

# LAKE COUNTY ASSESSMENT PRACTICES SURVEY

**AUGUST 2011**

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## CALIFORNIA STATE BOARD OF EQUALIZATION

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## INTRODUCTION

Although county government has the primary responsibility for local property tax assessment, the State has both a public policy interest and a financial interest in promoting fair and equitable assessments throughout California. The public policy interest arises from the impact of property taxes on taxpayers and the inherently subjective nature of the assessment process. The financial interest derives from state law that annually guarantees California schools a minimum amount of funding; to the extent that property tax revenues fall short of providing this minimum amount of funding, the State must make up the difference from the general fund.

The assessment practices survey program is one of the State's major efforts to address these interests and to promote uniformity, fairness, equity, and integrity in the property tax assessment process. Under this program, the State Board of Equalization (BOE) periodically reviews the practices and procedures (surveys) of every county assessor's office. This report reflects the BOE's findings in its current survey of the Lake County Assessor-Recorder's Office.<sup>1</sup>

The assessor is required to file with the board of supervisors a response that states the manner in which the assessor has implemented, intends to implement, or the reasons for not implementing the recommendations contained in this report. Copies of the response are to be sent to the Governor, the Attorney General, the BOE, and the Senate and Assembly; and to the Lake County Board of Supervisors and Grand Jury. That response is to be filed within one year of the date the report is issued and annually thereafter until all issues are resolved. The Honorable Douglas W. Wacker, Lake County Assessor-Recorder, elected to file his initial response prior to the publication of our survey; it is included in this report following the Appendixes.

While typical management audit reports emphasize problem areas, they say little about operations that are performed correctly. Assessment practices survey reports also tend to emphasize problem areas, but they also contain information required by law (see *Scope of Assessment Practices Surveys* at page 2) and information that may be useful to other assessors. The latter information is provided in the hope that the report will promote uniform, effective, and efficient assessment practices throughout California.

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<sup>1</sup> This review covers only the assessment functions of the office.

## SCOPE OF ASSESSMENT PRACTICES SURVEYS

Government Code sections 15640 and 15642 define the scope of an assessment practices survey. As directed by those statutes, our survey addresses the adequacy of the procedures and practices employed by the assessor in the valuation of property, the volume of assessing work as measured by property type, and the performance of other duties enjoined upon the assessor.

In addition, pursuant to Revenue and Taxation Code<sup>2</sup> section 75.60, the BOE determines through the survey program whether a county assessment roll meets the standards for purposes of certifying the eligibility of the county to continue to recover costs associated with administering supplemental assessments. Such certification is obtained either by a satisfactory statistical result from a sampling of the county's assessment roll, or by a determination by the survey team—based on objective standards defined in regulation—that there are no significant assessment problems in the county. The statutory and regulatory requirements pertaining to the assessment practices survey program are detailed in Appendix B.

Our survey of the Lake County Assessor's Office included reviews of the assessor's records, interviews with the assessor and his staff, and contacts with officials in other public agencies in Lake County who provided information relevant to the property tax assessment program.

Since this survey did not include an assessment sample pursuant to Government Code section 15640(c), our review included an examination to determine whether "significant assessment problems" exist, as defined in Rule 371.<sup>3</sup>

This report offers recommendations to help the assessor correct assessment problems identified by the survey team. The survey team makes recommendations when assessment practices in a given area are not in accordance with property tax law or generally accepted appraisal practices. An assessment practices survey is not a comprehensive audit of the assessor's entire operation. The survey team does not examine internal fiscal controls or the internal management of an assessor's office outside those areas related to assessment. In terms of current auditing practices, an assessment practices survey resembles a compliance audit—the survey team's primary objective is to determine whether assessments are being made in accordance with property tax law.

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<sup>2</sup> Unless otherwise stated, all statutory references are to the California Revenue and Taxation Code.

<sup>3</sup> All rule references are to sections of California Code of Regulations, Title 18, Public Revenues.

## EXECUTIVE SUMMARY

As stated in the Introduction, this report emphasizes problem areas we found in the operations of the assessor's office. However, it also identifies program elements that we found particularly effective and describes areas of improvement since our last assessment practices survey.

Many of our recommendations concern portions of programs that are currently effective but need improvement. In many instances, the assessor is already aware of the need for improvement and is considering changes as time and resources permit.

We noted several positive elements in the Lake County Assessor's program. The assessor is doing a good job of timely processing assessment appeals, which minimizes the number of appeals carried over from the prior year and allows the assessor to keep current on outstanding appeals. Also, we found the assessor's decline in value program to be efficient and well administered. With property values continuing to decline in Lake County, the assessor has become more proactive at identifying and processing declines in value and recently implemented a program to process declines in mass quantities. In addition, the assessor has a strong audit program in place, which conducts numerous audits that far exceeds what is mandated.

In our review of the assessor's administration programs, we noted the assessor is satisfactorily handling budget and staffing, workload, appraiser certification, staff property procedures, and assessment forms. However, we also noted the assessment appeals and exemptions programs need some improvement.

In the assessment of real property, we noted some improvements can be made in the areas of change in ownership, new construction, California Land Conservation Act (CLCA) property, taxable possessory interests, and mineral properties.

In the assessment of personal property and fixtures, the assessor has effective programs for conducting audits, processing business property statements, valuing business equipment, and assessing manufactured homes.

Despite the recommendations noted in this report, we found that most properties and property types are assessed correctly.

We found no significant assessment problems as defined in Rule 371. Accordingly, pursuant to section 75.60, Lake County continues to be eligible for recovery of costs associated with administering supplemental assessments. Since Lake County was not selected for assessment sampling pursuant to Government Code section 15643(b), this report does not include the assessment ratios that are generated for surveys that include assessment sampling.

Following is a list of the formal recommendations contained in this report, arrayed in the order that they appear in the text.

- RECOMMENDATION 1:** Instruct applicants to return the withdrawal form directly to the clerk of the assessment appeals board. ....10

**RECOMMENDATION 2:** Improve the exemption program by: (1) sending appropriate written notification when a welfare exemption claim is denied, (2) ensuring only qualifying properties receive an institutional exemption, (3) correctly applying penalties for late filings on welfare and disabled veterans' exemptions, and (4) applying the disabled veterans' exemption as of the date the property became eligible to receive the exemption.....14

**RECOMMENDATION 3:** Improve the LEOP program by: (1) correctly processing information received from the BOE for possible changes in control or ownership of a legal entity, and (2) reassessing all properties owned by the legal entity undergoing a change in control or ownership. ....20

**RECOMMENDATION 4:** Submit quarterly reports to the BOE in accordance with section 69.5(b)(7).....22

**RECOMMENDATION 5:** Improve the new construction program by obtaining copies of permits from the environmental health department. ...24

**RECOMMENDATION 6:** Improve the valuation of CLCA properties by: (1) using an appropriate income stream for capitalizing restricted tree and vine income, (2) allowing for a return *on* the investment in irrigation wells to remain as income attributable to the land being capitalized, (3) establishing the correct base year for CLCA properties that have undergone a change in ownership, (4) including all agricultural income available to the property in determining value, and (5) deducting appropriate charges for a return *on* and *of* nonliving improvements that contribute to the land being capitalized. ....27

**RECOMMENDATION 7:** Improve the taxable possessory interest assessment program by: (1) discovering and enrolling all taxable possessory interests, (2) adding the present worth of unpaid future contract rents to the sale price of a taxable possessory interest, (3) revaluing taxable possessory interests at the end of the reasonably anticipated term of possession, (4) periodically reviewing taxable possessory interests with stated terms of possession for declines in value, (5) deducting allowable expenses from gross income when valuing taxable possessory interests, and (6) properly issuing supplemental assessments for taxable possessory interests. ....30

**RECOMMENDATION 8:** Improve mineral assessment by: (1) appraising mining parcels as a single appraisal unit, and (2) making estimates of reserves for all mining properties and adjusting the base year value each year to account for production and other changes to reserves. ....34

## OVERVIEW OF LAKE COUNTY

Lake County lies in the northern part of California about 100 miles north of San Francisco and 35 miles east of the Pacific Ocean. The county encompasses about 1,300 square miles. Lake County is bordered by the counties of Sonoma to the southwest, Mendocino to the northwest, Glenn to the northeast, Colusa and Yolo to the east, and Napa to the south. The county's most prominent geographical feature is Clear Lake, the largest natural freshwater lake in California. The world's largest known geothermal field is also located in Lake County. The county was chartered in 1861, and the economy has been historically based on agriculture and recreation. Lake County has a population of about 65,000, and its two incorporated cities are Lakeport and Clearlake.

The following table displays information pertinent to the 2009-10 roll:

	PROPERTY TYPE	ENROLLED VALUE
<b>Secured Roll</b>	Land	\$2,646,195,710
	Improvements	\$4,191,213,923
	Personal Property	\$87,245,993
	Total Secured	\$6,924,655,626
<b>Unsecured Roll</b>	Land	\$5,620,073
	Improvements	\$50,263,665
	Personal Property	\$139,177,982
	Total Unsecured	\$195,061,720
<b>Exemptions</b>		(\$201,928,770)
	<b>Total Assessment Roll</b>	<b>\$6,917,788,576</b>

The next table illustrates the growth in local assessed values in recent years:

ROLL YEAR	TOTAL ROLL VALUE	CHANGE	STATEWIDE CHANGE
2009-10	\$6,917,789,000	>0.0%	-2.4%
2008-09	\$6,914,384,000	3.6%	4.7%
2007-08	\$6,671,950,000	11.7%	9.6%
2006-07	\$5,971,112,000	14.8%	12.3%
2005-06	\$5,200,083,000	11.9%	11.1%

## ADMINISTRATION

This section of the survey report focuses on administrative policies and procedures of the assessor's office that affect both the real property and business property assessment programs. Subjects addressed include budget and staffing, workload, appraiser certification, staff property procedures, assessment appeals, exemptions, and assessment forms.

### **Budget and Staffing**

The following table illustrates the change in budget levels over recent years:

BUDGET YEAR	GROSS BUDGET	CHANGE	PERMANENT STAFF
2009-10	\$1,100,228	-4.48%	16.6
2008-09	\$1,151,779	5.39%	16.6
2007-08	\$1,092,900	-1.13%	16.6
2006-07	\$1,105,363	6.85%	16.6
2005-06	\$1,034,545	N/A	16.6

At the time the survey was conducted, the assessor had 16 full-time employees and 1 part-time employee. The staff included the assessor, the chief deputy assessor-recorder of valuations, 1 senior property appraiser, 6 appraisers, 2 auditor-appraisers, 1 cadastral mapping specialist, 4 deputy assessor-recorders, and 1 part-time assessor-recorder assistant.

### **Workload**

Generally, the assessor is responsible for annually determining the assessed value of all real property and business personal property (including machinery and equipment) in the county. In order to accomplish this task, the assessor reviews recorded documents and building permits to discover assessable property. In addition, the assessor will identify and value all business personal property (including machinery and equipment), process and apply tax exemption claims for property owned by qualifying religious and welfare organizations, and prepare assessment appeals for hearing before the local board of equalization.

In addition, for most real property, the assessor is required to annually enroll the lower of current market value or the factored base year value. Therefore, when any factor causes a decline in the market value of real property, the assessor must review the assessment of the property to determine whether the decline has impacted the taxable value of the property for that year. In certain economic times, this decline may greatly impact the workload of the assessor. Additionally, the number of assessment appeals may increase during this period.

According to the prior two tables, the roll value has increased four of the past five years, most recently decreasing for the 2009-10 roll year. The gross budget has been sporadic, increasing and

decreasing every other year, but decreasing for the 2009-10 roll year. The assessor's workload has fluctuated over recent years, reflecting volatile market conditions. The number of assessable changes in ownership and the number of permits resulting in value changes have decreased and increased every other year, but reflect significant decreases for the 2007-08 roll year. The recent decline in assessable changes in ownership and permit work was replaced by significant workload increases in the areas of decline-in-value assessments and appeals. These trends are shown in tables presented in the applicable assessment program discussions later in this report.

