STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	**2/22/07**	Bill No:	**AB 843**
Tax:	**Property**	Author:	**Eng**
Related Bills:			

BILL SUMMARY

This bill:

- Removes the specific detail of the preliminary change of ownership report from statute and instead authorizes the Board to prescribe the form after consultation with the California Assessors' Association. *§480.4*
- Increases the maximum penalty cap from $2,500 to $10,000 for failure to file a change in ownership statement after a written request has been made for any property (other than a property eligible for the homeowners' exemption, which continues to be subject to the maximum penalty of $2,500) with an assessed value exceeding $2.5 million. *§480 and §482*

ANALYSIS

CURRENT LAW

Change in Ownership. Under existing property tax law, real property is reassessed to its current fair market value only when there is a "change in ownership." (Article XIIIA, Sec. 2; Revenue and Taxation Code Sections 60-69.5)

Change in Ownership Statement. Revenue and Taxation Code Section 480 requires that whenever there is a change in ownership of real property, the property owner must file a "Change in Ownership Statement" (COS). However, there is no penalty for failing to file the statement unless the assessor prompts the property owner to file the statement by making a written request. If requested, then the taxpayer has 45 days to file the COS or otherwise incur penalties as specified.

Penalty Only After Written Request. Generally, the penalty for failing to timely file a COS after a written request is 10 percent of the taxes applicable to the new base year value reflecting the change in ownership, but not to exceed $2,500 provided the failure to file the statement is not willful. Thus, at the basic 1 percent tax rate, the maximum penalty threshold of $2,500 applies to any property with a new base year value in excess of $2.5 million.

In actual practice, many persons file a "Preliminary Change in Ownership Report" (PCOR) rather than a "Change in Ownership Statement." The two forms are nearly identical. And, as noted below, if a PCOR is filed at the time a deed is recorded, an extra fee of $20 is avoided. The COS and/or PCOR provide the assessor with information necessary to value the property for tax purposes, such as details about the purchase price and the terms of the sale. It also assists in determining whether the transfer of property might be eligible for one of the many change in ownership exclusions that would avoid the need to reassess the property. Both the COS and the PCOR are confidential documents pursuant to Section 481.

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.

Although not specifically provided in statute, when a property owner files a PCOR, this form will typically satisfy the COS reporting requirement of Section 480, provided the information on the PCOR is complete. Thus, in many cases, when a PCOR is filed concurrently with the recording of a deed, the assessor will not subsequently make a request for a COS under Section 480. However, Section 480.3(d) provides that the authority to obtain information under this provision is in addition to, and not in lieu of, any existing authority the assessor has under Article 3.5 “Change in Ownership Reporting.”

Preliminary Change in Ownership Report. Section 480.3 requires the transferee of real property to complete and file a PCOR when any document effecting a change in ownership, such as a grant deed, is submitted to the county recorder for recordation. If a PCOR is not concurrently filed, the document may still be recorded, but an additional recording fee of $20 is charged.

Section 480.4 provides that the PCOR will be substantially in a particular form, as detailed, and provides that the Board may revise the form as necessary for purposes of maintaining statewide uniformity.

If a taxpayer does not file a PCOR, or files an incomplete PCOR, the assessor may subsequently request that the taxpayer file a COS pursuant to Section 480.

PROPOSED LAW

Change in Ownership Statement. This bill would amend Section 480 to increase the maximum penalty cap from $2,500 to $10,000 for not filing a COS after a written request is made under Section 480, except for properties eligible for the homeowners' exemption, which continue to be subject to a maximum penalty cap of $2,500. In practical application, this would increase the penalty amount on any property with a new base year value in excess of $2.5 million.

Preliminary Change in Ownership Report. This bill would amend Section 480.4 to delete the specific content of the PCOR from the statute and instead provide that the Board prescribe the form, after consultation with the California Assessors’ Association, consistent with the provisions for most other Board-prescribed forms.

BACKGROUND

Property Tax System. California's system of property taxation under Article XIII A of the California Constitution (Proposition 13) 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 new construction, the value of the property for property tax purposes is redetermined based on current market value. The value initially established, or redetermined where appropriate, is referred to as 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."

Board Prescribed Forms. Government Code Section 15606, subdivision (d), provides that the Board of Equalization shall:

"Prescribe and enforce the use of all forms for the assessment of property for taxation, including forms to be used for the application for reduction in assessment."

In addition to Government Code Section 15606, the Legislature has enacted numerous statutes mandating forms for use in particular property tax programs and has specified that the Board shall prescribe the content of the forms after consultation with interested parties. Both the forms prescribed pursuant to Section 15606 and the forms prescribed pursuant to specific statutes are referred to as Board-prescribed forms. Each year, Board staff reviews and approves all Board-prescribed forms that each county will use in the following year.

