

Memorandum

To: Honorable Antonio Vazquez, Chairman
Honorable Mike Schaefer, Vice Chair
Honorable Ted Gaines, First District
Honorable Malia M. Cohen, Second District
Honorable Betty T. Yee, State Controller

Date: October 04, 2021

From: Henry D. Nanjo
Chief Counsel
Legal Department (MIC: 121)

Subject: *Board Meeting, October 19-21, 2021*
Chief Counsel Matters - Item G – Rulemaking
Authorization to Adopt Proposed Amendments to Property Tax Rules 370 and 370.5 Under CCR,
Title 1, Section 100

We request your adoption of the proposed amendments to Property Tax Rules¹ 370 and 370.5 under California Code of Regulations, title 1, section 100, *Publication of “Changes Without Regulatory Effect”* (Section 100). The proposed amendments to Rules 370 and 370.5 reflect the recent statutory changes made to Government Code section 15643 pursuant to the Governor’s approval of Senate Bill No. (SB) 1473 (2019-2020 Reg. Sess.).

I. Background

Property Tax Rules 370, *Random Selection of Counties for Representative Sampling for Calendar Years Other than 2016 Through 2020*, and 370.5, *Random Selection of Counties For Survey or Representative Sampling for Calendar Years 2016 Through 2020*, provide guidance for the selection of random counties and cities and counties for surveys of assessment practices. Previously, the Legislature had enacted two versions of Government Code section 15643 (hereinafter, section 15643): one version was effective for the calendar years of 2016 to 2020, and the second version was to be effective for calendar years 2021 and beyond. During the July 30, 2019 Board Meeting, the Board of Equalization (Board) approved the adoption of Rule 370.5 to implement the first version and the amendment of Rule 370 to implement the second version.

On September 30, 2020, the Governor of the State of California approved Senate Bill No. (SB) 1473 (2019-2020 Reg. Sess.), which extended the effective dates of section 15643 by five years, such that the first version of section 15643 would now be effective for calendar years 2016 to 2025, and the second version would be effective for calendar years 2026 and beyond.

¹ All references to Property Tax “Rule” or “Rules” are to sections of title 18 of the California Code of Regulations.

The proposed amendments to Rules 370 and 370.5 reflect the changes made by SB 1473 to section 15643.

Staff has determined that the changes to Rules 370 and 370.5 are appropriate for processing under California Code of Regulations, title 1, section 100. This is because the changes “[make] a regulatory provision consistent with a changed California statute,” and the “regulatory provision is inconsistent with and superseded by the changed statute” and the Board has “no discretion to adopt a change that differs in substance from the one chosen.” (Cal. Code Regs., tit. 1, § 100, subd. (a)(6).) Furthermore, the changes do “not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.” (Cal. Code Regs., tit. 1, § 100, subd. (a).)

II. Staff’s Recommendation

Based on the information stated above, staff requests the adoption of the proposed changes to Rules 370 and 370.5 under Section 100, without the normal notice and public hearing process. These changes are appropriate for processing under Section 100 because the changes are consistent with current law and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

The proposed amendments to the Rules are attached hereto, in strikeout and underline format. If you need more information or have any questions, please contact Henry Nanjo, Chief Counsel, at (916) 274-3520.

Recommended by:

/s/ Henry Nanjo

Henry D. Nanjo, Chief Counsel

Approved:

/s/ BFleming

Brenda Fleming, Executive Director

Approved:

/s/ David Yeung

David Yeung, Deputy Director
Property Tax Department

BOARD APPROVED on: _____

Catherine Taylor, Chief
Board Proceedings Division

Attachment(s): Proposed Text of Rules 370 and 370.5

cc: Ms. Rose Smith
Ms. Indhu Srinivasan
Ms. Sonya Yim

**Text of Proposed Amendments to
California Code of Regulations
Title 18. Public Revenues**

Division 1. State Board of Equalization – Property Tax

Chapter 4. Equalization by State Board

Article 1. Random Selection of Counties

**Section 370. *Random Selection of Counties for Representative Sampling for Calendar Years
Other than 2016 Through 2020***

370. Random Selection of Counties for Representative Sampling for Calendar Years Other than 2016 Through ~~2020~~2025.

(a) SURVEY CYCLE. For each calendar year other than 2016 through ~~2020~~2025, the Board shall select at random at least three counties from among all except the 10 largest counties and cities and counties for a representative sampling of assessments in accordance with the procedures contained herein. Counties eligible for random selection will be distributed as equally as possible in a five-year rotation commencing with the local assessment roll for the 1997-98 fiscal year.

