



**STATE BOARD OF EQUALIZATION  
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date Amended:	<b>05/04/2009</b>	Bill No:	<a href="#"><u>AB 852</u></a>
Tax:	<b>Property</b>	Author:	<b>Fong</b>
Related Bills:	<b>AB 311 (Ma)</b>	Position:	<b>Support</b>

**BILL SUMMARY**

This bill would:

- Allow assessors to require electronic filing of annual business property statements as specified.
- Allow assessors to reject business property statements that are not in the requested format.
- Require the Board to adopt, and taxpayers to use, standard equipment codes when completing the business property statement.

**SUMMARY OF AMENDMENTS**

The amendments since the last analysis with respect to mandatory electronic filing (1) establish a minimum value threshold, (2) require written notification to taxpayers, and (3) allow a one year grace period. Related to equipment codes, the amendments include taxpayers’ input in the code adoption process.

**ANALYSIS**

**CURRENT 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 Code 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 May 7<sup>th</sup> with the assessor.

Related to this bill:

- Section 452 requires the Board to prescribe the content and detail of the business property statement.
- Sections 441 and 441.5 provide express authority for filing property statements electronically. They also allow the required signed declaration that the contents of the statement are true and accurate to be authenticated by means other than a traditional signature.
- Section 445 requires property owners to describe property on the property statement in the detail required.

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Property statements that are not filed timely, which would include those rejected and not resubmitted by the filing deadline, are subject to an additional 10% penalty pursuant to Section 463.

**Equipment Category Codes.** Government Code Section 15606(e) requires the Board to “[p]repare and issue instruction to assessors designed to promote uniformity throughout the state and its local taxing jurisdictions in the assessment of property for the purposes of taxation.”

In addition, Revenue and Taxation Code Section 401.5 requires the Board to issue data to assessors relating to the costs of property and other information that will promote uniformity in appraisal practices and in assessed values throughout the state.

The Board complies with these requirements, in part, by issuing various Assessors’ Handbooks. With respect to business personal property assessments, the Board annually publishes Assessors’ Handbook Section 581, *Equipment Index and Percent Good Factors* (AH 581).

The Board does not currently issue assessors and taxpayers a standard list of equipment category codes. However, for purposes of the Assessors’ Standard Data Record (SDR) network system, there is a list of 187 separate category descriptions. The list currently contains 187 separate category descriptions. Each category description has a code that serves to identify the nature and use of equipment the taxpayer uses in conducting its business. For instance, small bakeries have a code of “C0901” and Breweries have a code of “I0502.” But not all counties nor do all taxpayers use the same code descriptions in their internal data processing systems. The following is a link to these codes for the SDR system.  
<https://www.calbpsfile.org/sdr/public/SDREquipmentList.aspx>

#### PROPOSED LAW

This bill would amend Revenue and Taxation Code Section 441, related to the annual business property statement that must be filed with the local county assessor, to do the following:

**Mandatory E-filing.** Authorize the county assessor to require that business property statements be filed using electronic media. §441(k)

- **Value Threshold.** Limit mandatory electronic filing to those taxpayers with an assessed value of at least \$100,000 in the prior year. §441(k)(1)
- **Written Notification.** Require a written notification to any taxpayer required to file electronically. §441(k)(2)
- **Grace Period.** Provide a one year grace period to commence filing. §441(k)(3)(A)
- **Filing During the Grace Period.** Expressly provide that a taxpayer must continue to make a “paper filing” during the grace period. §441(k)(3)(B)

**Board Prescribed.** Require the Board to prescribe the forms and methods of electronic filing. §441(k)

**Rejecting Statements.** Authorize the county assessor to refuse to accept any property tax statement that is not in the requested format. §441(g)

**Equipment Category Codes.** Require the Board, in consultation with the California Assessors' Association and taxpayers, to adopt equipment category codes by January 1, 2011. Require taxpayers filing a business property statement with the assessor after January 1, 2012, to use the equipment category codes adopted by the Board. §441(n)(1) and (2)

#### 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 a business property statement, as provided by Revenue and Taxation Code Section 441.

Personal property is not subject to the valuation limitations of Proposition 13. Personal property 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.

**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 Index and Percent Good 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.

**Deadlines and Penalties.** The statement is required to be filed between January 1 and April 1. 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. Late statements are subject to a 10% penalty.

#### BACKGROUND

SB 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.

**SDR Application.** Assessors formed a Joint Powers Agreement to create the Standard Data Record (SDR) application. More than 40 counties currently participate in the program.

The SDR system is designed to simplify the process of filing annual property statements for businesses that have multiple locations in one or more California counties. The SDR system only accepts Business Property Statements that are filed electronically in the approved XML file format. Programming and/or software are required to create SDR files. The level of effort/investment may not be practical for businesses that are filing for a single location. The following is a link to the SDR website.  
<https://www.calbpsfile.org/sdr/default.aspx>

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**Other E-filing Methods.** Some counties also have basic e-filing of business property statement via the Internet that does not require any special data format. This sort of e-filing is generally designed for small and medium business owners.

## COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the California Assessors' Association (CAA). According to the sponsor, its purpose is to reduce errors and costs associated with paper filings by transitioning more taxpayers to e-filing. With respect to the issue of requiring the Board to adopt equipment category codes, the sponsor indicates that the lack of uniformity in codes used by assessors and taxpayers in their electronic processing system is preventing some businesses from transitioning to the SDR network.
2. **Amendments.** The **May 4, 2009** amendments require taxpayers to receive written notification that they are required to electronically file. The **April 23, 2009** amendments (1) deleted express reference to the SDR network, (2) required the Board to prescribe the form and method of electronic filing; (3) established a \$100,000 threshold, and (4) allow a one year grace period.
3. **A penalty would apply if a taxpayer fails to use the "requested format" and the statement is refused by the assessor.** Presumably, a property statement that is refused and not resubmitted by the final filing deadline would be subject to a 10% penalty.
4. **According to the sponsor this bill is not intended to require the Board to set economic lives and minimum percent goods for each equipment category code.** Given that the current codes for the SDR network expressly address these two items for each category code listed, there could have been an implication that this bill also requires the Board to address these more substantive rather than ministerial duties. The sponsor has indicated that the Board's expected duties pursuant to this requirement do not extend to setting economic lives and minimum percent goods for each category for which a code is set.
5. **Suggested Amendments.** The language relating to "electronic media" and "authentication" was added to the law when electronically filed business property statements were just emerging. This language was intended to address the issue of the wet signature requirement associated with the necessary declaration under the penalty of perjury that the contents therein are true and correct. Since the language and definition of "electronic media" is no longer relevant in the context of the revised subdivision, it appears that this section should instead refer to the act of "electronic filing." In addition, the Board already "prescribes" the form of the business property statement. Thus, to promote statewide consistency in any various or future "forms" or "methods" of e-filing, the Board's role should be limited to "approving" rather than "prescribing" the e-filing systems created by assessors. Thus, to be clear, the board would not be creating any systems itself. In view of the above comments, the following amendments are suggested for technical precision.

(k) ~~Pursuant to this section, the~~ The assessor may require the ~~filing of a~~ property statement required by this section to be filed electronically. ~~by the use of electronic media.~~ Property statements filed electronically shall be filed ~~and authenticated~~ in a form and pursuant to methods, ~~including electronic media,~~ as may be ~~prescribed~~ specified by the assessor and approved by the board.

(1) This subdivision shall only apply to taxpayers with properties with an assessed value of at least one hundred thousand dollars (\$100,000) in the prior year.

(2) If an assessor requires the electronic filing of a property statement ~~by the use of electronic media~~ pursuant to this subdivision, the assessor shall notify the taxpayer, in writing, of the requirement ~~to file electronically pursuant to this subdivision.~~

(3) (A) For the first year in which an assessor requires a taxpayer to file electronically pursuant to this subdivision, the taxpayer may, for that one year, comply with all existing filing requirements and deadlines with paper filings. After that first year, and in all subsequent years, the taxpayer shall file electronically pursuant to this subdivision.

(B) The one year period to comply with all existing filing requirements and deadlines with paper filings authorized pursuant to subparagraph (A) shall begin on the date the notification required by paragraph (2) is sent to the taxpayer. *(This subparagraph needs clarification – does it mean to read “The one year period to comply with electronic filing...shall begin on” or perhaps some words are missing from the sentence. )*

(4) In lieu of the signature required by subdivision (a) and the declaration under penalty of perjury required by subdivision (b), property statements filed electronically ~~using electronic media~~ shall be authenticated pursuant to methods specified by the assessor and approved by the board.

~~(5) For purposes of this subdivision, electronic media includes, but is not limited to, computer modem, magnetic media, optical disk, and facsimile machine.~~

6. **Is there a need to preserve the definition of “electronic media” elsewhere in this section for alternative delivery methods of a traditional business property statement using an electronic or digital format?** The previous comment suggested that the term “electronically filed” be substituted for “electronic media.” However it is not clear if that proposed change would inadvertently impact current methods of providing information using “electronic media” that are not considered “electronic filings” such as (1) a business property statement in a pdf file that is e-mailed to the assessor, (2) a business property statement that is faxed, (3) a business property statement that is on a computer disk and mailed or (4) a signed business property statement that is mailed with attachments on a computer disk. If so, additional amendments could be made to reflect existing administrative needs and current taxpayer practices.

7. **Equipment category “codes” are not required on hard copy property statements.** Appropriate revisions and clarifications should be made as there is an implication that all property statements have codes that taxpayers must use, which could create confusion. Should these requirements be limited to property statements that are electronically filed? Further, are these codes intended to be used for those taxpayers that only use the SDR system? If so, the following amendment may address these issues:

(n) (1) On or before January 1, 2011, the State Board of Equalization, in consultation with the California Assessors’ Association, shall adopt equipment category codes for property statements required to be filed electronically that request these codes. The board shall adopt these category codes in

consultation with the California Assessors' Association and representatives of taxpayers.

(2) On and after January 1, 2012, taxpayers filing a property tax statement shall use the equipment category codes specified in paragraph (1).

**8. The Board's Electronic Transition Plan – Sales & Use Tax Returns.** The Board has begun implementation of its Electronic Transition Plan (ETP) in which sales and use taxpayers are transitioned from paper to electronic filing (e-filing). Nearly all sales and use tax accounts will be transitioned over time based on account type and reporting basis by the end of 2009. There are several e-filing options available on the Board's website, including a free option (BOE-file) as well as two fee-based electronic service providers.

Revenue and Taxation Code Section 6452 provides general authority for the Board to prescribe the form of the return which may include e-filing. It provides:

"[A] return .... shall be filed with the board in the form as prescribed by the board, which may include, but not be limited to, electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board."

**COST ESTIMATE**

Assuming the duties being requested of the Board are ministerial in nature, the costs are absorbable.

**REVENUE ESTIMATE**

This bill would have no direct revenue impact.

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