTER PUBLIC HEARING OR REVISIONS TO PUBLISHED VERSION OF THE REGULATION: In the event there are any staff memoranda included in the rule making file after the close of the public hearing these memoranda will be available to the public upon request from Mrs. Masterton for a period of 15 days after the public hearing.

In the event there are any revisions to the published version of the regulation, these revisions will be available to the public from Mrs. Masterton for a period of 15 days after the public hearing.

Following the hearing, the State Board of Equalization, upon its own motion, or at the instance of any interested person, may in accordance with law adopt the changes proposed without further notice.

Dated: May 24, 1982

STATE BOARD OF EQUALIZATION

D. D. Bell

Douglas D. Bell
Executive Secretary

Rule 131. FRUIT AND NUT TREE AND GRAPEVINE EXEMPTION.

Reference: Sections 105, 211, 223, Revenue and Taxation Code.
Authority: Section 15606, Government 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. Upon becoming subject to tax, previously exempt trees and vines shall be valued in accordance with Section 466 of this chapter.

(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 1975 became assessable on the 1980 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 reoccurrence 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.

NOTICE OF PROPOSED REGULATORY ACTION

BY THE

STATE BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN that the State Board of Equalization, pursuant to the authority vested by Section 15606 of the Government Code, and to implement, interpret, or make specific Sections 130, 135 of Chapter 1, Part 1, Division 1 and Section 227 of Article 1, Chapter 1, Part 2, Division 1 of the Revenue and Taxation Code, proposes to amend Regulation 151, Vessels Subject to the Four Percent Assessment, in Title 18 of the California Administrative Code, relating to property tax.

PUBLIC NOTICE: Notice is further given that a public hearing relevant to this action will be held in Room 102, Consumer Affairs Building, 1020 N Street, Sacramento, California, at 2:00 p.m., on July 27, 1982. Any person interested may present statements or arguments orally at that time and place.

INFORMATIVE DIGEST: This rule is being amended to cause it to conform to Revenue and Taxation Code Section 227 as amended by AB 517 (Stats. 1981, Ch. 475).

ESTIMATE OF COST OR SAVINGS: The State Board of Equalization has determined that the proposed change will result in no direct or indirect cost or savings to any State, local, or Federal agency, school district, nor in Federal funding to the State.

INQUIRIES: Inquiries concerning this matter may be directed to Janice Masterton, at (916) 445-6479.

WRITTEN COMMENTS: Written statements or arguments will be considered by the Board if received by July 27, 1982; written statements or arguments are requested by July 7, 1982.

STATEMENT OF REASONS; EXPRESS TERMS: The Board has prepared a statement of the purpose of the proposed action and the information relied upon in making the change, and a strikeout and underscore version (express terms) of the proposed changes, both of which are available to the public upon request.

STAFF MEMORANDA AFTER PUBLIC HEARING OR REVISIONS TO PUBLISHED VERSION OF THE REGULATION: In the event there are any staff memoranda included in the rule making file after the close of the public hearing these memoranda will be available to the public upon request from Mrs. Masterton for a period of 15 days after the public hearing.

In the event there are any revisions to the published version of the regulation, these revisions will be available to the public from Mrs. Masterton for a period of 15 days after the public hearing.

Following the hearing, the State Board of Equalization, upon its own motion, or at the instance of any interested person, may in accordance with law adopt the changes proposed without further notice.

Dated: May 24, 1982

STATE BOARD OF EQUALIZATION

Douglas D. Bell
Executive Secretary

References: Sections 130, 135, 227, Revenue and Taxation Code
Authority: Section 15606, Government Code

Rule No. 151. (Cal. Adm. Code) Vessels Subject to the Four Percent Assessment

(a) A vessel which meets the requirements of section 130 of the Revenue and Taxation Code shall be assessed at four percent of full cash value under the provisions of section 227 of said code if it is engaged or employed exclusively in one or more of the following activities:

(1) The taking and possession of fish or other living resource of the sea for commercial purposes.

(2) Instruction or research studies as an oceanographic research vessel.

(3) Carrying or transporting seven or more people for hire for commercial passenger fishing purposes ~~.~~ and holds a current certificate of inspection issued by the United States Coast Guard.

In determining whether a vessel is engaged or employed exclusively for "commercial purposes" in paragraph (1) above or "commercial passenger fishing purposes" in paragraph (3) the assessor shall consider the design of the vessel and the business engaged in by, or occupation of, the owner and any other person leasing or chartering the vessel. In considering the design of the vessel, the assessor shall determine whether the vessel has adequate carrying capacity, gear, and mechanical equipment sufficient to enable the owner to accomplish his intended commercial purpose. Any pleasure-boat use of the vessel is disqualifying irrespective of whether the vessel is or is not licensed as a commercial vessel.

Prior to approving the claim of a vessel purporting to be engaged or employed exclusively as an oceanographic research vessel in paragraph (2) the assessor shall require supporting documentation. Such documentation shall include one or more of the following:

(1) A statement of the course of study with a recognized college or university.

(2) The contract pursuant to which the vessel engages in research for a governmental agency, private foundation, or other organization.

(3) A statement of the study being made, the procedure being used, and the estimated completion date.

(b) Vessels that may qualify under this rule include those registered with or licensed by the Department of Motor Vehicles as well as those required to have and having a valid marine document issued by the Department of Transportation, ~~Marine Document Branch,~~ Vessel Documentation Branch, U.S. Coast Guard or

any federal agency subsequently granted licensing authority.

This rule does not apply to vessels exempt from taxation under Article XIII, Sec. 3(1) of the Constitution of the State of California.

(c) Tangible personal property subject to the four percent assessment shall include the vessel and all equipment and furnishings that are normally required aboard the vessel during the accomplishment of the functions for which the vessel is being utilized.

Equipment includes navigational equipment such as radio transmitters, receivers, and other radio equipment, radar and sonar equipment, winches, anchors, lifeboats, engines, generators, signal systems, and other operational equipment as well as necessary fishing or scientific equipment. It excludes, however, aircraft which is subject to taxation under Part 10 of Division 1.