Guide to Change in Ownership Reporting Statutes

Revenue & Taxation Code Section	**Subject** *Click on link to view sample forms*
480	Change In Ownership Statement (COS)
480.1	BOE Change In Ownership Statement - Transfers of Legal Entity Interests • Legal Entity Ownership Program (LEOP): • Change In Control under §64(d)
480.2	BOE Change In Ownership Statement – Transfers of Legal Entity Interests • Legal Entity Ownership Program (LEOP) • Change In Ownership under §64(c)
480.3	Preliminary Change in Ownership Report (PCOR)
480.4	Preliminary Change in Ownership Report – Detail of Form
481	COS and PCOR – Confidentiality
482	Failure to File Penalties (§§480, 480.1, and 480.2)
483	Failure to File Penalties – Penalty Abatement

COMMENTS

1. **Sponsor and Purpose.** The Board of Equalization is sponsoring this bill so that modifications and improvements to the PCOR can be made without the necessity of seeking legislation. In addition, increasing the penalty cap is intended to provide an incentive for property owners to respond to an assessors' written request to file the statement. Assessors have had some difficulty obtaining information from property owners that is necessary to process changes in ownership, causing assessors to expend their limited resources in tracking down the necessary information.

2. **The Penalty Cap of $2,500 has not been increased in 25 Years.** The cap has remained unchanged since its implementation in 1981.

3. **For some taxpayers the current maximum penalty is insignificant in comparison to the property taxes due on the property and, therefore, does not serve as an effective incentive.** Existing law requires property to be reappraised at current, full market value for property tax purposes whenever it changes ownership, and when such a change occurs, the law requires the owner to file a

COS. However, the law *does not* impose a penalty for failure to file the statement unless and until the assessor makes a written request and the owner subsequently fails to file the statement within 45 days. When the statement is not filed, assessors must spend a significant amount of additional time and resources in pursuit of the information necessary to properly revalue the property.

4. **The increased penalty only applies to properties worth more than $2.5 million and homeowners are protected from any impact.** In practical application, this bill only applies to properties with an assessed value of more than $2.5 million and homeowners are excluded from any increased penalty regardless of the home's value.

5. **The penalty only applies after a formal written request has been made and ignored.** The 45 day period runs from the date the written request is made, not the actual date of the change in ownership. It can take months and sometimes years, in the case where a deed was not recorded, for the assessor to uncover an unreported change in ownership and thus mail the COS.

6. **Property owners can avoid these penalties by voluntarily filing a PCOR.** The PCOR is filed at the time the deed for change in ownership is recorded. This "preliminary" report generally satisfies the requirement for filing the COS, as it requests identical information to that requested on the COS. Thus, filing the PCOR saves taxpayers and assessors money. For taxpayers, filing the PCOR avoids the extra recording fee surcharge when the transfer document, typically a deed, is recorded. When a PCOR is not concurrently filed, then the assessor must mail a COS and the failure to return the COS within the prescribed time period puts the taxpayer at risk of penalties.

7. **This bill does not apply to change in ownership statements sent by the Board of Equalization to legal entities.** The Board's Legal Entity Ownership Program (LEOP) sends legal entities change in ownership statements under different sections of law (See 480.1 and 480.2). These statements are called "Statement of Change in Control and Ownership of Legal Entities." With respect to these statements, there is no penalty cap for failure to timely file the statement with the Board of Equalization after a written request. Instead, the penalty is a flat 10% of the assessed value (See Section 482(b)).

8. **Taking the PCOR form out of Statute.** The form would be more timely and it would be more cost effective to allow the Board to prescribe the details of the form as changes are needed to reflect new laws and make user-friendly improvements to meet the needs of assessors, taxpayers, and the Board. In a recent Board survey on change in ownership issues facing assessors, a variety of improvements to make the PCOR more user-friendly were suggested. Keeping the form in statute makes these changes difficult to implement because both the PCOR and the COS should request the same information for consistency.

   While the COS is prescribed by the Board its specific form is not detailed in statute (See Section 480(c)). In addition, the Board prescribes many forms for use for property tax purposes.

9. **Related Legislation.** This bill is similar to last year's AB 926 (Chu) which the Governor vetoed. In the veto message, the Governor noted that an increase in the penalty is reasonable but that he was concerned that more work needed to be done

to ensure that the statements are appropriately delivered and received by the property owner prior to levying any penalty for failure to respond. To that end, the Board is currently working with interested parties to identify any deficiencies in the delivery of the statements and will make amendments to the bill to resolve this issue.

10. **Tenant Improvements – Legislative Intent.** This bill contains legislative intent language to improve the administration of assessments made for leasehold improvements (leasehold improvements). In the course of discussion of last year's AB 926, some business property owners indicated that certain property tax bills for new construction related to renovations for new tenants of commercial properties are not timely. As a result, in some instances, the building owners have been able to recoup the resulting increased taxes from these improvements from the new tenants that move into the quarters but then shortly thereafter go out of business. The Board is working with assessors and building owners to discuss this issue and the legislative intent language is a placeholder in the event an amenable solution is found.

COST ESTIMATE

This bill would not result in any additional costs.

REVENUE ESTIMATE

This bill has no direct revenue impact. However, it is possible that more penalty monies would be collected, for a limited class of properties, but only after a failure to timely respond.

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