STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

Date Amended:	**Chapter 228**	Bill No:	**AB 384**
Tax:	**Property**	Author:	**Ma**
Related Bills:	**AB 311 (Ma)**		

BILL SUMMARY

This bill extends the application of the following provisions of law related to commercial air carriers for 5 more fiscal years:

- Streamlined property tax administrative procedures for use in the assessment of property owned by commercial air carriers using a centralized approach whereby each air carrier files a single consolidated property statement with one designated "lead" county for all of its property subject to assessment in California. *§441 and §1153.5*
- The assessment methodology to follow in determining the annual fair market value of certificated aircraft owned by commercial air carriers. *§401.17*

In addition, with respect to the fair market value of any particular aircraft, this bill provides that the value determined using the prescribed methodology:

- Benefits from a rebuttable presumption of correctness and outlines types of evidence that may be used to rebut the presumption.
- Any individual aircraft that is still assessed to the original owner can not exceed its original cost from the manufacturer.

ANALYSIS

CURRENT LAW

Certificated Aircraft - Fleet Valuation Methodology. Revenue and Taxation Code Section 401.17 outlines the methodology for determining the annual fair market value of certificated aircraft for property tax purposes. The value is based upon the lesser of (1) a historical cost basis, as specified, or (2) prices listed in the *Airliner Price Guide*, a commercially-prepared value guide for aircraft, with certain specified adjustments. Currently, the law provides that the fair market value of aircraft so determined "is" or "shall be" the value of the aircraft for property tax purposes. These provisions are scheduled to sunset after the 2010-11 fiscal year. *§401.17*

Consolidated Property Statement - Centralized Reporting. Revenue and Taxation Code Section 441(m) provides that commercial air carriers operating in multiple airport locations in California may file a single consolidated property statement with a designated "lead" county. The property statement details property holdings, acquisition costs, and flight and ground data which serve as the basis for determining property tax assessed values for the upcoming year. These provisions are scheduled to be repealed on December 31, 2010. *§441*

Centralized Administrative System: The Centralized Fleet Calculation Program. Revenue and Taxation Code Section 1153.5 outlines the process for selecting the lead county for each commercial air carrier and notifying the air carrier of the responsible lead county to which it is to file its consolidated property statement pursuant to Section

441(m). The lead county responsible for a particular air carrier calculates the total fleet value of the carrier's certificated aircraft for each make, model, and series as specified by Section 401.17. The fleet value and other information are then transmitted to the other counties and each individual county determines its allocated portion of the fleet based on the flight data for its particular county to complete the assessment process. The lead county is also responsible for transmitting property statement information for non-aircraft personal property and fixtures to the relevant county and leading the audit team responsible for any audit of the commercial air carrier. These provisions are scheduled to be repealed on December 31, 2010. *§1153.5*

PROPOSED LAW

Sunset Date Extension. This bill would extend the fiscal year to which these provisions apply to the 2015-16 fiscal year and extend the repeal date provisions to December 31, 2015.

In addition, this bill makes the following changes to Section 401.17:

- **Rebuttable Presumption of Correctness.** Expressly provides that the fair market value of certificated aircraft determined using the specified assessment methodology only enjoys a rebuttable presumption of correctness. *§401.17(a) and (b)*
- **Evidence for Rebutting Presumption.** Specifies that the preallocated fair market value of an aircraft produced using the delineated methodology may be rebutted by evidence including, but not limited to, appraisals, invoices, and expert testimony. *§401.17(a)*
- **Original Cost - Maximum Value for Original Owner.** Provides that the value of an individual aircraft assessed to the original owner of that aircraft is not to exceed its original cost from the manufacturer. *§401.17(a)*
- **Effective Date.** Provides that the above amendments apply with respect to the lien dates occurring on and after January 1, 2011. *§401.17(f)*

IN GENERAL

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 Revenue and Taxation Code 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.

