

[Assembly Bill 2425](#) (Berman)

Date: Enrolled

Program: Property Taxes

Sponsor: California Assessors' Association

Revenue and Taxation Code Sections 408, 441, and 470

Effective: January 1, 2019

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Summary: Upon written request, requires an assessor to transmit information and records by mail, or in electronic format if available, within a reasonable time and provides that there will be no cost if that information is transmitted in electronic format except for any developmental or indirect costs to provide information that the assessor is not required to keep or prepare. Upon written request, requires a property owner to provide information or records to the assessor by mail or in electronic format, if available, within a reasonable time.

Fiscal Impact Summary: This bill would have no direct revenue impact.

Existing Law: Business Property Statements. Under existing property tax laws, an ad valorem tax is imposed every year on all assessable personal property used in a trade or business at its current fair market value. In making this annual assessment, taxpayers typically report the cost of their property holdings to the local county assessor on the "business property statement" as provided in Revenue and Taxation Code¹ section [441](#). The business property statement shows all taxable property, both real and personal, owned, claimed, possessed, controlled, or managed by the person filing the property statement.

When the aggregate cost of the taxable personal property is \$100,000 or more, the person is required to file a business property statement, signed under penalty of perjury, each year by April 1 with the assessor.² Property statements that are not filed by May 7, which would include those incomplete and not resubmitted by this deadline, are subject to a 10 percent penalty.³

Current law allows property statements to be filed electronically⁴ and provides that the required signed declaration that the contents of the statement are true and accurate can be authenticated by means other than a traditional signature.

Proposed Law: This bill would:

- Require an assessor to provide information, documents, or records to an assessee or the assessee's designated representative by mail, or in electronic format if those items are available in electronic format or have been previously digitized, within a reasonable time period at the request of the assessee or the assessee's designated representative. If such information is transmitted in electronic format, provides that the costs that may be recovered are developmental or indirect costs to provide information that an assessor is not required to keep or prepare. *Section 408(e)(1)(C)*

¹ All statutory references are to the Revenue and Taxation Code, unless otherwise provided.

² Section 441(b) and (i).

³ Section [463](#).

⁴ Sections 441(k) and [441.5](#).

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

- Require a property owner to provide information or records to the assessor by mail, or in electronic format if those documents are available in an electronic format or have been previously digitized, within a reasonable time period at the request of the assessor. *Sections 441(d)(2) and 470(b)*

In General: California's system of property taxation values property at its 1975 fair market value, with annual increases limited to the inflation rate, as measured by the California Consumer Price Index, or 2 percent, whichever is less, until the property changes ownership or is newly constructed. At the time of the ownership change or completion of new construction, the value of the property for property tax purposes is reassessed based on current market value (called the "base year value"). Thereafter, the base year value is subject to annual increases for inflation. This value is referred to as the "factored base year value." For any lien date, the taxable value of any real property is the lesser of the property's base year value or its full cash value.⁵

Assessors' Records. Under existing law, an assessee or his or her designated representative may inspect or copy information, documents, and records relating to the appraisal and the assessment of the assessee's property. An "assessee" is defined in section [23](#) as "the person to whom the property or a tax is assessed" and is understood to mean the current owner.

Costs. Any information and records in the assessor's office that are not required by law to be kept or prepared by the assessor are not public documents and not open to public inspection.⁶ If an assessor, upon request, provides information or records that the assessor is not required by law to prepare or keep, the county may require that a fee reasonably related to the actual cost of developing and providing that information be paid by the party receiving the information.⁷ The actual cost of providing the information is not limited to duplication or reproduction costs, but may include recovery of developmental and indirect costs, such as overhead, personnel, supply, material, office, storage, and computer costs.

Mandated Confidential Information. There are a number of laws that require certain information kept by an assessor's office to be kept confidential. Certain documents filed by taxpayers are statutorily required to be kept confidential. These are the property statement, the change in ownership statement, and the homeowners' exemption, parent-child exclusion, and certain base year value transfer claim forms which include social security numbers.⁸

Generally, the assessor is prohibited from disclosing any document related to the business affairs of another taxpayer. However, the assessor must disclose "market data" to a taxpayer if the assessor based the assessment of that taxpayer's property using comparable sales. In providing market data on comparable sales to a taxpayer, however, the assessor is still statutorily prohibited from displaying any document related to the business affairs or property of those taxpayers who own the properties used as comparable sales.⁹

Mandated Public Information. There are also a variety of laws that require that certain information kept by the assessor's office be open, public information: the assessment roll, which includes the assessed value, ownership, location of property, as well as a notation of which properties receive the

⁵ Section [51\(a\)](#).