Equipment that is necessary for the accomplishment of the vessel's functions and is required aboard during certain seasons or periods is also subject to the four percent assessment while stored ashore during the off seasons or periods.

Furnishings include stoves, dishes, bunks, chairs, fire extinguishers, tools, athletic or recreational equipment, and other property necessary for the accomplishment of the functions of the vessel or the comfort and convenience of the persons on board. Consumable supplies are not part of the vessel.

Leased equipment and furnishings that are normally required aboard the vessel during the accomplishment of its functions are to be assessed at four percent of full cash value.

Tangible personal property that is necessary in maintaining, servicing, or repairing the vessel or its equipment and furnishings but is not normally required aboard the vessel is not subject to the four percent assessment. Examples of this type of property are: cranes affixed to the dock and used in loading or unloading the vessel; communication equipment maintained ashore and used in communicating with the vessel; and scientific equipment maintained ashore and used in processing data compiled by a research vessel.

History: Adopted January 7, 1970, effective February 8, 1970.
Amended February 5, 1975, effective March 20, 1975.
Amended December 17, 1975, effective January 25, 1976.
Amended March 30, 1981, effective June 4, 1981.

NOTICE OF PROPOSED REGULATORY ACTION

BY THE

STATE BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN that the State Board of Equalization, pursuant to the authority vested by Section 15606 of the Government Code, and to implement, interpret, or make specific Section 469 of Article 2, Chapter 3, Part 2, Division 1 of the Revenue and Taxation Code, proposes to amend Regulation 192, Mandatory Audits, in Title 18 of the California Administrative Code, relating to property tax.

PUBLIC NOTICE: Notice is further given that a public hearing relevant to this action will be held in Room 102, Consumer Affairs Building, 1020 N Street, Sacramento, California, at 2:00 p.m., on July 27, 1982. Any person interested may present statements or arguments orally at that time and place.

INFORMATIVE DIGEST: Amendments to subdivision (c) of this rule are being made to cause the rule to conform to statutory change brought about by AB 2479 (Stats. 1980, Ch. 411). AB 2479 provided for the appeal of Part 11 of Division 1 of the Revenue and Taxation Code.

Subdivision (d) of this rule is amended to substitute the word "fixtures" for "trade fixtures" because the amendment more precisely reflects the definition intended in the rule.

ESTIMATE OF COST OR SAVINGS: The State Board of Equalization has determined that the proposed change will result in no direct or indirect cost or savings to any State, local, or Federal agency, school district, nor in Federal funding to the State.

INQUIRIES: Inquiries concerning this matter may be directed to Janice Masterton, at (916) 445-6479.

WRITTEN COMMENTS: Written statements or arguments will be considered by the Board if received by July 27, 1982; written statements or arguments are requested by July 7, 1982.

STATEMENT OF REASONS; EXPRESS TERMS: The Board has prepared a statement of the purpose of the proposed action and the information relied upon in making the change, and a strikeout and underscore version (express terms) of the proposed changes, both of which are available to the public upon request.

STAFF MEMORANDA AFTER PUBLIC HEARING OR REVISIONS TO PUBLISHED VERSION OF THE REGULATION: In the event there are any staff memoranda included in the rule making file after the close of the public hearing these memoranda will be available to the public upon request from Mrs. Masterton for a period of 15 days after the public hearing.

In the event there are any revisions to the published version of the regulation, these revisions will be available to the public from Mrs. Masterton for a period of 15 days after the public hearing.

Following the hearing, the State Board of Equalization, upon its own motion, or at the instance of any interested person, may in accordance with law adopt the changes proposed without further notice.

Dated: May 24, 1982

STATE BOARD OF EQUALIZATION

Douglas D. Bell
Executive Secretary

Reference: Section 469, Revenue and Taxation Code

Authority: Section 15606, Government Code

Rule No. 192. (Cal. Adm. Code) Mandatory Audits

(a) **HOLDINGS EQUALING OR EXCEEDING $200,000 IN FOUR CONSECUTIVE YEARS.** When a taxpayer engaged in a profession, trade or business owns, claims, possesses, or controls locally assessable ~~trade~~ fixtures and business tangible personal property in any county which according to the assessor's records, has a combined full value of $2000,000 or more on the 1976 lien date or any succeeding lien date and remains at or above the minimum for at least the next three lien dates, the assessor shall complete an audit of his books and records (1) at least once within the four fiscal years following the first of such four consecutive lien dates, and (2) at least once thereafter within each four-year period following the latest fiscal year covered by the preceding audit until relieved of this responsibility by subdivision (b) of this section.

(b) **HOLDINGS FALLING BELOW THE MINIMUM.** After such a taxpayer's holdings fall below $200,000 on any one lien date, the assessor shall not be required to audit his books and records for that lien date and subsequent lien dates until his holdings again equal or exceed $200,000 on four consecutive lien dates.

(c) **FARMING.** For purposes of this rule, farming is a business. The assessor, when making an audit pursuant to this section of a farming or ranching operation, shall determine whether any ~~livestock taxable to the same taxpayer pursuant to part 11 or~~ racehorses are taxable to the same taxpayer pursuant to part 12 of Division 1 of the Revenue and Taxation Code have been underreported or escaped assessment.

(d) **DEFINITIONS.** "Holdings" means the taxable value of locally assessable ~~trade~~ fixtures and the full cash value of locally assessable business personal property in the county. A "fiscal year" is the governmental fiscal year of July 1 through June 30. ~~"Trade fixtures"~~ "Fixtures" means any fixtures whose use or purpose directly applies to or augments the process of function ~~of a profession~~, trade, or business.

(e) **OTHER AUDITS.** Nothing herein shall be construed to prohibit an assessor from auditing the books and records of any taxpayer or for any period for which audits are not required by paragraph (a).