(b) RANDOM SELECTION FOR ASSESSMENT SAMPLING. The counties selected at random will be drawn from the group of counties scheduled in that year for surveys of assessment practices. The scheduled counties will be ranked according to the size of their local assessment rolls for the year prior to the sampling.

(1) If no county has been selected for an assessment sampling on the basis of significant assessment problems as provided in subdivision (c), the counties eligible in that year for random selection will be divided into three groups (small, medium, and large), such that each county has an equal chance of being selected. One county will be selected at random by the Board from each of these groups. The Board may randomly select an additional county or counties to be included in any survey cycle year. The selection will be done by lot, with a representative of the California Assessors' Association witnessing the selection process.

(2) If one or more counties are scheduled for an assessment sampling in that year because they were found to have significant assessment problems, the counties eligible for random selection will be divided into the same number of groups as there are counties to be randomly selected, such that each county has an equal chance of being selected. For example, if one county is to be sampled because it was found to have significant assessment problems, only two counties will then be randomly selected and the pool of eligible counties will be divided into two groups. If two counties are to be sampled because they were found to have significant assessment problems, only one county will be randomly selected and all counties eligible in that year for random selection will be pooled into one group.

(3) Once random selection has been made, neither the counties selected for an assessment sampling nor the remaining counties in the group for that fiscal year shall again become eligible for random selection until the next fiscal year in which such counties are scheduled for an

assessment practices survey, as determined by the five-year rotation. At that time, both the counties selected and the remaining counties in that group shall again be eligible for random selection.

(c) ASSESSMENT SAMPLING OF COUNTIES WITH SIGNIFICANT ASSESSMENT PROBLEMS. If the Board finds during the course of an assessment practices survey that a county has significant assessment problems as defined in Rule 371, the Board shall conduct a sampling of assessments in that county in lieu of conducting a sampling in a county selected at random.

(d) ADDITIONAL SURVEYS. This rule shall not be construed to prohibit the Board from conducting additional surveys, samples, or other investigations of any county assessor's office. The legislative body or the assessor of any county may also request that the Board perform a survey that is not otherwise scheduled and the Board may enter into a contract with the requesting local agency to conduct that survey.

Note: Authority cited: Section 15606, Government Code. Reference: Section 75.60, Revenue and Taxation Code; and Sections 15640 and 15643, Government Code.

**Text of Proposed Amendments to
California Code of Regulations
Title 18. Public Revenues
Division 1. State Board of Equalization – Property Tax
Chapter 4. Equalization by State Board
Article 1. Random Selection of Counties
Section 370.5. *Random Selection of Counties For Survey or Representative Sampling for
Calendar Years 2016 Through 2020***

370.5. Random Selection of Counties For Survey or Representative Sampling for Calendar Years 2016 Through ~~2020~~2025.

(a) SURVEY CYCLE. For each calendar year from 2016 through ~~2020~~2025, the Board shall select counties at random from among all except the 10 largest counties and cities and counties for surveys of assessment procedures or representative samples of assessments in accordance with the procedures contained herein.

(b) RANDOM SELECTION FOR SURVEY OR REPRESENTATIVE SAMPLING. The counties selected at random will be drawn from the group of counties and cities and counties, as specified below, as ranked by the total value of locally assessed property in those counties and cities and counties on January 1 of 2015 and January 1 of every fifth calendar year thereafter.

(1) The Board shall survey the assessment procedures of one county and conduct a sample of assessments on the local assessment roll of another county that is within the 11th through the 20th largest counties and cities and counties.

(2) The Board shall survey the assessment procedures of three counties and conduct a sample of assessments on the local assessment roll of two other counties that are within the 21st through the 58th largest counties.

(3) For purposes of this paragraph, the Board shall stratify and select at random the counties in consultation with the California Assessors' Association.

(c) ASSESSMENT SAMPLING OF COUNTIES WITH SIGNIFICANT ASSESSMENT PROBLEMS. If the Board finds during the course of an assessment practices survey that a county has significant assessment problems as defined in Rule 371, the Board shall conduct a sampling of assessments in that county.

(d) ADDITIONAL SURVEYS. This rule shall not be construed to prohibit the Board from conducting additional surveys, samples, or other investigations of any county assessor's office. The legislative body or the assessor of any county may also request that the Board perform a survey

that is not otherwise scheduled and the Board may enter into a contract with the requesting local agency to conduct that survey.

Note: Authority cited: Section 15606, Government Code. Reference: Section 75.60, Revenue and Taxation Code; and Sections 15640 and 15643, Government Code.