Certificated Aircraft. Certificated aircraft used by air carriers is subject to taxation when in revenue service in California. Generally, certificated aircraft are commercial aircraft operated by air carriers for passenger or freight service. Certificated aircraft are valued for purposes of property taxation under a "fleet" concept. This means that the basis of the assessed value is not the value of any single aircraft owned by an air carrier, but rather the value of ***all*** aircraft of each particular fleet type[1] (i.e., all aircraft owned of an identical make and model regardless of age) that is flown into the state. Aircraft fly in and out of the state; no single or particular aircraft remains located in the state on a permanent basis. Under the "fleet" concept, the types of aircraft that have gained situs in California by their entry into revenue service are valued as a fleet and

[1] Types are grouped by make and model. For example, Boeing 737-300s and 737-500s; Boeing 747-400s; Airbus A300-F4-600S; and McDonnnel Douglas DC 10-30s.

then only an allocated portion of the entire value of the fleet is ultimately taxed to reflect actual presence in California.

The Fleet Concept - Example. An individual air carrier, Blue Sky Airlines, for example, may operate the following types of aircraft in its overall fleet: Boeing 737-300s and 737-500s; Boeing 747-400s; and Boeing 767-200s and 767-300s. Each of these types of aircraft is considered to be a fleet type. Thus, Blue Sky Airlines may have a fleet of 100 Boeing 737-500s, but only 30 of those aircraft may actually make contact in Sacramento County during the year. For purposes of property taxation in Sacramento County, the full cash value of all 100 of Blue Sky Airline's Boeing 737-500 aircraft is determined and the computed allocation ratio is applied to that value.

Valuation and Apportionment. Section 401.17 details the assessment methodology for determining the market value of certificated aircraft owned by commercial air carriers to be used for the 2005-06 to 2010-11 fiscal years. (Section 401.15 details the methodology that was used for the 1997-98 to 2003-04 fiscal years.) Section 1152 provides an allocation formula to determine the frequency and the amount of time that an air carrier's aircraft makes contact and maintains situs within a county. Property Tax Rule 202, subdivision (c) provides further details in the allocation procedure. An allocation ratio is made up of two components: a ground and flight time factor, which accounts for 75% of the ratio, and an arrivals-and-departures factor, which accounts for 25% of the ratio. The sum of these two factors yields the allocation ratio, which is applied to the full cash value of a fleet of a particular type of aircraft operated by an air carrier and, thus, the calculation of the assessed value for that type of aircraft. The sum of the assessed allocated values for each make and model used by an air carrier results in the total assessed value of the aircraft for that air carrier for a particular county.

BACKGROUND

Settlement Agreement (1998). Prior to January 1, 1999, California law did not provide any specific assessment methodology procedure for valuing certificated aircraft or for valuing the carrier's taxable possessory interest in the publicly owned airport in which they operated. In 1997-98, a group of counties and air carrier industry representatives met to resolve issues related to the taxation of property owned and used by air carriers, which resulted in a written settlement agreement to dispose of outstanding litigation and appeals over the valuation of taxable possessory interest assessments in airports and the valuation of certificated aircraft. The settlement agreement was codified in a three-piece legislative package:

AB 1807 (Stats. 1998, Ch. 86; Takasugi):

- outlined the valuation procedures for certificated aircraft for a six year period,
- included the monetary portion of the settlement agreement, and
- included extensive uncodified legislative findings and declarations.

AB 2318 (Stats. 1998, Ch. 85; Knox) specified the assessment methodology for valuing the air carrier’s taxable possessory interest in publicly owned airports.

SB 30 (Stats. 1998, Ch. 87; Kopp) allowed counties and taxpayers to enter into written settlement agreements granting taxpayers tax credits.

Centralized Assessment Procedures (2005). Beginning in 2006, **AB 964** (Stats. 2005, Ch. 699; J. Horton) established the current centralized assessment procedure for certificated aircraft. The 2005 legislation refined and built upon the valuation methodology first established by the 1998 Settlement Agreement. Specifically, it recognized the need to distinguish between different types of aircraft: passenger aircraft (main-line jets or regional jets) and freighter aircraft (production or converted). In addition, it recognized the need to detail the specific calculation of the variable components that was previously lacking. To calculate a reproduction cost new less depreciation value indicator (i.e., the historical cost basis) each variable component was addressed; specifically: (1) acquisition cost, (2) price index, (3) percent good factor, and (4) economic obsolescence. With respect to using the *Airliner Price Guide*, a "blue book" value guide for aircraft, the use of values referenced in that guide was specifically delineated and recognized that air carriers generally receive a fleet discount that is not reflected in prices listed in the guide. The 2005 legislation also improved the methodology to better reflect economic obsolescence by establishing detailed procedures in determining adjustments for economic obsolescence to better capture significant changes in market values due to severe changes in the industry's economic condition.