### ***Appraiser Certification***

Section 670 provides that no person shall perform the duties of an appraiser for property tax purposes unless they hold a valid appraiser's certificate issued by the BOE. There are a total of 11 certified appraisers on staff, including the assessor; seven hold advanced appraiser's certificates. We found that the assessor and his staff possess the required appraiser's certificates. Additionally, we found that the two auditor-appraisers performing audits meet the requirements referenced in section 670(d). The assessor does not use contract appraisers.

The chief deputy assessor-recorder oversees the training and certification program for appraisers and tracks individual appraisal education continuously. The assessor does not provide any financial incentive to obtain advanced certification; however, appraisers are encouraged to take the necessary courses to obtain their advanced certification as soon as possible to minimize their individual training requirements from 24 hours of annual training to 12 hours, which reduces the county's training expenses.

According to the BOE report on training hours for certified appraisers in Lake County, no appraisers were deficient as of June 30, 2009 (the end of the fiscal year). The training coordinator ensures that none of the appraisal staff is deficient in training hours.

We have no recommendations for the assessor's appraiser certification program.

### ***Staff Property Procedures***

The BOE's assessment practices survey includes a review of the assessor's internal controls and safeguards as they apply to staff-owned properties and conflicts of interest. This review is done to ensure there are adequate and effective controls in place to prevent the assessor's staff from being involved in the assessment of property in which they have an ownership interest and to prevent conflicts of interest.

The assessor becomes aware of staff-owned properties through name recognition when a recorded deed is received in the office, through self-declaration by the staff member acquiring the property, and from the annual filings of the California Fair Political Practices Commission Form 700, *Statement of Economic Interests*, which requests information regarding employee ownership in any real property, other than a primary residence, as well as any ownership interest in any business entity.

When an appraisal is required for a staff-owned property or business, the assignment is given to an appraiser or supervisor other than the owner of the property or business. When the appraisal is completed, it is forwarded to the chief deputy assessor-recorder for review and approval.

We reviewed a number of staff-owned properties and found no problems with their valuation.

### **Assessment Appeals**

The assessment appeals function is prescribed by article XIII, section 16 of the California Constitution. Sections 1601 through 1641.5 are the statutory provisions governing the conduct and procedures of assessment appeals boards and the manner of their creation. As authorized by Government Code section 15606, the Board has adopted Rules 301 through 326 to regulate the assessment appeals process.

Pursuant to section 1601, the body charged with the equalization function for the county is the appeals board, which is either the county board of supervisors meeting as a county board of equalization or an appointed assessment appeals board. Appeal applications must be filed with the clerk of the board (clerk). The regular time period for filing an appeal application, as set forth in section 1603, is July 2 to September 15; however, if the assessor does not provide notice to all taxpayers of real property on the local secured roll of the assessed value of their real property by August 1, then the last day of the filing period is extended to November 30. Section 1604(c) and Rule 309 provide that the appeals board must make a final determination on an appeal application within two years of the timely filed appeal application unless the taxpayer and appeals board mutually agree to an extension of time or the application is consolidated for hearing with another application by the same taxpayer.

In Lake County, the board of supervisors sits as the board of equalization. There are no hearing officers; instead, the local board of equalization hears all scheduled appeals.

The clerk of the board receives all applications for changed assessment. Upon receipt, each application is reviewed, verified, and a copy is forwarded to the assessor's office. The chief deputy assessor-recorder reviews the appraisal and contacts the applicant. After discussion, if the applicant decides to withdraw the appeal or agrees to a stipulated value, the chief deputy assessor-recorder sends a letter to the applicant outlining the agreement with an enclosed withdrawal or stipulation form. Upon receipt of the signed withdrawal or stipulation form, the chief forwards it to the clerk of the board for processing. If no agreement can be reached between the assessor and the applicant, the clerk of the board schedules the appeal for hearing. The majority of the appeals are withdrawn before going to hearing.

The regular filing period for appeals in Lake County is July 2 through November 30. No appeal has gone unresolved for more than two years without a timely-filed extension.

The following table illustrates the assessment appeals workload in recent years:

ASSESSMENT ROLL	2008-09	2007-08	2006-07	2005-06	2004-05
Appeals Filed	275	65	49	86	20
Appeals Carried Over From Prior Year	2	3	0	20	8
<b>Total Appeals Workload</b>	<b>277</b>	<b>68</b>	<b>49</b>	<b>106</b>	<b>28</b>
Resolution:					
Withdrawn	247	61	45	103	7
Stipulation	1	0	0	0	1
Appeals Reduced	0	0	0	0	0
Appeals Upheld	0	0	0	0	0
Appeals Increased	0	0	0	0	0
Other Determination*	8	5	1	3	0
<b>Total Resolved</b>	<b>256</b>	<b>66</b>	<b>46</b>	<b>106</b>	<b>8</b>
To Be Carried Over**	21	2	3	0	20

\* Note: Includes, but not limited to, late-filed appeals, applicants' failure to appear and board denied applications.

\*\*Note: "To Be Carried Over" includes appeals with time extensions by mutual agreement of the parties.

We reviewed several appeals; the appeals were concise and well documented. In our review, we recognized effective communication between the clerk of the board and the assessor, and cooperation in a cohesive manner. As noted in the table above, the assessor resolves appeals timely, minimizing the number of appeals that are carried over from the prior year and allowing the assessor to keep current on outstanding appeals.

While the majority of the assessor's assessment appeals program complies with statutory requirements, we found one area in need of improvement.

**RECOMMENDATION 1:** Instruct applicants to return the withdrawal form directly to the clerk of the assessment appeals board.

When an applicant notifies the assessor of their intent to withdraw their application for appeal, the assessor mails the withdrawal form with a letter to the applicant requesting the applicant to sign and return the withdrawal form directly to the assessor. After review, the assessor retains a copy of the withdrawal form and sends the original to the clerk of the board.

The county board of equalization is an independent entity, whose function is to resolve value disputes between taxpayers and the assessor. Therefore, it is inappropriate for the assessor to act as an intermediary between this board and taxpayers by requesting taxpayers to submit withdrawal forms to the assessor.

The assessor's procedure could give an appearance that the assessor is intervening in the independent third-party review to which every appellant has the right. The assessor should revise the withdrawal letter to instruct the applicant to submit the request for withdrawal directly to the clerk of the board rather than the assessor's office. The clerk of the board should then timely forward a copy of the withdrawal form to the assessor.

### ***Exemptions***

The assessor's exemption staff consists of one person, the chief deputy assessor-recorder. He processes all of the exemption claims, including church, religious, welfare, and disabled veterans' exemption claims. The assessor has no formal procedures or form letters in place for the exemption program, and staff performs field inspections only when the chief deputy assessor-recorder deems necessary.

#### **Church and Religious Exemptions**

Article XIII, section 3(f) of the California Constitution authorizes exemption of property used exclusively for religious worship. This constitutional provision, implemented by section 206, exempts buildings, the land on which they are situated, and equipment used exclusively for religious worship, when such property is owned or leased by a church. Property that is reasonably and necessarily required for church parking is also exempt under article XIII, section 4(d) of the California Constitution, provided that the property is not used for commercial purposes. The church parking exemption is available for owned or leased property meeting the requirements of section 206.1. The Legislature has also implemented the religious exemption in section 207, which exempts property owned by a church and used exclusively for religious worship or for both religious worship and school purposes (excluding property used solely for schools of collegiate grade).

County assessors administer the church and religious exemptions. The church exemption, including the church parking exemption, requires an annual filing of the exemption claim. The religious exemption requires a one-time filing by the claimant, although the assessor annually mails a form to claimants to confirm continuing eligibility for the exemption. Once granted, the religious exemption remains in effect until terminated or until the property is no longer eligible for the exemption.

The assessor processed one church exemption claim and 102 religious exemption claims for the 2008-09 assessment roll. The following table illustrates religious and church exemption data for recent years:

<b>ROLL YEAR</b>	<b>RELIGIOUS EXEMPTIONS</b>	<b>EXEMPTED VALUE</b>	<b>CHURCH EXEMPTIONS</b>	<b>EXEMPTED VALUE</b>
2008-09	102	\$21,118,000	1	\$477,000
2007-08	105	\$20,346,000	2	\$389,000
2006-07	106	\$20,110,000	3	\$380,000
2005-06	105	\$19,730,000	3	\$370,000
2004-05	106	\$18,838,000	4	\$209,000

**Welfare Exemption**

Article XIII, section 4(b) of the California Constitution authorizes the Legislature to exempt property owned and used exclusively for religious, hospital or charitable purposes by organizations formed and operated exclusively for those purposes. When the Legislature enacted section 214 to implement this constitutional provision, a fourth purpose (scientific) was added. Both the organizational and property use requirements must be met for the exemption to be granted.

The welfare exemption is co-administered by the BOE and county assessors. The BOE is responsible for determining whether an organization itself is eligible for the welfare exemption and for issuing either *Organizational Clearance Certificates* (OCCs) to qualified organizations or *Supplemental Clearance Certificates* (SCCs) to limited partnerships, which have a qualified organization (OCC holder) as the managing general partner, that own and operate low-income housing. The assessor is responsible for determining whether the use of a qualifying organization's property is eligible for exemption and for approving or denying exemption claims.

The assessor may not grant a welfare exemption on an organization's property unless the organization holds a valid OCC issued by the BOE, or a valid SCC issued by the BOE if the property is a low-income housing property owned and operated by a limited partnership, which has a qualified organization (OCC holder) as the managing general partner. The assessor may, however, deny an exemption claim, based on non-qualifying use of the property, notwithstanding that the BOE has issued an OCC or SCC to the claimant.

The assessor processed 130 welfare exemption claims for the 2008-09 assessment roll. The following table illustrates welfare exemption data for recent years:

<b>ROLL YEAR</b>	<b>WELFARE EXEMPTION</b>	<b>EXEMPTED VALUE</b>
2008-09	130	\$143,307,000
2007-08	131	\$113,385,000
2006-07	120	\$110,480,000
2005-06	115	\$98,924,000
2004-05	120	\$64,788,000

**Disabled Veterans' Exemptions**

The disabled veterans' exemption is authorized by article XIII, section 4(a) of the California Constitution. This constitutional provision, implemented by section 205.5, exempts a specified amount of the full value of a dwelling when occupied as a principal place of residence by an owner who is a qualified disabled veteran (or the veteran's unmarried surviving spouse). The amount of exemption is \$100,000 or, for qualifying low-income veterans, \$150,000. Both of these amounts are adjusted annually by a cost of living index.

The assessor processed 233 disabled veterans' exemption claims for the 2008-09 assessment roll. The following table illustrates disabled veterans' exemption data for recent years:

<b>ROLL YEAR</b>	<b>DISABLED VETERANS' EXEMPTIONS</b>	<b>EXEMPTED VALUE</b>
2008-09	233	\$22,946,000
2007-08	227	\$21,064,000
2006-07	197	\$17,463,000
2005-06	178	\$15,179,000
2004-05	175	\$14,300,000

A review of a variety of exemption claims indicates there are several areas within the exemption program that may be improved.

**RECOMMENDATION 2:** Improve the exemption program by: (1) sending appropriate written notification when a welfare exemption claim is denied, (2) ensuring only qualifying properties receive an institutional exemption, (3) correctly applying penalties for late filings on welfare and disabled veterans' exemptions, and (4) applying the disabled veterans' exemption as of the date the property became eligible to receive the exemption.

**Send appropriate written notification when a welfare exemption claim is denied.**

The assessor does not appropriately notify a claimant when a welfare exemption claim is ineligible for an exemption. When a claim is denied, the assessor notifies the claimant by phone, letter, or an automated *Notice of Correction to the Roll* generated by the assessment system.

