

Memorandum

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

Date: June 15, 2022

From: Henry D. Nanjo
Chief Counsel

Subject: *Board Meeting, June 28-29, 2022*
Chief Counsel Matters - Item G – Rulemaking
Authorization to Adopt Proposed Amendments to Property Tax Rule 301 Under CCR, Title 1, Section 100

We request your adoption of the proposed amendments to Property Tax Rule¹ 301 under California Code of Regulations, title 1, section 100, *Publication of “Changes Without Regulatory Effect”* (Section 100). The proposed amendment to Rule 301 reflects the recent statutory changes made to Revenue and Taxation Code section 1752.2 pursuant to the Governor’s approval of Senate Bill No.) 825 (Stats. 2021, ch. 433).

I. Background

Property Tax Rule 301, *Definitions and General Provisions*, provides definitions of terms that govern the construction of the regulations regarding local equalization hearings by county boards. Section 16 of article XIII of the California Constitution specifically authorizes county boards of supervisors to adopt rules of notice and procedure to facilitate the work of local appeals boards under the county's control and to ensure uniformity in the processing and decision of applications before those local appeals boards. It also provides that two or more county boards of supervisors may jointly create a multijurisdictional assessment appeals board to equalize the valuation of taxable property within each participating county.

Previously, Revenue and Taxation Code section 1752.2 authorized participating counties to adopt a set of rules and regulations for their multijurisdictional assessment appeals boards; if the participating counties did not adopt a set of rules or regulations, the law required the multijurisdictional assessment appeals board to operate pursuant to certain regulations adopted by the State Board of Equalization (Rules 301-326). In other words, a multijurisdictional assessment appeals board that adopted their own set of rules were previously not subject to Rules 301-326.

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

However, on September 30, 2021, the Governor of the State of California approved Senate Bill No. 825 (Stats. 2021, ch. 433) (SB 825), which amended Revenue and Taxation Code section 1752.2 to authorize the participating counties to adopt a set of rules of notice and procedures for the multijurisdictional assessment appeals board as may be required to facilitate their work and to ensure uniformity in the processing and decision of equalization petitions. The amendments, additionally, removed the de facto exception to the application of the above-mentioned State Board of Equalization regulations for multijurisdictional assessment appeals boards that had adopted their own set of rules. Ultimately, this statutory change resulted in Rules 301-326 applying to all county assessment appeals boards without exception.

The proposed amendments to Rule 301, subdivision (d), reflect the changes made by SB 825 to section 1752.2, by specifically removing the language that allowed the application of different rules for counties in which their multijurisdictional assessment appeals boards adopted their own set of rules and regulations.

Staff has determined that the changes to Rule 301 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 State Board of Equalization 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 Rule 301 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 Honey Her, Regulations Coordinator, by telephone at (916) 274-3523 or by email at Honey.Her@boe.ca.gov.

Recommended by:

/s/ Henry Nanjo

Henry D. Nanjo, Chief Counsel

Approved:

/s/ Yvette Stowers

Yvette M. Stowers, Executive Director

Approved:

/s/ David Yeung

David Yeung, Deputy Director
Property Tax Department

BOARD APPROVED on: _____

Catherine Taylor, Chief
Board Proceedings Division

Attachment: Text of Proposed Amendments to Rule 301

cc: Ms. Yvette M. Stowers
Mr. Henry Nanjo
Mr. David Yeung
Ms. Lisa Thompson

Text of Proposed Amendments to California Code of Regulations
Title 18. Public Revenues
Division 1. State Board of Equalization – Property Tax
Chapter 3. Local Equalization, Article 1. Hearing by County Board

Section 301. Definitions and General Provisions

The provisions set forth in this regulation govern the construction of this subchapter.

- (a) "County" is the county or city and county wherein the property is located that is the subject of the proceedings under this subchapter.
- (b) "Assessor" is the assessor of the county.
- (c) "Auditor" is the auditor of the county.
- (d) "Board" is the board of equalization or assessment appeals board of the county or a multijurisdictional assessment appeals board ~~for which the participating counties do not adopt a set of rules and regulations.~~
- (e) "Chair" is the chair of the county board of equalization or assessment appeals board.
- (f) "Clerk" is the clerk of the county board of equalization or assessment appeals board.
- (g) "Person affected" or "party affected" is any person or entity having a direct economic interest in the payment of property taxes on the property for the valuation date that is the subject of the proceedings under this subchapter, including the property owner, a lessee required by the property lease to pay the property taxes, and a property owner who acquires an ownership interest after the lien date if the new owner is also responsible for payment of property taxes for the lien date that is the subject of the application.
- (h) "Full cash value" or "fair market value" is the value provided in sections 110 and 110.1 of the Revenue and Taxation Code.
- (i) "Restricted value" is a value standard other than full cash value prescribed by the Constitution or by statute authorized by the Constitution.
- (j) "Full value" is either the full cash value or the restricted value.
- (k) "Equalization" is the determination by the board of the correct full value for the property that is the subject of the hearing.
- (l) "County legal advisor" is the county counsel of the county, or the district attorney of the county if there is no county counsel, and the City Attorney of the City and County of San Francisco, or outside counsel specifically retained to advise the county board of equalization or assessment appeals board.

(m) "Authorized agent" is one who is directly authorized by the applicant to represent the applicant in an assessment appeals proceeding.

Note: Authority cited: Section 15606(c), Government Code. Reference: Sections 110, 110.1, 110.5, 1601, 1603 et seq., 1750 and 1752.2, Revenue and Taxation Code; and Section 31000.6, Government Code.