Draft

STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	**04/10/07**	Bill No:	**AB 1186**
Tax:	**Property**	Author:	**Karnette**
Related Bills:			

BILL SUMMARY

In determining the number of "car days" privately owned railroads are present in California for purposes of imposing the Private Railroad Car Tax, this bill would deduct from that calculation any "dwell time," as specified.

ANALYSIS

CURRENT LAW

Because privately owned railroad cars (PRRCs) travel throughout the country, and thus are only in California for a portion of the year, they must be taxed on a pro rata basis. Under current Section 11294 of the Revenue and Taxation Code, the system used to determine California's pro rata share of the value of these railroad cars is based on the number of days in the year that the cars are physically present in California. Under the car-day method, the number of days in the year that each car was present in California is multiplied by the value of that car.

The Revenue and Taxation Code provides a statutory valuation method to arrive at the taxable value of private railroad cars. This method requires that PRRCs be valued for property tax purposes based on the owner's acquisition cost less depreciation for each class of railroad car in the owner's fleet and the amount of time spent in California during the preceding calendar year (i.e., car days).

PROPOSED LAW

This bill would amend Section 11294 of the Revenue and Taxation Code to exclude from the "car day" calculation any "dwell time" spent in California. "Dwell time" is defined to mean any time the private railroad car incurs awaiting loading, unloading, or loading and unloading.

Excluding the "average dwell time" for private railroad cars would reduce the amount of time the cars are physically present in the state for tax purposes.

IN GENERAL

Part 6 of Division 2 of the Revenue and Taxation Code (commencing with Section 11201) sets forth the procedures for assessing the state property tax on PRRCs. The PRRCs taxed under this division are owned by firms other than railroad companies. PRRCs are generally owned by companies who haul their own products or lease cars to shippers. Examples of privately owned railroad cars include express cars, refrigerator cars, oil or tank cars, horse or stock cars, fruit cars, and cars specifically designed for carrying a certain commodity. The Private Railroad Car Tax is directly levied and retained by the state and is in lieu of all other state and local ad valorem property taxes on private railroad cars. The cars are assessed and taxed by the state since it is impractical for individual counties to subject railroad cars, which can be moved frequently, to the local property tax.

Assessment Basis. The Revenue and Taxation Code provides a statutory valuation method to arrive at the taxable value of PRRCs. This method requires that PRRCs be valued for property tax purposes based on the owner's acquisition cost less depreciation for each class (tank, hopper, etc.) of railroad car in the owner's fleet and the amount of time spent in the state during the preceding calendar year. Current law limits the method of determining the amount of time PRRCs spend in California to "car-days." In the car-day method, the number of days in the year that each car was present in California is multiplied by the value of that car. As an example, if a company's rail cars in car class T (tank cars) were physically present in California for a total 730 days, the equivalent number of cars would be 2 (730 days / 365 days). This amount is multiplied by the value of a tank car calculated using a required statutory method to arrive at the taxable value of this class of PRRCs.[1]

Car-Day Method. The Board has historically used a car-day count system to measure the presence of PRRCs in California. The five railroads crossing the California border report border crossing data (movements in and out of California) to the Board for all PRRCs on a monthly basis. A car-day count computer program processes this data and determines the number of days each car was physically present in California during the calendar year immediately preceding each lien date. The results are converted to an equivalent number of cars, as illustrated above, for a specific class of car (American Association of Railroads Alpha designation).

Terminal and Bridge States. The car-day method has been, historically, favored by the Board because California is considered a "terminal" state. PRRCs typically terminate their trips here. They may begin their trip on the east coast and travel through many "bridge" states before arriving at their final destination in California. Bridge states are those states through which PRRCs typically travel, without stopping, on their way to a final destination in a terminal state. After delivering their cargo, PRRCs resting in a terminal state may remain there for a period of time waiting for another load.