History: Adopted April 10, 1968, effective May 12, 1968.
Amended January 8, 1969, effective February 12, 1969.
Amended December 12, 1969, effective January 11, 1970.
Amended March 24, 1971, effective April 25, 1971.
Amended October 18, 1973, effective November 25, 1973.
Amended December 15, 1976, effective January 21, 1977.
Amended July 31, 1980, effective November 19, 1980.

NOTICE OF PROPOSED REGULATORY ACTION

BY THE

STATE BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN that the State Board of Equalization, pursuant to the authority vested by Section 15606 of the Government Code, and to implement, interpret, or make specific Sections 1150-1156 of Article 6, Chapter 5, Part 2, Division 1; Section 1019 of Article 2, Chapter 5, Part 2, Division 1 of the Revenue and Taxation Code and Article XIII, Section 14, of the California Constitution, proposes to amend the following Regulations in Title 18 of the California Administrative Code, relating to property tax:

202 - Allocation of Aircraft of Certificated Air Carriers and Scheduled Air Taxi Operators

203 - Goods in Transit

204 - Leased or Consigned Property

205 - Movable Property

PUBLIC NOTICE: Notice is further given that a public hearing relevant to this action will be held in Room 102, Consumer Affairs Building, 1020 N Street, Sacramento, California, at 2:00 p.m., on July 27, 1982. Any person interested may present statements or arguments orally at that time and place.

INFORMATIVE DIGEST: Subdivision (c) of Rule 202 is being amended to cause the rule to conform to statutory change brought about by AB 1994 (Stats. 1980, Ch. 610). AB 1994 amended Revenue and Taxation Code Section 1152 to delete the provision that an aircraft is not subject to property taxation for the first 12 consecutive hours within the state. The bill provided that aircraft shall be subject to California property taxation upon commencement of its first revenue flight.

Subdivision (g) of Rule 202 is amended to more clearly reflect the statutory duties of the Board to annually designate the types of aircraft to which a representative period is designated for assessment purposes.

Rule 203 is being amended to remove reference to inventory properties. Since inventories are no longer assessable, there is no need to clarify or make specific the method by which inventories should be assessed.

Rule 204 is being amended to remove reference to property which would be considered inventory. Since inventory is no longer taxable, there is no need to explain or make specific the method by which inventory should be assessed.

Rule 205 is being amended to delete the word "consigned" in subdivision (a) because the word refers to property which would be inventory. Since inventory is no longer taxable, there is no need to explain or make specific the method by which inventory should be assessed.

ESTIMATE OF COST OR SAVINGS: The State Board of Equalization has determined that the proposed change will result in no direct or indirect cost or savings to any State, local, or Federal agency, school district, nor in Federal funding to the State.

INQUIRIES: Inquiries concerning this matter may be directed to Janice Masterton, at (916) 445-6479.

WRITTEN COMMENTS: Written statements or arguments will be considered by the Board if received by July 27, 1982; written statements or arguments are requested by July 7, 1982.

STATEMENT OF REASONS; EXPRESS TERMS: The Board has prepared a statement of the purpose of the proposed action and the information relied upon in making the change, and a strikeout and underscore version (express terms) of the proposed changes, both of which are available to the public upon request.

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In the event there are any revisions to the published version of the regulation, these revisions will be available to the public from Mrs. Masterton for a period of 15 days after the public hearing.

Following the hearing, the State Board of Equalization, upon its own motion, or at the instance of any interested person, may in accordance with law adopt the changes proposed without further notice.

Dated: May 24, 1982

STATE BOARD OF EQUALIZATION

D. D. Bell

Douglas D. Bell
Executive Secretary

References: Sections 1150-1156, Revenue and Taxation Code
Authority: Section 15606, Government Code

Rule 202. ALLOCATION OF AIRCRAFT OF CERTIFICATED AIR CARRIERS AND SCHEDULED AIR TAXI OPERATORS

(a) AIR TAXIS. An aircraft whose owner on the lien date used it in scheduled air taxi service at any time during the representative period selected pursuant to subsection (f), or which has been purchased for scheduled air taxi service but not yet put into such service and not yet used in any other service, is assessable under sections 1150 to 1156 of the Revenue and Taxation Code and not under Part 10, Division 1, or under other situs provisions of Part 2, Division 1, of the Revenue and Taxation Code.

(b) SITUS. Aircraft of United States registry operated by certificated air carriers (within the meaning of section 1150 of the Revenue and Taxation Code) or scheduled air taxis (within the meaning of subdivisions (a) and (b) of section 1154 of the Revenue and Taxation Code) and flown in intrastate, interstate, or foreign commerce shall be deemed to be situated only in those taxing agencies (within the meaning of section 404 of the Revenue and Taxation Code) in which the aircraft normally make physical contact. The physical contact must be intentional rather than by accident or as the result of an emergency, and it must involve embarking or disembarking of crew, passengers, or freight.

Aircraft flying over the state without landing do not acquire situs for property tax purposes. Conversely, the situs of aircraft that depart from a taxing agency within the state, fly out of the state, and return to the same or another taxing agency within the state without landing outside the state is within the state's taxing jurisdiction throughout the flight.

Situs for property tax purposes is not affected by the legal or commercial domicile of the operator of the aircraft, except that foreign-owned and -based aircraft operated solely in foreign commerce do not acquire a situs within the state for property tax purposes.

(c) ALLOCATION FORMULA. The allocation formula to be used by each assessor is composed of two factors: (1) ground and flight time and (2) aircraft arrivals and departures.

Time allocable to an airport is the amount of time that certificated aircraft and scheduled air taxis are on the ground at the airport, plus a portion of the incoming and outgoing flight time computed pursuant to subsection (d). The ratio of the time allocable to the airport during a representative period to the sum of the time allocable to the airport and the time allocable elsewhere is the ground and flight time factor. In computing the ground and flight time factor, the following shall be excluded:

From the time allocable to the airport --

(1) All ground and flight time prior to the aircraft's first entry into ~~the~~ revenue service~~, of the air carrier in control of the aircraft on the current lien date.~~

From the total time --

(1) All ground and flight time prior to the aircraft's first entry into ~~the~~ revenue service~~, of the air carrier in control of the aircraft on the current lien date.~~

This factor shall be multiplied by 75 percent to obtain a weighted ground and flight time factor.