Pursuant to section 254.5(c)(2), if the assessor determines a claimant's property is ineligible for the welfare exemption or the veterans' organization exemption, the assessor must notify the claimant in writing of all of the following:

- The property is ineligible for the exemption.
- The claimant may seek a refund of property taxes paid by filing a refund claim with the county board of supervisors.
- The claimant may file a refund action in superior court if the refund claim is denied.

By not sending the claimant written notification containing all of the required elements, the assessor has failed to comply with this statutory requirement, and the taxpayer is not provided with full and complete information regarding the denial.

**Ensure only qualifying properties receive the welfare exemption.**

We found several properties receiving the welfare exemption that were ineligible. For example, the assessor granted exemptions for years in which the claimant never filed, granted full exemptions on properties that had portions being used for non-qualifying purposes, and granted exemptions on vacant land. We also found the assessor performs field inspections on an "as needed" basis. When inspections are conducted, no standardized form is used and field notes are not routinely placed in folders or other accessible media for future reference.

Pursuant to section 254.5, the welfare exemption claim must be completed and filed by February 15 each year for the property to receive the full exemption. The assessor should also conduct field inspections of the property for first-time filings and periodic field inspections of the property for annual filings to verify that the information on the claim form is correct and to determine if all or only a portion of the property is being used exclusively for religious, hospital, scientific, or charitable purposes.

Section 251 provides that the BOE shall prescribe all procedures and forms required to carry into effect any property tax exemption enacted by statute or constitutional amendment. To implement section 251, the BOE has provided guidance in Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions*, and Letter To Assessors 2004/058, that the assessor shall complete a physical field inspection of any property on which an exemption is claimed utilizing BOE-267-FIR, *Welfare Exemption Assessor's Field Inspection Report*.

By not requiring claimants to file annual welfare exemption claims and by allowing full exemptions on properties that are either vacant or only partially used for qualifying purposes, the assessor is not enrolling the correct net assessable value as required by statute. Also, by not performing field inspections, not only may the assessor be granting full or partial exemptions for which the claimant is not eligible, but the assessor may also be denying claims that are eligible for an exemption.

### **Correctly apply penalties for late filings on welfare and disabled veterans' exemptions.**

We found several first filings for welfare and disabled veterans' claims to which the assessor had applied penalties for late filings, given the exemption was filed timely. We also found instances where welfare claims were not filed timely, but the amount of the penalty the assessor applied was incorrect.

Section 271(a) provides that a welfare exemption claim filed on property acquired after the lien date is considered filed timely, if filed within 90 days from the first day of the month following the month in which the property was acquired, or by February 15 of the following calendar year, whichever occurs earlier. If the claimant does not file the application within the prescribed time period, but files an exemption claim later, then 85 percent of any tax, penalty, or interest is cancelled or refunded. Also, the combined tax, penalty, or interest imposed on the eligible property may not exceed \$250.

Pursuant to section 276.1(a), for property for which the disabled veterans' exemption would have been available, but for the failure to receive a timely disability rating from the United States Department of Veterans Affairs (USDVA), there shall be cancelled or refunded the amount of any taxes, including interest or penalties thereon, levied on that portion of the assessed value of the property that would have been exempt under a timely claim, provided the claimant subsequently received a disability rating that qualifies the claimant for the disabled veterans' exemption and the claimant files the appropriate claim for the disabled veterans' exemption the later of 30 days of receipt of the disability rating from the USDVA or on or before the next following lien date.<sup>4</sup>

Section 255(a) provides that *annual* claims for the welfare exemption must be filed with the assessor between January 1 (lien date) and 5 p.m. on February 15. Section 270 states that 90 percent of any tax, penalty, or interest will be cancelled or refunded if the welfare application is filed on or before the January 1 of the next calendar year. If a claim is filed with the assessor after January 1 of the next calendar year, then 85 percent of any tax, penalty, or interest shall be

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<sup>4</sup> Effective January 1, 2011, AB 2314 (Stats. 2010, ch. 150) amended section 276.1 of the Revenue and Taxation Code to increase the minimum amount of time a disabled veteran has to file a claim for the exemption and receive the full amount of the exemption from 30 to 90 days.

cancelled or refunded. However, section 270(b) provides that the maximum total amount of tax, penalty, and interest on property entitled to relief shall be \$250.

By incorrectly applying penalties for late filings on welfare and disabled veteran's exemption claims, the assessor is not giving the claimant the full amount of the exemption they are entitled to receive.

**Apply the disabled veterans' exemption as of the date the property became eligible to receive the exemption.**

When a claimant files for a disabled veterans' exemption and is deemed eligible for the exemption, the assessor has been applying the exemption as of the lien date following the date the claimant is eligible to receive the exemption.

Section 276.1(b) provides that the disabled veterans' exemption begins on the effective date, as determined by the USDVA, of a disability rating that qualifies the claimant for the exemption. If the property was acquired after the effective date, then the exemption would be as of the date the property was acquired. Therefore, the claimant is eligible for the disabled veterans' exemption as of the effective date stated on the USDVA letter or as of the date the property was acquired, not as of the lien date following the date of eligibility.

By not applying the exemption until the lien date following the date of eligibility, the assessor is not allowing the claimant to receive the full exemption they are entitled to receive.

**Assessment Forms**

Government Code section 15606 requires the BOE to prescribe and enforce the use of all forms for the assessment of property for taxation.<sup>5</sup> Generally, the assessor may not change, add to, or delete the specific wording in a prescribed form. The assessor may, however, rearrange information on a form provided that the assessor submits such form to the BOE for review and approval. Assessors may also use locally developed forms to assist them in their assessment duties. However, such forms may not be used as substitutes for Board-prescribed forms, and no penalty may be imposed upon a property owner for failure to file a county-developed form or questionnaire.

To enforce the use of prescribed forms, the BOE annually requires assessors to specify in writing the forms they will use in the succeeding assessment year. Assessors are also required to submit to the BOE copies of the final prints of all prescribed forms they intend to use.

We reviewed forms used by the Lake County Assessor for the 2009-10 roll year. We found the assessor used 72 Board-prescribed forms, and all 72 forms used were BOE prototypes. None of the forms had been rearranged. We have no recommendations for this program.

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<sup>5</sup> Also sections 480(c), 480.2(b), 480.4, and Rules 101 and 171.

## ASSESSMENT OF REAL PROPERTY

The assessor's program for assessing real property includes the following principal elements:

- Revaluation of properties that have changed ownership.
- Valuation of new construction.
- Annual review of properties that have experienced declines in value.
- Annual revaluations of certain properties subject to special assessment procedures, such as property subject to California Land Conservation Act contracts and taxable possessory interests.

Article XIII A of the California Constitution provides that, absent post-1975 new construction or changes in ownership, the taxable value of real property shall not exceed its 1975 full cash value, except that it can be adjusted annually for inflation by a factor not to exceed two percent.

### ***Change in Ownership***

Section 60 defines change in ownership as a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee simple interest. Sections 61 through 69.5 further clarify what is considered a change in ownership and what is excluded from the definition of change in ownership for property tax purposes. Section 50 requires the assessor to establish a base year value for real property upon a change in ownership; a property's base year value is its fair market value on the date of change in ownership.

### **Document Processing**

The assessor maintains staff procedures for processing changes in ownership. Currently, the change in ownership division consists of four deputy assessor-recorders (DAR), and they report to the chief deputy assessor-recorder. The assessor's primary means of discovering properties that have changed ownership is through the analysis of deeds and other recorded documents.

The following table illustrates the total number of recorded transfers resulting in reappraisal the assessor has processed in recent years:

<b>ROLL YEAR</b>	<b>RECORDED TRANSFERS</b>
2007-08	2,028
2006-07	5,204
2005-06	4,623
2004-05	5,943

In Lake County, the assessor also functions as the county recorder. The assessor-recorder requires BOE-502-A, *Preliminary Change of Ownership Report (PCOR)*, to accompany documents submitted for recordation transferring ownership of real property. If a transfer document is received without a PCOR, an additional \$20 charge is added to the recording fee. When a recorded document is received without a PCOR or the PCOR is incomplete, the DAR mails a PCOR to the property owner. In addition, to facilitate accurate property identification, a local ordinance requires the assessor's parcel number to be indicated on all recorded documents involving real property.

Recorded documents along with the original PCORs are sent electronically from the recorder's office to the assessor's office. The DAR reviews each recording to verify the legal description, confirm prior ownership, and determine whether the transfer constitutes an assessable event. If any additional information is required, the DAR is responsible for sending the appropriate letter or form to the property owner. Once this information is verified, the DAR inputs the information from the document into the computer system.

The assessable events are sent electronically to an appraisers' work queue for valuation. The PCORs are sent to the chief deputy assessor-recorder for further review before being distributed to the appraisers.

We examined several recorded documents and found the assessor has an effective program for the discovery and determination of assessable events.

### Transfer Lists

Pursuant to section 408.1(a), the assessor shall maintain a list of transfers of any interest in property, other than an undivided interest, within the county, which have occurred within the preceding two-year period. Section 408.1(e) states, however, that this requirement shall not apply to any county with a population under 50,000 people, as determined by the 1970 federal decennial census. Based on the population of 19,548 in Lake County in 1970, the assessor is not required to maintain a transfer list and has elected not to maintain one.

### Legal Entity Ownership Program (LEOP)

Section 64 provides that certain transfers of ownership interests in a legal entity constitute a change in ownership of all real property owned by the entity and any entities under its ownership control. Rule 462.180 interprets and clarifies section 64, providing examples of transactions that either do or do not constitute a change in entity control and, hence, either do or do not constitute a change in ownership of the real property owned by the entity. Discovery of these types of changes in ownership is difficult for assessors, because ordinarily there is no recorded document evidencing a transfer of an ownership of an interest in a legal entity.

To assist assessors, the BOE's LEOP section gathers and disseminates information regarding changes in control and ownership of legal entities that hold an interest in California real property. On a monthly basis, LEOP transmits to each county assessor a listing, with corresponding property schedules, of legal entities that have reported a change in control under section 64(c) or change in ownership under section 64(d). However, because the property affected is self-reported

by the person or entity filing information with the BOE, LEOP advises assessors to independently research each entity's property holdings to determine whether all affected parcels have been identified and properly reappraised.

Sections 480.1, 480.2, and 482 set forth the filing requirements and penalty provisions for the reporting of legal entity changes in control under section 64(c) and changes in ownership under 64(d). A change in ownership statement must be filed with the BOE within 45 days of the date of change in control or change in ownership; reporting is made on BOE-100-B, *Statement of Change in Control and Ownership of Legal Entities*. Section 482(b) provides for application of penalty if a person or legal entity required to file a statement under 480.1 and 480.2 does not do so within 45 days from the earlier of (1) the date of change in control or ownership or (2) the date of written request by the BOE. The BOE advises county assessors of entities that are subject to penalty so they can impose the applicable penalty to the entity's assessments.

The assessor discovers changes in control by reviewing the monthly LEOP reports provided by the BOE. The assessor also discovers potential changes in control or changes in ownership of legal entities from media reports and word of mouth.

The monthly LEOP reports are reviewed to determine if any changes in control or ownership have occurred for entities holding property in Lake County. Parcel numbers located in the county are reviewed along with other potential properties affiliated with the entity to ensure all of the entity's real property is reviewed. If the transfer results in an assessable event, the transfer information is provided to an appraiser for valuation.

We found that all statements reviewed for the LEOP program had been filed timely or filed within the automatic abatement period, and therefore, no penalties were applicable. However, with the January 2010 amendment to section 482(b), which requires assessors apply penalties when the party fails to file within 45 days from the date of change in control or ownership or within 45 days of the written request by the BOE, whichever is earlier, the assessor may need to revise current procedures to comply with the change in law.

The BOE's *Questionnaire Due Dates and Filing Dates for Entities Indicating a Change in Control or Change in Ownership By Company* report lists legal entities that have undergone a change in control or ownership and identifies due dates and filing dates of the BOE-100-B for each entity. Information on this report, as well as on the BOE-100-B, will greatly assist the assessor in determining if a change in ownership or change in control has occurred and in making an accurate assessment.