BACKGROUND

Beginning with the 1995 lien date, the method of valuing PRRCs was revised to an "acquisition cost less depreciation" system by AB 1426 (Stats. 1995, Chap. 220, Pringle). This measure was sponsored by Board of Equalization Member Dean Andal and was the product of a joint effort by car companies and Board staff to develop a method of taxation that simplified the valuation of PRRCs to eliminate valuation disputes in a way that did not materially affect revenue collections. A mileage based method of assessment was evaluated by the Board during the discussions leading to AB 1426, but was rejected since it would not result in a method that was "revenue neutral." Prior to AB 1426, similar legislative attempts to convert the taxation of PRRCs

[1] In addition, to comply with the Federal Railroad Revitalization and Regulatory Reform Act (the 4-R Act), the Board applies an annually-adopted assessment ratio to the value of rail transportation properties, including PRRCs, to determine the assessed value. The 4-R Equalization Ratio reduces overall values by an additional percentage (13.88% in 1998).

to a depreciated historical cost method had failed, in part, because of revenue loss concerns.[2]

AB 1426, in part, limited the Board's method of determining physical presence of rail cars in California to car-days. Previously, the law permitted the Board to determine the physical presence of rail cars in California using any method, including mileage. However, the Board had only used the car-day method because the Board's position has historically been that "presence" in California is best measured by car-days rather than mileage. Because in the past PRRC companies had argued with the Board for assessment based on mileage, AB 1426 limited the method of determining presence to the car-day approach to remove any future arguments or challenges based on mileage or any other possible methods of measurement.

SB 540 (Karnette) in 2000 and AB 478 (Takasugi) of the 1997-98 Legislative session would have changed the method for measuring the presence of private railroad cars in California from the number of days spent to the number of miles traveled. Both bills died in the Legislature.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the Railway Supply Institute (RSI). The purpose of excluding dwell time is to "provide an economic incentive to railroad owners to invest in additional equipment to move traffic and goods faster and more efficiently. There would be a two-fold benefit derived from such a change in the law: First, this would provide a faster turn-around time in the ports, which are overwhelmed with congestion; and, second, this measure would result in taking trucks off the roads, thereby relieving congestion from that source."
2. **This bill would add "dwell time" as an exclusion from the calculation of car days.** The Board does not currently collect or audit the average dwell time for private railroad cars. The law requires the Board to determine the average number of each class of private railroad cars that are physically present in the State during the calendar year immediately preceding the fiscal year in which the tax is imposed, but excludes from this determination time in which the car was undergoing specified maintenance.
3. **Delayed Operative Date of January 1, 2008 Needed.** This bill is keyed as a tax levy which makes its provisions effective upon chaptering. However, the Board would not be able to implement these provisions for the current tax year (2007). Consequently, it is suggested that this measure be amended to specify an operative date of January 1, 2008.

COST ESTIMATE

The Board would incur some insignificant absorbable costs in modifying its procedures.

[2] SB 2291(Garamendi) in 1988 and SB 913 (Garamendi) in 1989.

REVENUE ESTIMATE

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

The Private Railroad Car Tax Law requires, in lieu of an ad valorem property tax, the Board to assess and tax private railroad cars operated in this state by class based on the owner's acquisition cost, less depreciation, as provided.

The basis for computing this tax is the equivalent number of PRRCs and the assessed value of those cars. According to the 2006 publication of the Annual Assessment Recommendation for Private Railroad Cars, the assessed value of PRRCs was $608.7 million, resulting in $6.67 million in tax. Staff estimates that the average dwell time for PRRCs in this state is twenty percent. Using the 2006 assessed value on 30,261 equivalent number of PRRCs and the statewide average tax rate, we can calculate the revenue loss as follows:

$608.7 million x 1.095% x 20% = $1.33 million

REVENUE SUMMARY

This bill would annually reduce Private Railroad Car Tax revenues by twenty percent, or $1.33 million.

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