The aircraft arrivals and departures factor is the ratio of the number of arrivals at and departures from an airport during a representative period to the total number of arrivals at and departures from all airports during the representative period. This factor shall be multiplied by 25 percent to obtain a weighted arrivals and departures factor.

The weighted time factor shall be added to the weighted arrivals and departures factor. The sum of the two weighted factors yields the allocation ratio to be applied to the full cash value of the aircraft to determine the full cash value allocable to the airport.

(d) ALLOCATION OF FLIGHT TIME. For aircraft flying from one California airport to another California airport, the flight time attributable to each airport is one-half the flight time between the airports.

For aircraft arriving from an airport outside the state or leaving for an airport outside the state, the flight time from or to the state boundary shall be allocated to the California airport in which the aircraft first lands or last takes off, as the case may be. The flight time to the state boundary shall be computed as follows: (1) determine the mileage from the airport to the state boundary crossing point on a great circle flight to the first landing point outside the state; (2) divide this mileage by the total great circle mileage from the airport to the first landing point outside the state; (3) multiply this percentage by the total flight time from the airport to the first landing point outside the state. The same procedure shall be used for inbound flights from outside the state. To allow for differences in take-off, landing, and cruising speeds and for varying take-off and landing patterns, the time allocated to an airport shall not be less than five minutes for an incoming or an outgoing flight In lieu of the actual flight time for a single flight, the average flight time between two ports, or between a port and the state line, for two or more flights of a single carrier or of more than one carrier shall be used when such an average is promulgated by the board unless the assessor has documented evidence which justifies departure from such average time.

(e) SOURCES OF ALLOCATION DATA. For scheduled operations, arrivals and departures and ground and flight time shall be derived from the carrier's operating schedules. For nonscheduled operations, including but not limited to, overhaul, pilot training, charter, military contract flights, and standby services, ground and flight time and arrivals and departures shall be derived from the carrier's recorded operations.

(f) REPRESENTATIVE PERIOD. Annually, on or before February 15, the board shall consult with the assessors of the counties in which air carriers' aircraft normally make physical contact. On or before March 1, the board shall designate a representative period to be used by all assessors in assessing the aircraft of each carrier for the forthcoming fiscal year.

(g) APPLICATION OF ALLOCATION FORMULA. The aircraft of certificated air carriers and scheduled air taxi operators shall be segregated by type, and a separate allocation ratio shall be computed for each type which has established a tax situs within the state, excluding those makes within a type which have not established a tax situs within the state. Each allocation ratio shall then be applied to the total value of the carrier's aircraft of each type to which the allocation ratio applies, excluding those makes within a type which have not established a tax situs within the state.

Annually, the types shall be designated by the board in the same manner and at the same time the representative period is designated. Examples of the types are as follows:

~~The types are as follows:~~

(1) Piston-powered
(2) Turboprop-powered
(3) Helicopter
(4) Turbojet and Turbofan powered
  (A) Two engine
  (B) Three engine
  (C) Four engine
  (D) DC-8-60 series
  (E) Boeing 747
  (F) DC-10 and L 1011

Rule 203. ~~GOODS~~ PROPERTY IN TRANSIT.

References: Article XIII, Section 14, California Constitution.
~~Article 2, Chapter 5, Part 2, Division 1, Revenue and Taxation Code.~~
~~Section 601, Revenue and Taxation Code.~~
Section 1019, Revenue and Taxation Code.

Authority: Section 15606, Government Code

(a) ~~Goods~~ property moving in interstate or foreign commerce, whether entering or leaving the state, are not subject to tax while in transit.

~~Goods~~ property moving in intrastate commerce on the lien date are taxable and have situs for that purpose as follows:

(1) Property being transported by an owner from one location to another has situs at the point of origin of the shipment regardless of the mode of transportation or the ownership of the means of conveyance.

(2) Property being transported to a buyer has situs at its point of destination unless the buyer demonstrates to the satisfaction of the assessor that the seller had title until delivery. Pursuant to the Uniform Commercial Code, f.o.b. designations, unless otherwise agreed between a seller and buyer, are delivery terms. Title to property remains with a seller until he has completed delivery by making the property available for disposition by the buyer at the f.o.b. point. Retention of a security interest by a seller shall be disregarded for purposes of determining situs.

Property is in transit as part of interstate or intrastate commerce, as the case may be, when it has been delivered to a carrier or, if delivery to destination is being made by the owner of the property, when he has actually started transporting the property to its destination. Transportation terminates when the property reaches its destination and is made available for disposition by the consignee of the shipment.

The interruption of transportation for purposes incident to transportation does not remove property from its in-transit status. The interruption of transportation for the business purpose or profit of the owner terminates the transportation and creates a situs for taxation at the place where the property is situated on the lien date.

Thus, property remains in transit if the interruption is caused by a breakdown in the transportation system or equipment, the promotion of safe or convenient transit, or the accumulation by the carrier of sufficient cargo to make a load. ~~On the other hand, property does not remain in transit if the interruption is for the purpose of further processing the goods, placing them in different containers, separating them for easier distribution to customers, storing them awaiting a favorable market, or any other purpose unconnected with transportation.~~

~~(b) CONTENTS OF PIPELINES. Oil, gas, or any other property transported through a pipeline is in transit to the same extent as property transported by any other means. A product contained in a receiving, shipping, flow, balance or surge tank necessary to the operation of the pipeline shall be regarded as in transit. Whether the removal of a product from a pipeline constitutes an interruption or termination of transportation depends on the reason for the removal. In general, the provisions of part (a) are applicable in determining whether or not a removal constitutes an interruption in transit which affects the situs of the property.~~

History: Adopted February 7, 1968, effective March 14, 1968.