We reviewed several files involved in changes in control or ownership of a legal entity and found two areas in need of improvement.

**RECOMMENDATION 3:** Improve the LEOP program by: (1) correctly processing information received from the BOE for possible changes in control or ownership of a legal entity, and (2) reassessing all properties owned by the legal entity undergoing a change in control or ownership.

**Correctly process information received from the BOE for possible changes in control or ownership of a legal entity.**

Our review of several property files disclosed that the assessor was changing the owner's name on the roll based on the BOE-100-B filing without a recorded document changing title to the property. According to the notes in the file, the assessor changed the title based on information received from the BOE through the LEOP program.

The information received from the BOE in regards to the LEOP program is to inform assessors of a change in control or ownership of a legal entity. When a legal entity gains a controlling interest in another entity, the entity gaining control doesn't necessarily take title to the property. The information received from the BOE simply notifies the assessor there has been a change in the ownership interests in the entity itself, causing one party to gain control of the entity, not changing title to property owned by the entity. By changing the owner's name on the roll without a recorded document, the assessor is incorrectly displaying how title is legally held.

**Reassess all properties owned by the legal entity undergoing a change in control or ownership.**

The assessor failed to reassess several properties determined to have undergone a change in control as notified by the BOE through the LEOP program.

Section 64(c)(1) provides that when a corporation, partnership, limited liability company, other legal entity, or any other person obtains control through direct or indirect ownership or control of more than 50 percent of the voting stock of any corporation, or obtains a majority ownership interest in any partnership, limited liability company, or other legal entity through the purchase or transfer of corporate stock, partnership, or limited liability company interest, the purchase or transfer of that stock or interest shall be a change of ownership of the real property owned by the corporation, partnership, limited liability company, or other legal entity in which the controlling interest was obtained.

By not reassessing properties identified as having gone through a change in control or ownership, the assessor is incorrectly assessing those properties.

**Change in Ownership Exclusions – Section 63.1**

Section 63.1 generally excludes from the definition of "change in ownership" the purchase or transfer of principal residences and the first \$1 million of other real property between parents and children. Section 63.1 also excludes qualifying purchases or transfers from grandparents to their grandchildren.

To enforce the \$1 million limit for property other than principal residences, the BOE maintains a database that lists transfers of such property statewide. To further the state and local interests served by tracking these transfers, section 63.1 encourages county assessors to report such transfers to the BOE on a quarterly basis. The quarterly reporting, which was formerly mandatory, is now optional. Even if an assessor opts not to report quarterly to the BOE, the assessor must track such transfers internally to be in compliance with section 63.1.

The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any transferors who have been granted the exclusion for property over their \$1 million limit. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.

Applications and information regarding this exclusion are available to the public at the assessor's office. In addition, if a PCOR indicates a section 63.1 exclusion may apply, the DAR processing the transfer sends the interested parties a claim form along with a cover letter explaining the exclusion. One DAR reviews all section 63.1 applications and determines if each claim will be accepted or denied. If the property owner does not return the claim form, it is the appraiser's responsibility to decide how long to wait before reassessing the property, and whether a second claim form should be sent.

The assessor submits optional quarterly reports to the BOE listing approved section 63.1 transfer exclusions involving property other than the transferor's principal residence. When the assessor receives the quarterly *Report of Transfers Exceeding \$1,000,000* from the BOE, the report is reviewed to determine if it includes property located within Lake County. If property exceeding the limit is within Lake County, the DAR informs the chief deputy assessor-recorder, who then determines which of the parcels to reassess.

Pursuant to section 63.1(i), the assessor maintains the confidentiality of claim forms by storing all submitted claim forms in a file cabinet located within a secure area that is not accessible to the public.

We found the assessor properly reviews and tracks section 63.1 claims.

### Change in Ownership Exclusions – Section 69.5

Section 69.5 generally allows persons over age 55 or who are severely or permanently disabled to transfer the base year value of a principal residence to a replacement residence of equal or lesser value located within the same county. A county board of supervisors may provide by ordinance that base year values may be transferred from properties located outside the county.

In general, a person may claim relief under section 69.5 only once during their lifetime. To prevent improper multiple claims for this relief, section 69.5 requires county assessors to report to the BOE, on a quarterly basis, any approved section 69.5 claims.

The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any improper multiple claims. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.

Lake County does not have an ordinance in place to accept base year value transfers from other counties. Applications and information regarding exclusions from reassessment are available to the public at the assessor's office. In addition, if a PCOR indicates a section 69.5 exclusion may apply, the DAR sends interested parties a claim form. All section 69.5 claims are reviewed to determine if the claims will be accepted or denied. The assessor determines the fair market value of both the original and replacement properties and applies the appropriate value comparison percentage based on the date the replacement property was purchased or the new construction was completed.

Pursuant to section 69.5(n), the assessor protects confidential information furnished on the claim form by keeping all claim forms in a file cabinet away from public access.

To avoid duplicate filing of a section 69.5 claim, the assessor reviews the BOE's quarterly *Duplicate SSN Report* to determine if any claims made in Lake County duplicate any claims made in another county. This report is a compilation of information provided by the assessors throughout the state. Over the last five years, the assessor has submitted only one of these required quarterly reports to the BOE.

**RECOMMENDATION 4:** Submit quarterly reports to the BOE in accordance with section 69.5(b)(7).

Over the last five years, the assessor has not consistently submitted quarterly reports to the BOE listing approved section 69.5 base year value transfers. The assessor submitted the last report in the second quarter of 2008 even though he has processed about one claim per quarter since he submitted that report. Section 69.5(b)(7) states in part, "In order to prevent duplication of claims under this section, county assessors shall report quarterly to the Board of Equalization a list of approved section 69.5 base year value transfers." Failure to provide information to the BOE involving base year value claims under section 69.5 could result in the duplication of the exclusion and result in underassessments.

## Valuation

Once a change in ownership has been determined to be an assessable event, pertinent information is sent to the appraiser's work queue. Assessable transfers are reviewed to confirm the reported sale price accurately reflects market value. The sale price is not automatically enrolled if the appraiser determines the reported sale price is outside of the market value range. When the reported sale price is outside market value range for commercial properties, the commercial appraiser performs both a market and income approach to determine the value of the property. Field inspections of the property are conducted only when more information is needed for the appraiser to make an accurate determination of value. The assessor attempts to field inspect all foreclosed properties before valuation for possible condition issues.

We reviewed a number of residential and commercial assessable events, which included sales, transfers, and partial interest transfers. We found the assessor is following proper procedures for valuation and is correctly processing supplemental assessments.

## **New Construction**

Section 70 defines newly constructed property, or new construction, as (1) any addition to real property since the last lien date, or (2) any alteration of land or improvements since the last lien date that constitutes a major rehabilitation of the property or converts the property to a different use. Further, section 70 establishes that any rehabilitation, renovation, or modernization that converts an improvement to the substantial equivalent of a new improvement, constitutes a major rehabilitation of the improvement. Section 71 requires the assessor to determine the full cash value of newly constructed real property on each lien date while construction is in progress and on its date of completion, and provides that the full cash value of completed new construction becomes the new base year value of the newly constructed property.

Rules 463 and 463.500 clarify the statutory provisions of sections 70 and 71, and the Assessors' Handbook Section 502, *Advanced Appraisal*, Chapter 6, provides guidance for the assessment of new construction.

There are several statutory exclusions from what constitutes new construction; sections 70(c) and (d), and sections 73 through 74.7 address these exclusions.

## **Discovery**

Building permits are the assessor's primary means of discovering new construction. Currently, the assessor receives building permits from three permit-issuing agencies: the County of Lake Community Development Department, the City of Lakeport, and the City of Clearlake. Additional discovery methods include field inspections, newspaper articles, business property statements, and aerial-viewing software.

## **Permit Processing**

The permits from the community development department are mailed to the assessor's office monthly. The cities of Lakeport and Clearlake mail copies on a weekly basis. All permits are received with plans and completion lists in hard-copy format.

The chief deputy assessor-recorder reviews the permits for new construction. Permits for maintenance items, such as reroofs and service upgrades, are culled. All other permits are forwarded to a clerk and entered into the assessor's computer system. The appraisers are able to view the potentially assessable permits by book number.

The following table shows the permit workload over recent years:

ROLL YEAR	PERMITS RECEIVED	PERMITS RESULTING IN NEW ASSESSMENTS
2007-08	1,552	809
2006-07	2,341	1,484
2005-06	2,286	1,200
2004-05	2,539	1,297

### Construction in Progress

Section 71 requires the assessor to enroll construction in progress at its fair market value as of each lien date. On subsequent lien dates, if the new construction is still incomplete, the assessor must again enroll the construction in progress at its fair market value. This process continues until the new construction is complete, at which time the new construction is assessed at its fair market value upon completion and a base year value is assigned.

We reviewed a number of property records with construction in progress and found the assessor is correctly valuing new construction in progress by determining the market value using published costs, reported costs, and market analysis.

### Valuation

The assessor estimates the full value of new construction as of the date of completion. The assessor determines the completion status of new construction from field visits, direct contact with the building department, the recorded date of occupancy, or from the taxpayer.

The assessor typically values new residential construction using the market and cost approaches. The income approach is also used in determining the value of new construction for commercial and industrial properties. The cost data sources most utilized include Assessors' Handbook Section 531, *Residential Building Costs* (AH 531), the owner's reported costs, and the *Marshall Valuation Service*. Based on the type of permit, the appraiser will determine if a field inspection is necessary for new construction events. Supplemental assessments are created and issued based on the date of completion.

We found one area in the assessor's new construction program where improvement is needed.

**RECOMMENDATION 5:** Improve the new construction program by obtaining copies of permits from the environmental health department.

The assessor does not receive copies of permits issued by the Lake County Environmental Health Department. This agency issues permits for water wells and septic systems countywide.

Section 72 requires county or city agencies to furnish copies of building permits to the assessor. To ensure the assessor discovers all qualifying new construction, a copy of every approved building permit must be received. Well and septic system permits can indicate further

development and assist the assessor in discovering new construction that might otherwise go undetected.

By not obtaining these permits from the environmental health department, the assessor may be missing potential new construction, which may result in escape assessments.

**Declines in Value**

Section 51 requires the assessor to enroll on the lien date an assessment that is the lesser of a property's factored base year value (FBYV) or its current full cash value, as defined in section 110. Thus, if a property's full cash value falls below its FBYV on any given lien date, the assessor must enroll that lower value. If, on a subsequent lien date, a property's full cash value rises above its FBYV, then the assessor must enroll the FBYV.

According to the assessor, Lake County saw a peak in the real estate market in September 2005, and then residential property values began a slow, continual decline through 2008. In 2009, Lake County experienced a significant drop in residential property values. The commercial property values seemed to lag behind residential, not experiencing declines in value until 2009.

The following table shows the number of decline-in-value assessments in Lake County over recent years:

ROLL YEAR	ASSESSMENTS
2007-08	6,514
2006-07	1,492
2005-06	1,543
2004-05	2,050

Prior to the recent downturn in the market, declines in value were discovered primarily through the appraisal staff's knowledge of current property values in their assigned area and through taxpayer requests for value reviews. However, with the change in market conditions and drastic declines in value, the assessor has recently developed a decline-in-value program for residential properties.

For lien date 2009, the decline-in-value program divided the county into four residential areas for valuation analysis. The assessor analyzed each area by collecting 2008 sales and comparing those sales to their prior sale price in order to determine a percentage change. The assessor analyzed properties purchased from 1999 to 2007 for possible declines in value. Based on this analysis, a percentage was determined for each year analyzed in each of the four areas for properties purchased prior to lien date 2008. The percentage to be used is dependent upon the year the property was originally purchased, as well as the area in which the property is located. For residential properties purchased in 2008 and 2009, and for commercial properties, the assessor analyzed the property for a decline in value only if the property owner requested a value review.