⁶ Section [408\(a\)](#).

⁷ Section [409](#).

⁸ Sections [408.2](#), [451](#), and [481](#).

⁹ Sections [408](#), [408.1](#), and [408.2](#).

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homeowners' exemption,¹⁰ assessment maps,¹¹ a list of all transfers of property in the last two years,¹² and information maintained on property characteristics, including year built, square footage, number of bed and baths, property use codes, etc.¹³ In addition, welfare exemption claims are open to public inspection.¹⁴

Assessment appeals hearings before the assessment appeals board are statutorily required to be open to the public except that deliberations may be held in private. A taxpayer may request the appeals board to close a portion of the hearing if evidence is to be presented that relates to trade secrets which, if disclosed, would be detrimental to the business interests of the owner of the trade secrets.¹⁵

Business Personal Property. Personal property used in a trade or business is generally taxable and its cost must be reported annually to the assessor on the business property statement as provided in section 441. Personal property is not subject to the valuation limitations of Proposition 13. It is valued each lien date at current fair market value. However, it is not administratively possible to individually determine the fair market value of every item of personal property used by all of the businesses in California every year. Consequently, mass appraisal techniques are necessary to complete the annual reassessment process.

Business Personal Property Valuation Process. Generally, the valuation of personal property is based on the acquisition cost of the property. The acquisition cost is multiplied by a price index, an inflation trending factor based on the year of acquisition, to provide an estimate of its reproduction cost new. The reproduction cost new is then multiplied by a depreciation index, also called percent good tables, to provide an estimate of the depreciated reproduction cost of the property (reproduction cost new less depreciation). The reproduction cost new less depreciation value becomes the taxable value of the property for the fiscal year.

With respect to business personal property assessments, the Board annually publishes Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors*. This handbook contains several tables of equipment index factors, percent good, and valuation factors that aid in the mass appraisal of various types of personal property and fixtures as well as serve to promote statewide uniformity.

Business Property Statement. Section 441(a) requires that owner of taxable personal property who is not *required* to file a property statement "shall, upon request of the assessor, file a signed property statement." The property statement must list all taxable property owned, state the county and city where the property is located, and provide a detailed description of the property.¹⁶ The statement is required to be filed between January 1 and April 1.¹⁷ However, a penalty for late filing does not apply if the statement is filed by May 7. Additionally, property statements can be "amended" until May 31 to correct specified errors and omissions.¹⁸ Late statements are subject to a 10 percent penalty.¹⁹

¹⁰ Sections 408.2, [602](#), and [1602](#).

¹¹ Section [327](#).

¹² Section 408.1.

¹³ Section [408.3](#).

¹⁴ Section 408; *Gallagher v. Boller* (1964) 231 Cal.App.2d 482.

¹⁵ Section [1605.4](#).

¹⁶ See sections [442](#), [443](#), [445](#).

¹⁷ Section 441(b).

¹⁸ Section 441(i).

¹⁹ Section 463.

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Section 441(d) permits the assessor to request information from the assessee in addition to the property statement (called section 441(d) requests), and provides, in part:

At any time, as required by the assessor for assessment purposes, every person shall make available for examination information or records regarding his or her property or any other personal property located on premises he or she owns or controls. In this connection details of property acquisition transactions, construction and development costs, rental income, and other data relevant to the determination of an estimate of value are to be considered as information essential to the proper discharge of the assessor's duties.

Appeals. A reduction in an assessment may be requested if an assessee files an application for reduction in the assessment with the local assessment appeals board (AAB).²⁰ The assessee's application is then heard by the AAB, whose task it is to make a determination of value.²¹ Prior to the hearing, the parties are responsible for obtaining relevant evidence for presentation to the AAB.²² This process involves discovery, which may include exchanges of information between the assessee and the assessor.²³ Section [1606\(a\)\(2\)](#) and Property Tax Rule [305.1\(a\)](#) permit either party to, in specific circumstances, initiate an exchange of information with the other party by submitting certain information at least 30 days before the AAB hearing. In addition, assessors may also issue section 441(d) requests after assessees have submitted their applications for changed assessment, and prior to the equalization hearing.²⁴

Background: Senate Bill [2092](#) (Stats. 2002, Ch. 775, SR&T Committee) was enacted to provide specific authorization for assessors to accept business property statements filed electronically. Additionally, it addressed signature requirements by addressing authentication by means other than a traditional signature.