Rule 204. LEASED OR CONSIGNED PROPERTY.

Authority: Section 15606, Government Code

Reference: Sections ~~413, 601, 981,~~ 1019, Revenue and Taxation Code.
Article XIII, Section 14, California Constitution

~~(a) - LEASED.~~ - Property leased or rented on a daily, weekly or other short-term basis has situs at the place where the lessor normally keeps the property. Temporary absences from that location do not change the situs of the property.

The situs of property leased or rented for an extended, but unspecified, period or leased for a term of more than six months shall be determined on the basis of the lessee's use.

~~(b) - CONSIGNED. - All personal property consigned for sale to any person within this state from any place out of this state or from another county in this state shall be assessed to the consignee, or the consignor, or jointly to both, in the county where the property is situated.~~

~~The term "situated" refers to that place where the property is usually held for sale. Removal from that location for temporary storage or other temporary purposes connected with the selling activities of the consignee or consignor does not alter the situs of the property. Goods which are stored prior to being displayed for sale are situated where stored on the lien date.~~

History: Adopted February 7, 1968, effective March 14, 1968.

Rule 205. MOVABLE PROPERTY.
Authority: Section 15606, Government Code

Reference: ~~Sections 413, 601, 981, 1019, Revenue and Taxation Code.~~
Article XIII, Section 14, California Constitution

(a) GENERAL. Movable property is all property which is intended to be, and is, moved from time to time from one location to another. Such property may be in-transit, ~~consigned,~~ or leased, and under such circumstances its situs is to be determined by reference to section 203 or 204 of this chapter.

Movable property has situs where located on the lien date if it has been in the county for more than 6 of the 12 months immediately preceding the lien date and if it is to remain in or be returned to the county for any substantial period during the 12 months immediately succeeding the lien date. Property which has been in the county for less than 6 of the 12 months immediately preceding the lien date, but which is committed to use in the county for an indeterminate period or for more than six months, has situs there whether the use extends through or commences with the lien date.

Property which does not have situs where located on the lien date pursuant to the previous paragraph has situs at the location where it is normally returned between uses or, if there is no such location, at the principal place of business of the owner.

(b) GENERAL AIRCRAFT. Aircraft other than those subject to Revenue and Taxation Code sections 1150 to 1155 have situs for taxation purposes at the airport in which they are habitually situated when not in flight. An aircraft that spends a substantial amount of ground time at each of two or more airports has its tax situs at the airport where it spends the greatest amount of ground time.

(c) This section does not apply to boats or racehorses.

History: Adopted February 7, 1968, effective March 14, 1968.
Amended February 24, 1969, effective March 30, 1969.
Amended July 31, 1980, effective November 19, 1980.

NOTICE OF PROPOSED REGULATORY ACTION

BY THE

STATE BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN that the State Board of Equalization, pursuant to the authority vested by Section 15606 of the Government Code, and to implement, interpret, or make specific Sections 1601, 1606 of Article 1, Chapter 1, Part 3, Division 1; Sections 1620, 1622.5, 1622.6 of Article 1.5, Chapter 1, Part 3, Division 1; Section 167 of Chapter 2, Part 1, Division 1 of the Revenue and Taxation Code; and Articles 1 and 1.5 of Chapter 1, Part 3, Division 1 of the California Constitution, proposes to amend the following Regulations in Title 18 of the California Administrative Code, relating to property tax:

305.1 - Exchange of Information

311 - Quorum and Vote Required

316 - Examination of Applicant By Board

321 - Burden of Proof

324 - Decision

PUBLIC NOTICE: Notice is further given that a public hearing relevant to this action will be held in Room 102, Consumer Affairs Building, 1020 N Street, Sacramento, California, at 2:00 p.m., on July 27, 1982. Any person interested may present statements of arguments orally at that time and place.

INFORMATIVE DIGEST: Subdivision (a) of Rule 305.1 is being amended to reflect the statutory change to Revenue and Taxation Code Section 1606 by SB 1656 (Stats. 1978, Ch. 1207).

Subdivision (c) of Rule 305.1 is being amended for clarity.

The second and third sentences of Rule 311 are being amended and deleted respectively for clarity and conservation of words. The third sentence is being added to assure that due process of law is afforded petitioners in those cases where the question before the Board is of such difficulty or seriousness that either party should have the right to be heard by the full board.

Subdivision (a) of Rule 316 is being amended to substitute the words "taxable value" for the words "full cash value (full market value)" because these substituted words are technically more correct in light of California Constitution, Article XIII A and its clarifying statutory provisions.

Subdivision (c) of Rule 321 is being deleted because the referenced Section 305.5 presumptions have been eliminated by the subsequent adoption of Article XIII A, California Constitution, and the subsequent amendment of Rule 305.5.

Subdivision (a) of Rule 324 is being amended to substitute the words "taxable value" for "full cash value" because the substituted words better reflect the provisions of California Constitution, Article XIII A and its subsequent clarifying statutes. This subdivison is further amended to show a correct reference to Revenue and Taxation Code Section 1610.5 instead of the incorrect referenced Section 1605.

Subdivisions (f) and (g) of Rule 324 are being deleted because they express incorrect instructions in light of the subsequent adoption of California Constitution, Article XIII A.

Subdivision (h) of Rule 324 is being amended to express the proposition that under California Constitution, Article XIII A, the date of valuation now falls upon the date of sale of the property to be appraised.

ESTIMATE OF COST OR SAVINGS: The State Board of Equalization has determined that the proposed change will result in no direct or indirect cost or savings to any State, local, or Federal agency, school district, nor in Federal funding to the State.

INQUIRIES: Inquiries concerning this matter may be directed to Janice Masterton, at (916) 445-6479.

WRITTEN COMMENTS: Written statements or arguments will be considered by the Board if received by July 27, 1982; written statements or arguments are requested by July 7, 1982.