The assessor does not have a form for an informal value review. The property owner must call, appear in person, or write a letter to the assessor and request to have their value reviewed for a possible decline in value. This information is input into a database, and the review appears in the appraiser's work queue. Once the appraiser resolves the requested value review, it is removed from the work queue and appears on the list of completed work. The assessor verbally informs the taxpayer this is not an appeal, and tells them their appeal rights and the process involved to file an appeal.

Each property that receives a reduction in value is coded as a "Prop 8" in the computer system and is given an "800" or "801" taxability code. This code prevents the automatic application of the inflation factor and makes the property easily identifiable for annual value review by an appraiser. The system also tracks the property's factored base year value to ensure the value is never restored above the factored base year value.

We reviewed several decline-in-value records and found the values to be reasonable. Overall, the assessor's decline-in-value program is efficient and well administered.

### ***California Land Conservation Act Property***

Pursuant to the California Land Conservation Act (CLCA) of 1965, agricultural preserves may be established by a city or county for the purpose of identifying areas within which the city or county will enter into agricultural preserve contracts with property owners.

Property owners who place their lands under contract agree to restrict the use of such lands to agriculture and other compatible uses; in exchange, the lands are assessed at a restricted value. Lands under contract are valued for property tax purposes by a method that is based upon agricultural income-producing ability, including income derived from compatible uses, such as hunting rights and communications facilities. Although such lands must be assessed at the lowest of the restricted value, current market value, or factored base year value, the restricted value typically is the lowest.

Sections 421 through 430.5 prescribe the method of assessment for land subject to agricultural preserve contracts. Assessors' Handbook Section 521, *Assessment of Agricultural and Open-Space Properties* (AH 521), provides guidance for the appraisal of these properties.

Most of the rural property in Lake County is used for livestock grazing with smaller, more adaptable areas improved with fruit, nut, and vegetable crops. Wine grapes, pears, walnuts, and livestock generate the bulk of the agricultural revenue in the county. The county had approximately \$61.2 million in gross production value of agricultural commodities in 2008, a decrease of approximately 16 percent from the 2007 production value. The decrease in agricultural revenues can be most attributed to oversupply and an early spring freeze of the county's top crop, wine grapes. The value of the wine grapes dropped from \$43 million in 2007 to \$34 million in 2008. Walnuts were hit the hardest due to frost damage, causing crop production to have lower quantities and poorer quality. Revenues dropped by 70 percent from \$4 million in 2007 to \$1.2 million in 2008.

For the 2008-09 roll year, Lake County had 510 parcels encompassing 47,454 acres encumbered by 117 CLCA contracts. The total assessed value of these lands was \$65,234,670. Lake County has not adopted any Farmland Security Zone contracts, which are more restrictive contracts than typical CLCA contracts, nor have they adopted the provisions of section 423.3, which allows for CLCA property to be enrolled at a percentage of the base year value. Currently, there are no open-space or scenic easements under restricted value within the county, and no contracts have been cancelled since the last survey.

The chief deputy assessor-recorder is responsible for the valuation of the CLCA properties. CLCA questionnaires are mailed out annually. The information provided from the questionnaires, along with the crop and crush reports, is used to value the properties in the program. Income and expenses are derived from a market analysis performed by the chief deputy assessor-recorder, utilizing data from the Lake County crop report, questionnaires from property owners, and other published data. The CLCA properties are annually valued by comparing the calculated restricted value to the factored base year value and the current market value, and the lower of the three values is enrolled.

While the chief deputy assessor-recorder has developed and uses an electronic spreadsheet for the valuation of grazing and crop land, he still manually computes the values for living improvements. Automating the assessment of living improvements would be more efficient and could reduce calculation errors.

We reviewed several CLCA assessments and found the assessor has an efficient and well organized program in place to value these properties. We noted homesites are valued correctly, supplemental assessments are properly processed, and appropriate capitalization rates are used in the valuation process. However, we found several areas where improvement is needed.

**RECOMMENDATION 6:** Improve the valuation of CLCA properties by: (1) using an appropriate income stream for capitalizing restricted tree and vine income, (2) allowing for a return *on* the investment in irrigation wells to remain as income attributable to the land being capitalized, (3) establishing the correct base year for CLCA properties that have undergone a change in ownership, (4) including all agricultural income available to the property in determining value, and (5) deducting appropriate charges for a return *on* and *of* nonliving improvements that contribute to the land being capitalized.

**Use an appropriate income stream for capitalizing restricted tree and vine income.**

The assessor uses a straight-line declining income premise when appraising vineyards and orchards in all stages of production. The assessor also uses a three-year weighted average of the actual income produced each year by the orchard or vineyard.

The AH 521 describes the procedure for capitalizing tree and vine income. The appropriate method depends primarily on the shape of the anticipated income stream. The shape of the income stream of all living improvements is similar: (1) a period of development when

production (income stream) initiates and rises, (2) a period of maturity when production remains relatively stable, and (3) a period of decline when production drops as the improvements near the end of their economic lives.

Not recognizing the shape of the income stream may result in the undervaluation of trees and vines in early to mid-life and the overvaluation of trees and vines in late life.

**Allow for a return *on* the investment in irrigation wells to remain as income attributable to the land being capitalized.**

The assessor properly includes wells as a component of the land value. In the valuation process of CLCA properties, the assessor correctly deducts a charge for the return *of* the well value from the income attributable to the real property. However, the assessor also deducts a charge for the return *on* the investment in a well attributable to the income, which is an incorrect procedure.

According to AH 521, the assessor should not deduct a charge for a return *on* the investment in a well, since this income should remain as income attributable to land to be capitalized. The assessor's procedure results in the undervaluation of restricted properties with irrigation wells that contribute to the income being capitalized.

**Establish the correct base year for CLCA properties that have undergone a change in ownership.**

The assessor incorrectly determines the base year of CLCA properties that have undergone a change in ownership. The assessor is establishing the base year as of the date the change in ownership was processed and not as of the date of the change in ownership.

Section 423(d) provides that the valuation resulting from the capitalization of income as described in section 423 shall not exceed the lesser of either the valuation that would have resulted by calculation under section 110, or the valuation that would have resulted by calculation under section 110.1, as though the property was not subject to an enforceable restriction. Pursuant to section 110.1(a), the fair market value of a property that experiences a change in ownership shall be determined as of the date on which the change in ownership occurs. Therefore, when open space property under a CLCA contract undergoes a change in ownership, the assessor must process the change in ownership and establish the base year value for the property as of the date of change in ownership. Furthermore, pursuant to section 75.14, the new base year value of the restricted property is not enrolled, and no supplemental assessments are issued. However, as to the non-restricted portions of the property, the new base year value is enrolled and supplemental assessments are levied based upon the change in ownership.

If the assessor does not establish the correct base year when a property undergoes a change in ownership, he may not be making a valid comparison of the factored base year value to the restricted or market values. This could result in incorrect assessments. Additionally, use of an incorrect event date could have a significant impact on the amount and number of supplemental assessments for non-restricted portions of the property.

**Include all agricultural income available to the property in determining value.**

The assessor is not recognizing all of the potential agricultural income available to a given property during the valuation process. For example, in one instance, the owner had discontinued using the land for grazing; the assessor discontinued including grazing income in the valuation analysis. In another instance, the assessor dropped the orchard from the roll since the orchard was no longer producing, but did not add value by imputing potential income to the orchard land. In yet another instance, the owner discontinued use of a packing shed; the assessor did not impute any income due to the agricultural use to which this shed could be put.

Agricultural preserve property encumbered by a CLCA contract is assessed on the basis of its agricultural income producing ability, including any compatible use income. In defining the income to be capitalized when valuing open-space properties subject to enforceable restrictions, section 423(a)(3) provides that revenue shall be the amount of money the land can be expected to yield to an owner-operator. AH 521 adds that an appraiser can estimate an economic rent for a property not currently producing income if it has income-producing capabilities just as an appraiser would do with any other income-producing property. The income that can be generated and is attributable to the land must be capitalized in the manner specified for restricted properties.

By not including these additional incomes in the valuation process, the assessor is undervaluing those properties subject to open-space restrictions that have additional income capabilities from approved uses.

**Deduct appropriate charges for a return *on* and *of* nonliving improvements that contribute to the income being capitalized.**

The assessor properly includes charges for a return *on* investments in nonliving improvements and a recapture of such investments that contribute to the income stream. However, we found the assessor incorrectly determines the charges by adding the market-derived yield rate, tax rate, and recapture rate and multiplying it by the replacement cost new (RCN) of the improvements. The assessor determines the recapture rate by dividing the remaining economic life by the economic life. It would be appropriate for the assessor to use the entire economic life of the improvement if they utilize the RCN. If the assessor prefers to utilize the remaining economic life, the assessor should use the remaining cost new less depreciation (RCNLD).

AH 521, provides that the two most acceptable methods to determine the charges for these nonliving improvements are to (1) determine a market-derived yield rate and apply it to the RCN of the improvement over the improvement's economic life, or (2) determine a market-derived yield rate and apply it to the RCNLD of the improvement's remaining economic life. Either method should yield the same result if applied properly, so both are acceptable. Assessors' Handbook Section 505, *Capitalization Formulas and Tables* (AH 505), provides the periodic repayment factor applicable to the market-derived yield rate.

By incorrectly determining charges for return *on* and *of* nonliving improvements that contribute to the income being capitalized, the assessor is overstating expenses and undervaluing restricted properties.

### **Taxable Possessory Interests**

A taxable possessory interest results from the possession, a right to possession, or a claim to a right to possession of publicly owned real property, in which the possession provides a private benefit to the possessor and is independent, durable, and exclusive of rights held by others. The assessment of a taxable possessory interest in tax-exempt publicly-owned property is based on the value of the rights held by the possessor; the value of the rights retained by the public owner is almost always tax exempt.

For the 2009-10 assessment roll, the assessor enrolled 117 taxable possessory interests with a total value of \$32,769,567. The majority of these taxable possessory interests are cabins on United States Forest Service (USFS) land; however, taxable possessory interests in Lake County represent a wide variety of uses, including fairground events, summer cabins, hangars at municipal airports, and grazing permits.

Discovery of taxable possessory interests occurs primarily through the assessor's contact with public agencies requesting information on leases. Each year the assessor mails a letter to the USFS requesting information on cabins. Once the list is received, the appraiser reviews the information, values any new taxable possessory interests, adds notes to the appraisal records, and forwards the values for enrollment. The valuation and monitoring of the taxable possessory interests are the responsibility of the two commercial property appraisers.

During our survey, the assessor showed evidence of upcoming changes to the discovery program. A few of the changes include annual contact with all county agencies and field visits to the fairgrounds, local airport, and USFS lands. These changes are in the process of being implemented in an effort to improve the taxable possessory interest program.

In our review of the assessor's taxable possessory interest program, we noted a number of areas in need of improvement.

**RECOMMENDATION 7:** Improve the taxable possessory interest assessment program by: (1) discovering and enrolling all taxable possessory interests, (2) adding the present worth of unpaid future contract rents to the sale price of a taxable possessory interest, (3) revaluing taxable possessory interests at the end of the reasonably anticipated term of possession, (4) periodically reviewing taxable possessory interests with stated terms of possession for declines in value, (5) deducting allowable expenses from gross income when valuing taxable possessory interests, and (6) properly issuing supplemental assessments for taxable possessory interests.

#### **Discover and enroll all taxable possessory interests.**

The assessor is not discovering and enrolling all taxable possessory interests in Lake County. Although the assessor is making contact with the USFS, there are a number of other agencies in the county the assessor is not currently contacting. For example, we obtained a list of tenants at

the Lake County fairgrounds and found a number of concessionaires listed that appear to hold taxable possessory interests. The repeated use of the fairground facilities by the same person or entity over a number of years should be investigated to see whether or not that use constitutes a taxable possessory interest. Since Lake County does not have an ordinance for exempting low-value fairground taxable possessory interests under section 155.20, the assessor should enroll all taxable possessory interests at the fairground. In addition, we discovered the assessor has not been in contact with the local airport regarding hangars and tie downs. The assessor's failure to investigate potential taxable possessory interests may result in escaped assessments and lost revenue to the county.

