



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

DRAFT

Date Amended:	<b>07/14/2009</b>	Bill No:	<b><a href="#">AB 852</a></b>
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 prescribe electronic filing of annual business property statements as specified. §441(l)
- Require the Board to adopt, and taxpayers to use, standard equipment codes for business property statements filed electronically that request these codes. §441(o)
- Allow assessors to reject business property statements that are not in the requested format. §441(g)

**SUMMARY OF AMENDMENTS**

The amendments since the last analysis provide that (1) the one year period to delay commencement of electronic filing begins to run from the date of written notification by the assessor, (2) the penalty for failing to file electronically would be pursuant to Section 463, and (3) if the Board fails to adopt equipment codes by January 1, 2011, taxpayers shall not be penalized for failing to use them.

**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:

**Prescribe Electronic Filing.** Authorizes the county assessor to require a taxpayer to file the statement electronically. §441(l)

- **Value Threshold.** Limits the requirement of electronic filing to those taxpayers with taxable personal property, other than manufactured homes, with an aggregate assessed value in the county of at least \$100,000 in the prior year. §441(l)(5)
- **Written Notification.** Requires the assessor to notify the taxpayer in writing that electronic filing is required. §441(l)(3)
- **Grace Period.** Provides a one year grace period for a taxpayer to commence electronic filing that begins to run from the date of written notification. Expressly provides that a taxpayer may continue to make a “paper” filing during the grace period. §441(l)(4)
- **Waiver.** Allows the assessor to waive, in any given year, the electronic filing requirement if it is demonstrated that it would be an unreasonable burden on the taxpayer’s business. §441(l)(6)
- **Penalty.** Provides that a taxpayer required to file electronically that does not do so may be penalized pursuant to Section 463. §441(l)(7)

- **Form and Method of Electronic Filing.** Allows the assessor, with Board approval, to specify the form and method of filing electronically. §441(l)(2)(A)
- **Signature and Jurat Requirements.** Allows authentication of electronically filed property statements using methods specified by the assessor and approved by the Board instead of by traditional signature. §441(l)(2)(B)

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

**Equipment Category Codes.** Requires the Board, in consultation with the California Assessors' Association and taxpayers, to adopt equipment category codes by January 1, 2011 for property statements filed electronically pursuant to Section 441(l) that request these codes. Taxpayers required to electronically file must use these codes on statements filed on or after January 1, 2012. §441(o)(1) and (2)

**No Penalty if Codes Not Adopted.** Provides that an assessor shall not penalize a taxpayer for failing to use the equipment category codes of the Board fails to adopt the codes on or before January 1, 2012. §441(o)(2)(B)

#### 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.

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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>

**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 electronic filing (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 **July 17** amendments were made in the Senate Revenue and Taxation Committee when that bill was heard to (1) expressly provide that the one year period to delay commencement of electronic filing begins to run from the date of written notification by the assessor, (2) expressly provide that the penalty for failing to file electronically would be pursuant to Section 463, and (3) provide that if the Board fails to adopt equipment codes by January 1, 2011, taxpayers shall not be penalized for failing to use them. The **July 1, 2009** amendments (1) recast its provisions for clarity and precision, (2) allowed the assessor to waive the electronic filing requirements if the taxpayer demonstrated that it would be an unreasonable burden on the taxpayer's business, (3) clarified the distinction between prescribed "electronic filing" via the internet and alternate filing methods that use "electronic media" as the delivery method, and (4) clarified that the prescribed equipment codes are for purposes of electronically filed property statements that request these codes. The **May 4, 2009** amendments required the assessor to notify taxpayers in writing if the assessor requires them 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) allowed 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.** A property statement that is refused and not resubmitted by the final filing deadline would be subject to a 10% penalty pursuant to Section 463.

4. **Electronic Media versus Electronic Filing.** There are currently methods of providing business property statements 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. Section 441(k) relating to “electronic media,” would apply to these alternative methods whereas proposed Section 441(l) applies to prescribed “electronic filing” that uses the assessor’s specified form and method, such as the SDR system currently used by assessors.
5. **Board’s Role in E-Filing.** 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 would 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 electronic filing systems itself.
6. **Board’s Role in Setting Equipment Category Codes.** 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.
7. **Use of Equipment Category Codes.** The requirement to use equipment category codes is limited to property statements that are required to be electronically filed that request these codes. Currently, equipment category codes are not required or requested on hard copy property statements.
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 tax 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(a) 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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