STATEMENT OF REASONS; EXPRESS TERMS: The Board has prepared a statement of the purpose of the proposed action and the information relied upon in making the change, and a strikeout and underscore version (express terms) of the proposed changes, both of which are available to the public upon request.

STAFF MEMORANDA AFTER PUBLIC HEARING OR REVISIONS TO PUBLISHED VERSION OF THE REGULATION: In the event there are any staff memoranda included in the rule making file after the close of the public hearing these memoranda will be available to the public upon request from Mrs. Masterton for a period of 15 days after the public hearing.

In the event there are any revisions to the published version of the regulation, these revisions will be available to the public from Mrs. Masterton for a period of 15 days after the public hearing.

Following the hearing, the State Board of Equalization, upon its own motion, or at the instance of any interested person, may in accordance with law adopt the changes proposed without further notice.

Dated: May 24, 1982

STATE BOARD OF EQUALIZATION

D D Bell

Douglas D. Bell
Executive Secretary

Rule 305.1. EXCHANGE OF INFORMATION

Reference: ~~Articles 1 and 1.5, Chapter 1, Part 3, Division 1, Revenue and Taxation Code.~~

Section 1606, Revenue and Taxation Code.

(a) REQUEST FOR INFORMATION. When the assessed value of the property involved, before deduction of any exemption accorded the property, is ~~$25,000~~ $100,000 or less, the applicant may file a written request for an exchange of information with the assessor; and when the assessed value before deduction of any exemption exceeds ~~$25,000,~~ $100,000, either the applicant or the assessor may request such an exchange. The request may be filed with the clerk at the time an application for hearing is filed or may be submitted to the other party at any time prior to 20 days before the commencement of the hearing. The clerk shall immediately forward any request filed with his office or a copy thereof to the other party. The request shall contain the basis of the requesting party's opinion of value and the following data:

(1) COMPARABLE SALES DATA. If the opinion of value is to be supported with evidence of comparable sales, the properties sold shall be described by the assessor's parcel number, street address or legal description sufficient to identify them. With regard to each property sold there shall be presented the approximate date of sale, the price paid, the terms of sale (if known) and the zoning of the property.

(2) INCOME DATA. If the opinion of value is to be supported with evidence based on an income study, there shall be presented: the gross income, the expenses, and the capitalization method and rate or rates employed.

(3) COST DATA. If the opinion of value is to be supported with evidence of replacement cost, there shall be presented:

(A) With regard to improvements to real property: the date of construction, type of construction, and replacement cost of construction.

(B) With regard to machinery and equipment: the date of installation, replacement cost, and any history of extraordinary use.

(C) With regard to both improvements and machinery and equipment: facts relating to depreciation, including any functional or economic obsolenscene, and remaining economic life.

(b) TRANSMITTAL OF DATA TO OTHER PARTY. If the party requesting an exchange of data under the preceding subsection has submitted the data required therein within the specified time, the other party shall mail a response at least 10 days prior to the hearing. The response shall be supported with the same type of data required of the requesting party. When the assessor is the respondent, he shall mail his response to the address shown on the application for hearing.

(c) PROHIBITED EVIDENCE; NEW MATERIAL; CONTINUANCE. Whenever information has been exchanged pursuant to this section, the parties may introduce evidence only on matters so exchanged unless the other party consents to introduction of other evidence. However, at the hearing, each party may introduce new material relating to the information received from the other party. If a party introduces such new material at the hearing, the other party, upon request, shall be granted a continuance for a reasonable period of time.

History: Adopted May 6, 1970, effective June 6, 1970.
Amended May 5, 1971, effective June 10, 1971.
Amended June 13, 1974, effective June 14, 1974.

Authority: Section 15606, Government Code

Rule 311. Quorum and Vote Required.

Reference: Sections 1601, 1620, 1622.5, 1622.6, Revenue and Taxation Code.
Authority: Section 15606, Government Code

No hearing before the board shall be held unless a quorum consisting of a majority of the board is present. Except as otherwise provided in section 310, no decision, determination or order shall be made by the board by less than a majority vote of all the members of the board who have been in attendance throughout the hearing. ~~Only those members who have been in attendance thoughout the hearing may vote on the decision.~~ A hearing must be held before the full board if either party so demands. If a hearing takes place before a board consisting of an even number of members and they are unable to reach a majority decision, the application shall be reheard before the full board. In any case wherein the hearing takes place before less than the full board, the parties may stipulate that the absent member or members may read or otherwise familiarize himself or themselves with the record and participate in the vote on the decision.

Rule 316. EXAMINATION OF APPLICANT BY BOARD

Reference: Articles 1 and 1.5, Chapter 1, Part 3, Division 1, Revenue and Taxation Code.
Authority: Section 15606, Government Code

Except as hereinafter provided no reduction of an assessment shall be made unless the board examines, on oath, the applicant or his agent touching the value of the property, and the applicant or agent attends and answers all questions pertinent to the inquiry.

(a) In the event there is filed with the board a written stipulation, signed by the assessor and county legal advisor on behalf of the county and the person affected or the agent making the application, as to the ~~full cash value (fair market value)~~ taxable value

and assessed value of the property,

which stipulation sets forth the facts upon which the reduction in value is premised, the board may, at a public hearing,

(1) accept the stipulation, waive the appearance of the person affected or the agent and change the assessed value in accordance with Section 1610.8 of the Revenue and Taxation Code, or,

(2) reject the stipulation or set or reset the application for reduction for hearing.

(b) The board may in its discretion, waive the examination of the applicant or his agent if the board and the assessor are satisfied that the issues raised by the application and the facts pertaining thereto have been fully considered by the board in previous years or fully presented in the application, and if the applicant or his agent requests such waiver in his application. The board shall consult with the assessor and shall act promptly on any request for waiver and give written notice of its decision within ten days of the filing of the application. If the board waives the examination of the applicant or his agent, it shall decide the case on the merits of the application.

Rule 321. BURDEN OF PROOF

References: Section 167, Revenue and Taxation Code.
Articles 1 and 1.5, Chapter 1, Part 3, Division 1, Revenue and Taxation Code.