**Add the present worth of unpaid future contract rents to the sale price of a taxable possessory interest.**

The assessor enrolls the sale price of a privately owned cabin on USFS land as market value, allocating the total sale price between land and improvements. The assessor does not add the present worth of unpaid future contract rents to the reported sale price. Rule 21(e)(1)(A) states that when using the direct comparison method, the assessor must add the present worth of any unpaid future contract rents to the reported sale price. If the sale price is not properly adjusted, the value indicator will not reflect the full value of the taxable possessory interest and may result in an underassessment.

**Revalue taxable possessory interests at the end of the reasonably anticipated term of possession.**

The assessor does not consistently revalue taxable possessory interests at the end of the reasonably anticipated term of possession, regardless of whether the reasonably anticipated term of possession is the stated term of the contract or an anticipated term established by the assessor.

Section 61(b) provides that a "change in ownership" includes the creation, renewal, extension, or assignment of a taxable possessory interest in tax exempt real property. Section 61(b)(2) provides that the renewal or extension of a taxable possessory interest that occurs during the reasonably anticipated term of possession used by the assessor to value the interest does not result in a change in ownership until the end of that reasonably anticipated term of possession. At the end of the reasonably anticipated term of possession, the assessor shall establish a new base year value for the taxable possessory interest, based on a new reasonably anticipated term of possession.

By not reappraising taxable possessory interests at the end of the reasonably anticipated term of possession, the assessor has not recognized the change in ownership occurring at the end of the reasonably anticipated term and has been missing supplemental assessments, as well as enrolling incorrect assessments.

**Periodically review taxable possessory interests with stated terms of possession for declines in value.**

We found, for lien dates subsequent to the establishment of the base year, the assessor does not review taxable possessory interests with stated terms of possession for declines in value. Instead,

the assessor enrolls the factored base year value until the contract term expires or there is a change in ownership.

Rule 21(d)(1) provides that the stated term of possession shall be deemed to be the reasonably anticipated term of possession unless there is clear and convincing evidence the lessor and lessee anticipate a different term is appropriate through a mutual agreement or understanding. Rule 21(a)(6) defines the stated term of possession for a taxable possessory interest as the remaining period of possession as of the date specified in the lease, agreement, or permit, including any options to renew or extend the specified period of possession. Therefore, the stated term of possession declines each year, which may or may not have a material effect on the market value of the possessory interest. Thus, absent clear and convincing evidence of a mutual agreement or understanding as to a longer term of possession the assessor must estimate the market value of the taxable possessory interest on lien date based on the remaining term of the contract, compare this value with the FBVY, and enroll the lower of the two.

Although the assessor is not required to reappraise all properties each year, the assessor should develop a program to periodically review assessments of taxable possessory interests with stated terms of possession to ensure declines in value are consistently recognized. Failing to periodically review taxable possessory interests for possible declines in value may cause the assessor to overstate the taxable value of the possessory interest as of the lien date.

**Deduct allowable expenses from gross income when valuing taxable possessory interests.**

When utilizing the income approach to value taxable possessory interests, the assessor capitalizes the contract rent paid by the lessee without making any deductions from the gross rent for management and other operating expenses incurred by the public lessor.

Rule 21(e)(3)(A) prescribes the use of the direct income approach when valuing Post-De Luz taxable possessory interests. In the direct income approach, the amount to be capitalized to arrive at a value estimate is the future net income the taxable possessory interest is capable of generating under typical management during the term of possession. Rule 8(c) provides that it is appropriate to reduce a lessor's rental income for typical management and other property related expenses incurred by the lessor. The written agreement creating the taxable possessory interest should be reviewed to determine which specific expenses apply during the term of possession. Typical expenses, such as management charges, should also be recognized.

Failing to recognize appropriate lessor expenses may overstate the value of a taxable possessory interest.

**Properly issue supplemental assessments for taxable possessory interests.**

We discovered several taxable possessory interests where the assessor failed to issue a supplemental assessment upon the renewal of a lease. In addition, we discovered several taxable possessory interests where the assessor improperly calculated the supplemental assessment by offsetting the fair market value against the prior value on the regular roll.

Section 61(b) provides that the creation, renewal, extension, or assignment of a taxable possessory interest is a change in ownership. Section 75.11 provides that there shall be a

supplemental assessment following a change in ownership or completed new construction. Letter To Assessor No. 86/12 advises that the supplemental assessment amount for the newly created taxable possessory interest should be based on its fair market value without being offset by a prior value on the regular assessment roll.

Both of the assessor's practices result in a loss of revenue.

### ***Leasehold Improvements***

Leasehold improvements are all improvements or additions to leased property that have been made by the tenant or lessee. Such improvements can be secured to the real property or assessed to the lessee on the unsecured assessment roll.

Commercial, industrial, and other types of income-producing properties require regular monitoring by the assessor because, as tenants change over time, they may add or remove improvements that may result in a changed use of the property. These changes must, by law, be reflected in the property's assessment if they qualify as new construction.

When real property is reported on BOE-571-L, *Business Property Statement (BPS)*, coordination between the real property and business property divisions of the assessor's office is important. The reported cost should be examined by both an appraiser in the real property division and an auditor-appraiser in the business property division. The divisions should determine the proper classification of the property to ensure appropriate assessment by each division and to avoid escape and double assessments. The assessor must determine whether costs are for repair and maintenance, whether additions are properly classified as structural improvements or fixtures, or if additions are properly enrolled.

The Lake County Assessor does not have any written procedures, policies, or forms in place for the assessment of leasehold improvements. The main methods used to discover leasehold improvements are BPSs, building permits taken out by tenants, leases, and change of ownership statements.

The auditor-appraiser works closely with the commercial/agricultural appraiser assigned to the area by sharing information obtained from the BPSs and coordinating the valuation of the assessment in an effort to avoid double assessments. The assessor properly classifies reported structural improvements on the secured roll and fixtures on the unsecured roll. The assessor's program for the assessment of leasehold improvements is in compliance with current statutes.

### ***Mineral Property***

By statute and case law, mineral properties are taxable as real property. They are subject to the same laws and appraisal methodology as all real property in the state. However, there are three mineral-specific property tax rules that apply to the assessment of mineral properties. They are Rule 468, *Oil and Gas Producing Properties*, Rule 469, *Mining Properties*, and Rule 473, *Geothermal Properties*. These rules are interpretations of existing statutes and case law with respect to the assessment of mineral properties.

Lake County has assessable high temperature geothermal and mining properties located within its boundaries.

### Geothermal Properties

Geothermal property mineral rights refer to the rights to explore for, develop, and produce useful geothermal energy, and the real property associated with these rights. Pursuant to Rule 473, the rights to enter in or upon the land for the purpose of exploration, development, or production of proved reserves are taxable real property interests to the extent that they individually or collectively have ascertainable value. "Proved reserves" means that quantity of geothermal energy, capable of supporting the economic life of the geothermal project(s), which geological and engineering information indicate with reasonable certainty to be recoverable in the future, taking into account reasonably projected physical and economic operating conditions.

A portion of the Geysers Known Geothermal Resource Area is located in Lake County. This area has been producing electricity from geothermal steam since the late 1960s. The geothermal properties are appraised by the chief deputy assessor-recorder. In 2009, the total assessed value of geothermal properties in the county was \$416,993,000 for over 100 separate geothermal parcels.

There are no recommendations regarding the assessment of geothermal properties.

### Mining Properties

Mining property mineral rights refer to the rights to explore for, develop, and produce minerals, other than oil, gas, and geothermal resources, and the real property associated with these rights. Pursuant to Rule 469, the rights to enter in or upon the land for the purpose of exploration, development, or production of minerals are taxable real property interests to the extent that they individually or collectively have ascertainable value. "Minerals" means organic and inorganic material including rock but excluding oil, gas, and geothermal resources.

Lake County has several mining properties. These properties are appraised by the chief deputy assessor-recorder. We noted several areas in need of improvement.

**RECOMMENDATION 8:** Improve mineral assessment by: (1) appraising mining parcels as a single appraisal unit, and (2) making estimates of reserves for all mining properties and adjusting the base year value each year to account for production and other changes to reserves.

#### **Appraise mining parcels as a single appraisal unit.**

The assessor does not evaluate the entire appraisal unit when measuring for declines in value. The assessor does not determine the adjusted base year value of the fixtures for mineral properties. The proper appraisal unit for measuring declines in mineral property values is not evaluated, and the enrolled value is a combination of the factored base year value for the mineral rights and the current market value for the improvements and fixtures.

Rule 469 requires mineral properties to be appraised as a single appraisal unit for purposes of determining declines in value. Rule 469(e)(2)(C) defines the appraisal unit of a mineral property as land, improvements including fixtures, and reserves. This requires special handling to ensure that the proper values are developed and compared. To make the proper value determination, the adjusted base year value of the fixtures must be tracked each year, so the value can be combined with the adjusted base year value of the land and mineral rights. This aggregated value is then compared to the current market value of the land, improvements including fixtures, and reserves to determine the value to enroll. The current market value of the improvements including fixtures is most likely the replacement cost new less depreciation that is commonly tracked by the business property division.

The assessor's practice conflicts with Rule 469(e)(2)(C).

**Make estimates of reserves for all mining properties and adjust the base year value each year to account for production and other changes to reserves.**

A review of the sand and gravel mineral properties in the county revealed a recently developed property where the assessor enrolled a base year value for the mineral rights, but had not made any estimate of reserves or collected additional data from the property owner regarding the activity on the property.

Rule 469 establishes the procedures that should be followed each year to estimate the current market value of mineral properties for comparison against the adjusted base year value. Estimates of reserves can be made either from information gathered from the property owner or from other records accessible to the assessor, including conditional use permit applications and other planning documents. Once a reserve estimate and value have been established, the value must be adjusted each year to account for the production of minerals and additional reserve changes. This adjusted value must be compared against the current market value of the appraisal unit to determine which value to enroll.

The assessor's practice may result in inaccurate assessments.

## ASSESSMENT OF PERSONAL PROPERTY AND FIXTURES

The assessor's program for assessing personal property and fixtures includes the following major elements:

- Discovery and classification of taxable personal property and fixtures.
- Mailing and processing of annual property statements and questionnaires.
- Annual revaluation of taxable personal property and fixtures.
- Auditing taxpayers whose assessments are based on information provided in property statements.

As of December 2009, the assessor's staff assigned to the business property program consisted of two auditor-appraisers. The auditor-appraisers work in conjunction with the real property appraisers to ensure the correct classification and allocation of real and personal property items are assessed to businesses.

In this section of the survey report, we review the assessor's programs for conducting audits, processing business property statements, valuing business equipment, and assessing manufactured homes.

### **Audits**

A comprehensive audit program is essential to the successful administration of any tax program that relies on information supplied by taxpayers. A good audit program discourages deliberate underreporting, helps educate those property owners who unintentionally misreport, and provides the assessor with additional information to make fair and accurate assessments.

Prior to January 1, 2009, section 469 required county assessors to audit, at least once every four years, the books and records of any taxpayer engaged in a profession, trade, or business, if the taxpayer has assessable trade fixtures and business tangible personal property valued at \$400,000 or more. These statutorily required audits are commonly referred to as mandatory audits. Additionally, a county assessor may audit the books and records of taxpayers with holdings below \$400,000 in value under the authority of section 470. These audits are referred to as nonmandatory audits. Generally, county assessors perform both mandatory and nonmandatory audits to ensure that their audit program includes a representative sample of all sizes and types of property taxpayers with personal property holdings subject to the property tax.