Other Centralized Assessment Attempts. As introduced, **AB 964** initially proposed transferring assessment responsibility from the local county assessor to the Board. Similar provisions had previously been proposed in 2003, **by SB 593 (**Ackerman), which was held in the Senate Appropriations Committee. The **California Performance Review Report** had recommended in its 2004 report to the Governor that the Board assess aircraft owned by commercial airlines to address inefficiencies which have since been corrected by 2005's AB 964.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the California Assessors' Association (CAA). According to the sponsor, its purpose is to extend the sunset date related to these provisions of law to ensure continued uniform statewide assessment of certificated aircraft. The sponsors further state that the centralized assessment procedures have proven to be a success, resulting in administrative efficiencies for both the air carriers and the counties.

2. **Amendments.** The **May 5, 2010** amendments (1) specified the types of evidence that could be used to rebut the presumption that the aircraft values determined using the prescribed methodology is indicative of its actual fair market value and (2) provided that the value of any individual aircraft, that is still assessed to the original owner of that aircraft, shall not exceed its original cost from the manufacturer. These amendments were made to address concerns raised by one airline carrier.

3. **Rebuttable Presumption of Correctness.** This bill expressly provides that the annual fair market value determined using the codified methodology only enjoy a rebuttable presumption of correctness. Thus, either the assessor or the air carriers could rebut the presumption. If the assessor valued the aircraft using a different methodology, then the assessor would not have any presumption of correctness before the appeals board should the air carrier appeal the assessment. And, if the assessor did value the aircraft using the methodology, and the taxpayer appealed those assessments, the taxpayer would have to produce sufficient evidence to the appeals board to overcome the presumption of correctness.

4. **A codified valuation methodology for certificated aircraft**. Prior to 1998, the valuation of aircraft had been a contentious area. Codifying the valuation methodology has reduced these conflicts. This bill will provide certainty and

predictability in the valuation of aircraft for both assessors and commercial air carriers. Absent a codified methodology, there is no guarantee that the values determined by each individual county assessor would be the same, higher, or lower than they would be without this bill.

5. **Centralized calculation of the fleet value by a lead county ensures statewide consistency in the base valuation of the fleet.** Prior to the institution of the 2005 centralized assessment procedures, some air carriers charged that even though all of the counties were using the same codified assessment methodology, the fleet value calculated by various counties continued to differ. Counties countered that the value discrepancies could be traced to differences in the information reported by the air carriers to the different counties or differences that were subsequently discovered via an audit of the carrier by one county's individual audit. The existing procedures ensure a uniform statewide assessment by designating a lead county to calculate the fleet value and further ensure that all counties receive the same information since the air carriers report all information to a single county which is then distributed. Therefore, current law eliminates any reporting discrepancies from one county to another and achieves the goal of statewide uniform assessed values for aircraft.

6. **The central assessment of aircraft results in administrative efficiencies for both commercial air carriers and counties.** Prior to 2006, air carriers submitted duplicative information about their fleet of aircraft to every county for every location in which they operated. The one-stop reporting procedures have reduced the carriers' administrative reporting burdens.

7. **Related Legislation.** AB 311 (Ma) contained provisions nearly identical to this bill. AB 384 primarily differs from AB 311 in that it includes the rebuttable presumption of correctness and includes a value cap on certain aircraft with respect to original owners. The Governor vetoed AB 311 noting that there was still one more year before the provisions expired and that, in that time, full consensus with the airlines should be sought since one airline had been opposed to AB 311.

COST ESTIMATE

This bill would not result in any costs to the Board.

REVENUE ESTIMATE

Certificated aircraft are personal property, and, therefore, are not subject to the value restrictions of Proposition 13. They are to be assessed each year at fair market value. There is no revenue impact from this bill, as the existing valuation methodology, which this bill seeks to make permanent, is a reasonable method to determine fair market value of certificated aircraft.

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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 Board's formal position.