(a) The law presumes that the assessor has properly performed his duty and has assessed all properties fairly and upon an equal basis. The effect of this presumption is to impose upon the applicant the burden of proving that the property in question has not been correctly assessed. The law requires that the applicant proceed to present independent evidence relevant to the full value of the property. The assessor has the burden of establishing the basis for imposition of a penalty assessment. No greater relief may be granted than is justified by the evidence produced.

(b) An exception to (a) applies in any hearing involving the assessment of an owner-occupied single-family dwelling. In such instances the presumption in section 167 of the Revenue and Taxation Code affecting the burden of proof in favor of the taxpayer or assessee who has supplied all information to the assessor as required by law imposes upon the assessor the duty of rebutting the presumption by the submission of evidence supporting the assessment.

~~(c) In the case of a hearing arising under section 305.5, the burden of rebutting the presumption set forth in that section rests on the assessor.~~

Authority: Section 15606, Government Code

Rule No. 324. (Cal. Adm. Code) Decision

Reference: Articles 1 and 1.5, Chapter 1, Part 3, Division 1, Revenue and Taxation Code.

Authority: Section 15606, Government Code

(a) Acting upon the evidence properly before it the board shall determine the ~~full cash~~ taxable value* of the property which is the subject of the hearing, and shall designate the ratio to be applied thereto, which shall be the lowest of the ratios provided in section ~~1605~~ 1610.8 of the Revenue and Taxation Code. The determination of the ~~full cash~~ taxable value* shall be supported by the weight of the evidence at the hearing.

(b) When an applicant requests a reduction in the assessed value of a portion of an improved real property (e.g., land only or improvements only) or a portion of installations which are partly real property and partly personal property (e.g., only the improvement portion or only the personal property portion of machinery and equipment), whether the reduction is requested on grounds of valuation, on grounds of misclassification, or for any other cause, the board shall make a determination of the full cash value of the whole property and shall order a change in the assessed value of the part only if the assessed value of the whole requires equalization, or shall adjust the value of the parts so that each is equalized and the value of the whole property is accounted for.

(c) The board shall be bound by the same principles of evaluation that are legally applicable to the assessor.

(d) The board shall neither raise nor lower the entire local roll.

(e) When written findings of fact are made, they shall fairly disclose the board's findings on all material points raised in the application and at the hearing. The findings shall also include a statement of the method or methods of valuation used in determining the full cash value of the property, and shall be made timely after the hearing.

~~(f) A decision that changes the value to which a presumption had previously attached pursuant to section 305.5 to a value different from the assessor's latest finding of value as reflected by the assessment on the roll, or from that recommended, proposed, or stipulated to by the assessor for the year the decision is made, shall raise a new two-year presumption attaching to the value established by the decision.~~

~~(g) It is conclusively presumed that the ratio of the assessed value to the full cash value in the county is not more than 115 percent of the latest preliminary or final ratio determined by the State Board of Equalization pursuant to section 1815 of the Revenue and Taxation Code.~~

~~(h)~~ (f) When valuing a property by comparison with sales of other properties, the board shall consider only those sales which in its judgment are sufficiently near in time to the valuation date yet occurring no more than 90 days after the lien date, are located sufficiently near, and are sufficiently alike in respect to character, size, situation, usability, zoning or other legal restriction as to use to the property being valued, to make it clear that the properties sold and the property being valued are comparable in value and that the cash equivalent price realized for the properties sold may fairly be considered as shedding light on the value of the property being valued. Pursuant to section 402.1 of the Revenue and Taxation Code, the board shall presume that zoning or other legal restrictions on the use of either the properties sold

or the property being valued will not be removed or substantially modified in the predictable future unless sufficient grounds as set forth in that section are presented to the board to overcome that presumption.

~~*The term "full cash value" shall mean restricted value when the property being valued is subject to assessment pursuant to article XIII, section 8 of the California Constitution.~~

NOTICE OF PROPOSED REGULATORY ACTION

BY THE

STATE BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN that the State Board of Equalization, pursuant to the authority vested by Section 15606 of the Government Code, and to implement, interpret, or make specific Section 110.1 of Chapter 1, Part 1, Division 1 of the Revenue and Taxation Code, and Article XIII A, Sections 1 and 2, of the California Constitution, proposes to amend Regulations 460, General Application, and 460.1, 1975 Base Year Values, in Title 18 of the California Administrative Code, relating to property tax.

PUBLIC NOTICE: Notice is further given that a public hearing relevant to this action will be held in Room 102, Consumer Affairs Building, 1020 N Street, Sacramento, California, at 2:00 p.m., on July 27, 1982. Any person interested may present statements or arguments orally at that time and place.

INFORMATIVE DIGEST: Subdivision (b)(2)(B) is being amended to provide that counties of 4,000,000 population must determine the 1975-76 base year value,

under California Constitution, Article XIII A, prior to July 1, 1981. This amendment to the rule is being made to cause the rule to conform to the subsequent amendment to Revenue and Taxation Code Section 110.1 by AB 1489 (Stats. 1979, Ch. 1188).

Subdivision (e) of Rule 460.1 is being amended to cause the rule to be in conformity with the subsequently enacted revision to Revenue and Taxation Code Section 110.1 by the enactment of AB 1489 (Stats. 1979, Ch. 1188).

ESTIMATE OF COST OR SAVINGS: The State Board of Equalization has determined that the proposed change will result in no direct or indirect cost or savings to any State, local, or Federal agency, school district, nor in Federal funding to the State.

INQUIRIES: Inquiries concerning this matter may be directed to Janice Masterton, at (916) 445-6479.

WRITTEN COMMENTS: Written statements or arguments will be considered by the Board if received by July 27, 1982; written statements or arguments are requested by July 7, 1982.

STATEMENT OF REASONS; EXPRESS TERMS: The Board has prepared a statement of the purpose of the proposed action and the information relied upon in making the change, and a strikeout and underscore version (express terms) of the proposed changes, both of which are available to the public upon request.