Effective January 1, 2009, county assessors are no longer required to audit all taxpayers with trade fixture and business tangible personal property holdings of \$400,000 or more at least once every four years. Instead, the county assessor is required to annually audit a significant number of audits as specified in section 469. The significant number of audits required is at least 75 percent of the fiscal year average of the total number of mandatory audits the assessor was required to have conducted during the 2002-03 fiscal year to the 2005-06 fiscal year, with at least 50 percent of those to be selected from a pool of those taxpayers with the largest assessments. Thus, while section 469 still mandates a certain level of audits that must be performed annually,

assessors now have some flexibility in determining which accounts will comprise this mandated workload.

We reviewed the assessor's calculations that establish future audit workloads, as well as recent audit production. We found the assessor will likely meet the newly established production obligation under section 469. During the 2008-09 assessment year, the assessor completed 40 audits. The amended statute requires the assessor to complete seven audits per year hereafter. Therefore, it appears the assessor will complete the newly defined number of audits required.

### **Audit Quality**

An audit should follow a standard format so that the auditor-appraiser may easily determine whether the property owner has correctly reported all taxable property. Audit narratives and summaries should include adequate documentation, full value calculations, reconciliation of the fixed assets totals to the general ledger and financial statements, review of asset invoices, reconciliation between reported and audit amounts, an analysis of expense accounts, and an analysis of depreciation and obsolescence factors that may affect the value of the business property.

We reviewed several recently completed audits and found in all cases mandatory audits were accurate, well documented, and supported by a comprehensive audit checklist defining the areas of investigation. We found that the assessor performs change in control (ownership) reviews, verifies leased equipment, enrolls construction in progress, accounts for supplies, and properly classifies equipment, among other things. Furthermore, we reviewed the assessor's application of roll corrections to reflect audit findings. We found that when correcting for multiple-year audit findings, the assessor is enrolling roll corrections for each year in which the escape assessment took place pursuant to section 531.

Overall, the assessor's audit program is effectively managed. We have no recommendations regarding this topic.

### ***Business Property Statement Program***

Section 441 requires each person owning taxable personal property (other than a manufactured home) having an aggregate cost of \$100,000 or more to annually file a business property statement (BPS) with the assessor; others must file a BPS if requested by the assessor. BPSs form the backbone of the business property assessment program. Several variants of the BPS address a variety of property types, including commercial, industrial, agricultural, vessels, and certificated aircraft.

Workload

The following table displays the assessor's workload in the business property assessment program for the 2009-10 assessment roll:

CATEGORY	NUMBER OF SECURED	NUMBER OF UNSECURED	TOTAL
General Business	471	1,246	1,717
Agricultural	231	28	259
Vessels	0	6,384	6,384
General Aircraft	0	80	80
TOTAL	702	7,738	8,440

The two auditor-appraisers perform the BPS processing functions. We found they check for full disclosure of property based on the taxpayer's prior BPS. They also confirm reporting of leased equipment. In Lake County, the BPSs cover a wide variety of property types, including commercial, industrial, agricultural, as well as vessels and aircraft.

General Statement Processing

BPS processing begins with stamping the BPS with the date received. The auditor-appraisers review the BPSs for changes in the owner's name, business name, situs, and mailing address. A certified auditor-appraiser prepares the valuation adjustments on the BPS by hand and then enters the values into the assessment system.

We reviewed the BPS program, including use of BOE-prescribed forms, processing by non-certified staff, taxpayer interactions, completeness of the BPSs, authorized signatures, application of penalties, real property division coordination, and record storage and retention. In addition, we reviewed several active BPSs. We found all sampled BPSs evidenced the proper usage of BOE-prescribed forms and were properly signed.

Discovery

The assessor utilizes a wide range of tools in discovering taxable business property. Taxpayer self-reporting and periodic field canvassing are significant means of discovering assessable property. Other means of discovery utilized by the assessor include reviewing city and county business licenses, fictitious business name filings, real property appraiser referrals, business directory services, and BOE notifications. Additionally, the assessor utilizes a proactive form of discovery by sending requests for tenant information to all commercial rental property owners prior to the annual mailings of BPSs. We found the assessor employs effective methods for discovering taxable business property.

## Filing Procedures

Under section 441.5, in lieu of completing the BPS, the information required of the taxpayer may be furnished to the assessor as attachments to the BPS provided the attachments are in the format specified by the assessor and a copy of the actual BPS is signed by the taxpayer and carries appropriate reference to the data attached. The assessor allows taxpayers to submit attachments in lieu of completing a BPS as provided by section 441.5 only if the taxpayer or the taxpayer's assignee submits the signed original BPS. We reviewed several BPSs and found the taxpayer or an authorized agent appropriately signed the BPSs even when a rendition was attached to an original of the BPS.

Our review also included verifying the assessor's procedures for processing late-filed and non-filed BPSs. We found the assessor properly applies the late-filing penalty as required by section 463. Additionally, habitual non-filers are contacted in an attempt to collect accurate assessment information. If no other information is available, the assessor will conduct a field review.

## Summary

Overall, we found the assessor's BPS processing program to be effectively administered. The procedures in place are well structured and compliant with existing law. We have no recommendations regarding this topic.

## ***Business Equipment Valuation***

Assessors value most machinery and equipment using business property valuation factors. Some valuation factors are derived by combining price index factors with percent good factors, while other valuation factors result from valuation studies. A value indicator is obtained by multiplying a property's historical cost by an appropriate value factor.

Section 401.5 provides that the BOE shall issue information that promotes uniformity in appraisal practices and assessed values. Pursuant to that mandate, the BOE annually publishes Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors*.

The assessor uses a codification system to identify and designate the use of specific valuation tables to business property accounts in the computer system. We reviewed the written procedures and standardized valuation policies related to business property valuation and found them to be in order. We found no problems with the assessor's business equipment valuation program.

## ***Manufactured Homes***

A "manufactured home" is defined in Health and Safety Code sections 18007 and 18008, and statutes prescribing the method of assessing manufactured homes are contained in sections 5800 through 5842. A manufactured home is subject to local property taxation if sold new on or after July 1, 1980, or if its owner requests conversion from the vehicle license fee to local property

taxation. Manufactured homes should be classified as personal property and enrolled on the secured roll.

For the 2009-10 assessment roll, Lake County had 1,086 manufactured homes located in 110 mobilehome parks with a total assessed value of \$22,589,734. Pursuant to sections 5801(b)(2) and 5830, the assessor classifies manufactured homes as personal property and enrolls them on the secured roll with an assessment number beginning with "910." All manufactured homes in Lake County are assessed by real property appraisers according to their assigned area.

Lake County has 3,950 manufactured homes affixed to approved foundations. The assessor verifies that each home is affixed to an approved foundation in accordance with section 18551 of the Health and Safety Code and requires proof that the notice of affixation (form 433A) has been recorded. The recorded 433A can be viewed through the assessor's computer system. Once permanently affixed to an approved foundation, the home is considered an improvement and enrolled as real property.

The assessor discovers taxable manufactured home sales, new installations, and voluntary conversions to local property taxation by reviewing Department of Housing and Community Development reports. The discovery program is supplemented by building permits, dealer reports of sale, PCORs, and field canvassing. Taxable manufactured home accessories are generally discovered through field canvassing.

Pursuant to section 5803, the assessor shall consider sale prices listed in recognized value guides for manufactured homes in determining the full cash value for a manufactured home on rented or leased land. The assessor uses the National Automobile Dealer Associations' *Manufactured Housing Cost Guide* (NADA) when considering the value of manufactured homes. NADA is most often used to value manufactured homes because it gives a reliable indicator of value and does not take site influence into account. The assessor correctly applies supplemental assessments to new manufactured homes and manufactured homes that have changed ownership.

Section 5813 requires the taxable value for manufactured homes be the lesser of its base year value compounded by the annual inflation factor or its full cash value as determined pursuant to section 110 as of the lien date. Although the assessor is not required to reappraise all properties each year, the assessor should be proactive in discovering properties declining in value. The assessor periodically reviews manufactured homes for declines in value. The appraiser completes a NADA valuation to determine the current market value of the home. This value is then compared to the factored base year value and the lower of the two values is enrolled.

Overall, the assessor has an effective program for the assessment of manufactured homes.

## APPENDIXES

### A. County-Assessed Properties Division Survey Group

#### Lake County

*Chief*

Dean Kinnee

*Survey Program Director:*

Benjamin Tang

Principal Property Appraiser

*Survey Team Supervisor:*

Sally Boeck

Supervising Property Appraiser

*Survey Team Leader:*

Dale Peterson

Senior Specialist Property Auditor-Appraiser

*Survey Team:*

James McCarthy

Senior Mining and Petroleum Appraisal Engineer

Patricia Lumsden

Senior Specialist Property Appraiser

Michael Brennan

Associate Property Appraiser

Bryan Bagood

Associate Property Appraiser

Angie Berry

Associate Property Appraiser

Paula Montez

Associate Property Auditor-Appraiser

## **B. Relevant Statutes and Regulations**

### **Government Code**

#### **15640. Survey by board of county assessment procedures.**

- (a) The State Board of Equalization shall make surveys in each county and city and county to determine the adequacy of the procedures and practices employed by the county assessor in the valuation of property for the purposes of taxation and in the performance generally of the duties enjoined upon him or her.
- (b) The surveys shall include a review of the practices of the assessor with respect to uniformity of treatment of all classes of property to ensure that all classes are treated equitably, and that no class receives a systematic overvaluation or undervaluation as compared to other classes of property in the county or city and county.
- (c) The surveys may include a sampling of assessments from the local assessment rolls. Any sampling conducted pursuant to subdivision (b) of Section 15643 shall be sufficient in size and dispersion to insure an adequate representation therein of the several classes of property throughout the county.
- (d) In addition, the board may periodically conduct statewide surveys limited in scope to specific topics, issues, or problems requiring immediate attention.
- (e) The board's duly authorized representatives shall, for purposes of these surveys, have access to, and may make copies of, all records, public or otherwise, maintained in the office of any county assessor.
- (f) The board shall develop procedures to carry out its duties under this section after consultation with the California Assessors' Association. The board shall also provide a right to each county assessor to appeal to the board appraisals made within his or her county where differences have not been resolved before completion of a field review and shall adopt procedures to implement the appeal process.

#### **15641. Audit of records; appraisal data not public.**

In order to verify the information furnished to the assessor of the county, the board may audit the original books of account, wherever located, of any person owning, claiming, possessing or controlling property included in a survey conducted pursuant to this chapter when the property is of a type for which accounting records are useful sources of appraisal data.

No appraisal data relating to individual properties obtained for the purposes of any survey under this chapter shall be made public, and no state or local officer or employee thereof gaining knowledge thereof in any action taken under this chapter shall make any disclosure with respect thereto except as that may be required for the purposes of this chapter. Except as specifically provided herein, any appraisal data may be disclosed by the board to any assessor, or by the board or the assessor to the assessee of the property to which the data relate.

The board shall permit an assessee of property to inspect, at the appropriate office of the board, any information and records relating to an appraisal of his or her property, including "market data" as defined in Section 408. However, no information or records, other than "market data," which relate to the property or business affairs of a person other than the assessee shall be disclosed.

Nothing in this section shall be construed as preventing examination of that data by law enforcement agencies, grand juries, boards of supervisors, or their duly authorized agents, employees, or representatives conducting an investigation of an assessor's office pursuant to Section 25303, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine that data.

**15642. Research by board employees.**

The board shall send members of its staff to the several counties and cities and counties of the state for the purpose of conducting that research it deems essential for the completion of a survey report pursuant to Section 15640 with respect to each county and city and county. The survey report shall show the volume of assessing work to be done as measured by the various types of property to be assessed and the number of individual assessments to be made, the responsibilities devolving upon the county assessor, and the extent to which assessment practices are consistent with or differ from state law and regulations. The report may show the county assessor's requirements for maps, records, and other equipment and supplies essential to the adequate performance of his or her duties, the number and classification of personnel needed by him or her for the adequate conduct of his or her office, and the fiscal outlay required to secure for that office sufficient funds to ensure the proper performance of its duties.