Commentary:

1. **Author's Comment.** Assembly Bill 2425 would modernize how an assessor may request and how a taxpayer may provide information needed for property tax assessments. Specifically, the bill would codify the existing practice of providing taxpayer information via mail, as well as via electronic format. The goal is to improve government efficiency and make this process more convenient for all parties.
2. **Summary of Amendments.** The **August 20, 2018** amendments (1) require the parties, upon written request, to transmit information, documents, or records by mail, or in electronic format if the information or records are available in electronic format or have been previously digitized; and (2) add double-jointed language for SB 1172. The **May 2, 2018** amendments apply the same standards for the transmission of records to both the assessor and a property owner and require each, upon request, to transmit information, records, and documents by mail or in electronic format, if available, within a reasonable time. The **March 19, 2018** amendments authorize the county assessor to require that information or records be provided to the assessor by mail or in an electronic format, if available.

²⁰ Section [1603\(a\)](#).

²¹ Section [1604](#).

²² [Assessment Appeals Manual](#) (May 2003), p. 36.

²³ *Bank of America v. County of Fresno* (1981) 127 Cal.App.3d 295, 305.

²⁴ *State Board of Equalization v. Cenicerros* (1998) 63 Cal.App.4th 122. Also, see Property Tax Annotation [180.0071.020](#).

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3. **Access to Assessor's Records.** Currently, upon request of an assessee, the assessor must allow the assessee or his or her designated representative to inspect or copy all information, documents, and records relating to the appraisal and assessment of the assessee's property. This bill adds the requirement that the assessor transmit the information, documents, and records by mail, or in electronic format if they are available in electronic format or have been previously digitized, within a reasonable time period. It appears the assessor would have a choice as to the method he or she will use to deliver the information requested: by mail or in electronic format. The language in the amended bill is not clear that if the assessee requests the information and records be delivered in electronic format and the information and records exist in electronic format, they must be provided in electronic format.
4. **Access to Assessee's Records.** Currently, upon request of an assessor, a property owner is required to make property or business records available at the principal place of business, location, or address in California, or at a place mutually agreeable to the assessor and the owner.²⁵ This bill adds the requirement in sections 441 and 470 that the information or records be provided to the assessor by mail, or in electronic format if they are available in electronic format or have been previously digitized, within a reasonable time period. Similarly, it appears that the assessee would have a choice as to the method he or she will use to deliver the information requested: by mail or in electronic format. The language in the amended bill is not clear that if the assessor requests the information and records be delivered in electronic format and the information and records exist in electronic format, they must be provided in electronic format.
5. **Electronic Format.** The bill requires that, upon written request, the information, records, and documents requested must be transmitted by mail, or in electronic format if the information, documents, or records are available in electronic format or have been previously digitized. The term "previously digitized" is confusing. Does this phrase mean that if, at one time, the records existed in electronic format, or were digitized (if there's a difference) and no longer exist in that format, the party being asked for the records needs to produce them in that format? The difference between what is meant by "electronic format" and "digitized" is unclear.
6. **Reasonable Time Period.** This bill requires that either the assessor or the assessee must provide requested information within a reasonable time period. "Reasonable time period" is not defined. An assessor and an assessee may have different interpretations as to what would be considered a "reasonable" time period.
7. **Costs.** Current law allows a county to charge a fee if the assessor provides information or records that the assessor is not required by law to prepare or keep. This bill provides that if an assessor transmits the information, documents, or records in electronic format, the only costs that may be recovered are any developmental or indirect costs to provide information that an assessor is not required to keep or prepare.
8. **Related Legislation.** [Senate Bill 1172](#) (Galgiani) proposes to amend section 408 to allow the High-Speed Rail Authority to obtain or access otherwise confidential information held by the county assessor.

²⁵ Section [470](#).

Costs: The State Board of Equalization would incur some minor absorbable costs in informing local county assessors, the public, and staff of the law changes.

Revenue Impact: This bill would have no direct revenue impact.