STAFF MEMORANDA AFTER PUBLIC HEARING OR REVISIONS TO PUBLISHED VERSION OF THE REGULATION: In the event there are any staff memoranda included in the rule making file after the close of the public hearing these memoranda will be available to the public upon request from Mrs. Masterton for a period of 15 days after the public hearing.

In the event there are any revisions to the published version of the regulation, these revisions will be available to the public from Mrs. Masterton for a period of 15 days after the public hearing.

Following the hearing, the State Board of Equalization, upon its own motion, or at the instance of any interested person, may in accordance with law adopt the changes proposed without further notice.

Dated: May 24, 1982

STATE BOARD OF EQUALIZATION

D D Bell

Douglas D. Bell
Executive Secretary

Rule No. 460. (Cal. Adm. Code) GENERAL APPLICATION

Reference: Article XIII A, Sections 1 and 2, California Constitution.

Authority: Section 15606, Government Code

(c) Sections 1 and 2 of Article XIII A of the Constitution provide for a limitation on property taxes and a procedure for establishing the current taxable value of locally assessed real property by reference to a base year full cash value which is then modified annually to reflect the inflation rate not to exceed two percent per year.

(b) The following definitions govern the construction of the terms in the rules pertaining to Sections 1 and 2 of Article XIII A.

(1) BASE YEAR. The assessment year 1975-76 serves as the original base year. Thereafter, any assessment year in which real property, or a portion thereof, is purchased, is newly constructed, or changes ownership shall become the base year used in determining the full value for such real property, or a portion thereof.

(2) FULL CASH VALUE.

(A) The full cash value of real property means:

1. The "full cash value" as defined in Section 110.1 of the Revenue and Taxation Code, as of the lien date 1975 for properties with a 1975-76 base year, or

2. The "full cash value" as defined in Section 110 of the Revenue and Taxation Code as of the date such real property is purchased, is newly constructed, or changes ownership after the 1975 lien date, the full cash value of which shall be enrolled on the lien date next succeeding the date when such real property, or portion thereof, is purchased, is newly constructed, or changes ownership.

(B) If real property has not been appraised to its appropriate base year full cash value, then the assessor shall reappraise such property to its full cash value for the appropriate base year lien date. Such reappraisals may be at any time, notwithstanding the provisions of Section 405.6 of the Revenue and Taxation Code but 1975-76 base year values must be determined prior to July 1, 1980~~.~~ , except in counties of 4,000,000 population the values must be determined prior to July 1, 1981.

(3) RESTRICTED VALUE. Restricted value means a value standard other than full cash value prescribed by the Constitution or by statute authorized by the Constitution.

(4) FULL VALUE. Full value (appraised value) means either the full cash value or the restricted value.

(5) INFLATION RATE. For each lien date after the lien date in which the base year full value is determined, the full value of real property shall be modified to reflect the percentage change in cost of living, as defined in Section 2212 of the Revenue and Taxation Code; provided that such value shall not reflect an increase in excess of 2 percent of the taxable value of the preceding lien date.

(6) TAXABLE VALUE. Taxable value means the base year full value adjusted for any given lien date as required by law or the full cash value for the same lien date, whichever is less.

(7) PROPERTY TAX RATE. The property tax rate is the rate calculated in accordance with the ad valorem tax limitations prescribed by Section 1 of Article XIII A of the Constitution.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Amended January 25, 1979, effective March 1, 1979. Applicable to assessments for 1979 and years thereafter.
Amended August 16, 1979, effective August 22, 1979. Amended (b) (2) (A) 1 and 2. and (B), (b) (6), repealed (b) (7) and renumbered (b) (8) as (b) (7).

Rule No. 460.1. (Cal. Adm. Code) 1975 BASE YEAR VALUES.

Reference: Section 110.1, Revenue and Taxation Code ~~as amended by Chapter 19, Statutes 1974~~
Authority: Section 15606, Government Code

(a) For the 1978-79 fiscal year and years thereafter, the assessor shall determine base year value for property or portion thereof with a 1975 base year at the value appearing on the 1975-76 assessment roll when that value resulted from a "periodic appraisal" made for the 1975 lien date, whether or not the 1975-76 roll value differed from the 1974-75 assessment roll value.

(b) The value of a parcel of property shall be presumed to have been determined pursuant to a "periodic appraisal" for the 1975-76 fiscal year if the assessor's determination of the value for that year differed from the 1974-75 assessment roll value, but the assessor may rebut the presumption by evidence that notwithstanding such differences in value, the property was not "periodically appraised" for the 1975-76 fiscal year.

Value differences between the 1974-75 and 1975-76 assessment rolls resulting from such things as zoning changes, new construction, or interim adjustments not designed to equal 1975 general revaluation levels will not be considered as resulting from "periodic appraisals."

(c) For the 1978-79 fiscal year and years thereafter, any property or portion thereof whose 1975-76 value was determined as a result of an appeal filed in 1975 with a county board shall have that value as its 1975-76 base year value.

(d) The base year value of any property not appraised for the 1975 lien date or not determined as a result of an assessment appeal filed in 1975 shall be valued by the assessor using only those factors and indicia of fair market value actually utilized in "periodic appraisals" made for the 1975 lien date. Such values shall be consistent with the values established for comparable properties that were reappraised for the 1975 lien date.

(e) Determinations of value made pursuant to (d) of this section shall be made at any time until June 30, 1980, except in counties of 4,000,000 population the values must be determined prior to July 1, 1981,

and if made prior to June 30 of any year may be added to either the roll for the fiscal year in which the value determination is made or included with the assessments for the succeeding fiscal year.

No escape assessments may be made because of value increases to the 1975 base year that result from redetermination of values pursuant to this section, but decreases in such values shall be certified to the auditor by the assessor as corrections to the roll prepared for the 1978-79 fiscal year and fiscal years thereafter, as is appropriate.