**15643. When surveys to be made.**

- (a) The board shall proceed with the surveys of the assessment procedures and practices in the several counties and cities and counties as rapidly as feasible, and shall repeat or supplement each survey at least once in five years.
- (b) The surveys of the ten largest counties and cities and counties shall include a sampling of assessments on the local assessment rolls as described in Section 15640. In addition, the board shall each year, in accordance with procedures established by the board by regulation, select at random at least three of the remaining counties or cities and counties, and conduct a sample of assessments on the local assessment roll in those counties. If the board finds that a county or city and county has "significant assessment problems," as provided in Section 75.60 of the Revenue and Taxation Code, a sample of assessments will be conducted in that county or city and county in lieu of a county or city and county selected at random. The ten largest counties and cities and counties shall be determined based upon the total value of locally assessed property located in the counties and cities and counties on the lien date that falls within the calendar year of 1995 and every fifth calendar year thereafter.
- (c) The statewide surveys which are limited in scope to specific topics, issues, or problems may be conducted whenever the board determines that a need exists to conduct a survey.

(d) When requested by the legislative body or the assessor of any county or city and county to perform a survey not otherwise scheduled, the board may enter into a contract with the requesting local agency to conduct that survey. The contract may provide for a board sampling of assessments on the local roll. The amount of the contracts shall not be less than the cost to the board, and shall be subject to regulations approved by the Director of General Services.

**15644. Recommendations by board.**

The surveys shall incorporate reviews of existing assessment procedures and practices as well as recommendations for their improvement in conformity with the information developed in the surveys as to what is required to afford the most efficient assessment of property for tax purposes in the counties or cities and counties concerned.

**15645. Survey report; final survey report; assessor's report.**

(a) Upon completion of a survey of the procedures and practices of a county assessor, the board shall prepare a written survey report setting forth its findings and recommendations and transmit a copy to the assessor. In addition the board may file with the assessor a confidential report containing matters relating to personnel. Before preparing its written survey report, the board shall meet with the assessor to discuss and confer on those matters which may be included in the written survey report.

(b) Within 30 days after receiving a copy of the survey report, the assessor may file with the board a written response to the findings and recommendations in the survey report.

The board may, for good cause, extend the period for filing the response.

(c) The survey report, together with the assessor's response, if any, and the board's comments, if any, shall constitute the final survey report. The final survey report shall be issued by the board within two years after the date the board began the survey. Within a year after receiving a copy of the final survey report, and annually thereafter, no later than the date on which the initial report was issued by the board and until all issues are resolved, the assessor shall file with the board of supervisors a report, indicating the manner in which the assessor has implemented, intends to implement or the reasons for not implementing, the recommendations of the survey report, with copies of that response being sent to the Governor, the Attorney General, the State Board of Equalization, the Senate and Assembly and to the grand juries and assessment appeals boards of the counties to which they relate.

**15646. Copies of final survey reports to be filed with local officials.**

Copies of final survey reports shall be filed with the Governor, Attorney General, and with the assessors, the boards of supervisors, the grand juries and assessment appeals boards of the counties to which they relate, and to other assessors of the counties unless one of these assessors notifies the State Board of Equalization to the contrary and, on the opening day of each regular session, with the Senate and Assembly.

## **Revenue and Taxation Code**

### **75.60. Allocation for administration.**

(a) Notwithstanding any other provision of law, the board of supervisors of an eligible county or city and county, upon the adoption of a method identifying the actual administrative costs associated with the supplemental assessment roll, may direct the county auditor to allocate to the county or city and county, prior to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) and prior to the allocation made pursuant to Section 75.70, an amount equal to the actual administrative costs, but not to exceed 5 percent of the revenues that have been collected on or after January 1, 1987, due to the assessments under this chapter. Those revenues shall be used solely for the purpose of administration of this chapter, regardless of the date those costs are incurred.

(b) For purposes of this section:

- (1) "Actual administrative costs" includes only those direct costs for administration, data processing, collection, and appeal that are incurred by county auditors, assessors, and tax collectors. "Actual administrative costs" also includes those indirect costs for administration, data processing, collections, and appeal that are incurred by county auditors, assessors, and tax collectors and are allowed by state and federal audit standards pursuant to the A-87 Cost Allocation Program.
- (2) "Eligible county or city and county" means a county or city and county that has been certified by the State Board of Equalization as an eligible county or city and county. The State Board of Equalization shall certify a county or city and county as an eligible county or city and county only if both of the following are determined to exist:
  - (A) The average assessment level in the county or city and county is at least 95 percent of the assessment level required by statute, as determined by the board's most recent survey of that county or city and county performed pursuant to Section 15640 of the Government Code.
  - (B) For any survey of a county assessment roll for the 1996-97 fiscal year and each fiscal year thereafter, the sum of the absolute values of the differences from the statutorily required assessment level described in subparagraph (A) does not exceed 7.5 percent of the total amount of the county's or city and county's statutorily required assessed value, as determined pursuant to the board's survey described in subparagraph (A).

- (3) Each certification of a county or city and county shall be valid only until the next survey made by the board. If a county or city and county has been certified following a survey that includes a sampling of assessments, the board may continue to certify that county or city and county following a survey that does not include sampling if the board finds in the survey conducted without sampling that there are no significant assessment problems in the county or city and county. The board shall, by regulation, define "significant assessment problems" for purposes of this section, and that definition shall include objective standards to measure performance. If the board finds in the survey conducted without sampling that significant assessment problems exist, the board shall conduct a sampling of assessments in that county or city and county to determine if it is an eligible county or city and county. If a county or city and county is not certified by the board, it may request a new survey in advance of the regularly scheduled survey, provided that it agrees to pay for the cost of the survey.

### ***Title 18, California Code of Regulations***

#### **Rule 370. Random selection of counties for representative sampling.**

- (a) SURVEY CYCLE. The board shall select at random at least three counties from among all except the ten 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 three 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 regulation shall not be construed to prohibit the Board from conducting additional surveys, samples, or other investigations of any county assessor's office.

**Rule 371. Significant assessment problems.**

(a) For purposes of Revenue and Taxation Code Section 75.60 and Government Code Section 15643, "significant assessment problems" means procedure(s) in one or more areas of an assessor's assessment operation, which alone or in combination, have been found by the Board to indicate a reasonable probability that either:

- (1) the average assessment level in the county is less than 95 percent of the assessment level required by statute; or
- (2) the sum of all the differences between the board's appraisals and the assessor's values (without regard to whether the differences are underassessments or overassessments), expanded statistically over the assessor's entire roll, exceeds 7.5 percent of the assessment level required by statute.

(b) For purposes of this regulation, "areas of an assessor's assessment operation" means, but is not limited to, an assessor's programs for:

- (1) Uniformity of treatment for all classes of property.
- (2) Discovering and assessing newly constructed property.
- (3) Discovering and assessing real property that has undergone a change in ownership.
- (4) Conducting mandatory audits in accordance with Revenue and Taxation Code Section 469 and Property Tax Rule 192.
- (5) Assessing open-space land subject to enforceable restriction, in accordance with Revenue and Taxation Code Sections 421 et. seq.

- (6) Discovering and assessing taxable possessory interests in accordance with Revenue and Taxation Code Sections 107 et. seq.
  - (7) Discovering and assessing mineral-producing properties in accordance with Property Tax Rule 469.
  - (8) Discovering and assessing property that has suffered a decline in value.
  - (9) Reviewing, adjusting, and, if appropriate, defending assessments for which taxpayers have filed applications for reduction with the local assessment appeals board.
- (c) A finding of "significant assessment problems," as defined in this regulation, would be limited to the purposes of Revenue and Taxation Code Section 75.60 and Government Code Section 15643, and shall not be construed as a generalized conclusion about an assessor's practices.

## **ASSESSOR'S RESPONSE TO BOE'S FINDINGS**

Section 15645 of the Government Code provides that the assessor may file with the Board a response to the findings and recommendation in the survey report. The survey report, the assessor's response, and the BOE's comments on the assessor's response, if any, constitute the final survey report.

The Lake County Assessor's response begins on the next page. The BOE has no comments on the response.



**COUNTY OF LAKE**  
**COUNTY ASSESSOR-RECORDER**

Courthouse - 255 N. Forbes Street  
Lakeport, California 95453  
Assessor's Office 707 / 263-2302  
Recorder's Office 707 / 263-2293  
Fax 707 / 263-3703

**DOUGLAS W. WACKER**  
**ASSESSOR-RECORDER**

**RECEIVED**

**JUN 13 2011**

County-Assessed Properties Division  
State Board of Equalization

June 8, 2011

Mr. Dean Kinnee, Chief  
County Property Tax Division  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0062

Dear Dean:

In accordance with Government Code Section 15645 of the California Government Code, I am providing the following response to the State Board of Equalization's 2010 Assessment Practices Survey of Lake County.

I wish to express my appreciation to the BOE survey team under the leadership of Sally Boeck for the professional and courteous manner in which they performed their duties. I welcome and appreciate their suggestions for improvement and constructive comments regarding our processes and practices.

I would like to give special thanks to my entire staff for their dedication, professionalism and commitment to serving the citizens of Lake County. Through their hard work we have made some significant improvements to our property assessment program since our last survey in 2006.

Sincerely,

Douglas W. Wacker  
Lake County Assessor-Recorder

**County of Lake Assessor**  
**Response to State Board of Equalization**  
**Assessment Practices Survey 2011**

**Recommendation No. 1** – Instruct applicants to return the withdrawal form directly to the clerk of the assessment appeals board.

**Response:** We understand the concerns the SBE Survey expressed in their recommendation and have no intention of intervening in the independent third-party review accomplished in the appeal process. However, when we receive notification from the clerk of the board of an appeal filed our office will review the appeal and property value and if we can come to an agreement on value we will initiate a withdrawal form and mail it to the property owner. From past experience if we instruct the property owner to contact the clerk of the board to request a withdraw form it usually does not get done and we soon prepare an appeal when a value has been resolved. Due to the high volume of appeals we all are facing in this real estate market and that our clerk of the board is understaffed we feel we are better serving the public by processing withdrawal forms this way.

**Recommendation No. 2** – Improve the exemption program by: (1) sending appropriate written notification when a welfare exemption claim is denied, (2) ensuring only qualifying properties receive an institutional exemption, (3) correctly applying for late filings on welfare and disabled veterans' exemptions, and (4) applying the disabled veterans' exemption as of the date the property became eligible to receive the exemption

**Response:** We have reviewed recommendations by the BOE survey team and will comply with their recommendations.

**Recommendation No. 3** – Improve the LEOP program by: (1) correctly processing information received from the BOE for possible changes in control or ownership of legal entity, and (2) reassessing all properties owned by the legal entity undergoing a change in control or ownership.

**Response:** We have reviewed recommendations by the BOE survey team and will comply with their recommendations.

**Recommendation No. 4** – Submit quarterly reports to the BOE in accordance with section 69.5(b) (7).

**Response:** We have complied with SBE recommendation to submit quarterly reports to BOE in accordance with section 69.5(b) (7).

**Recommendation No. 5** – Improve the new construction program by obtaining copies of permits from the environmental health department.

**Response:** We will continue to work with the environmental health department to receive copies of well and septic system permits.

**Recommendation No. 6** – Improve the valuation of CLCA properties by: (1) using an appropriate income stream for capitalizing restricted tree and vine income, (2) allowing for a return on the investment in irrigation wells to remain as income attributable to the land being capitalized, (3) establishing the correct base year for CLCA properties that have undergone a change in ownership, (4) including all agricultural income available to the property in determining value, and (5) deducting appropriate charges for return on and of nonliving improvements that contribute to the land being capitalized.

**Response:** We have reviewed the recommendations by the SBE survey team and will comply with their recommendations.

**Recommendation No. 7** – Improve the taxable possessory interest assessment program by: (1) discovering and enrolling all taxable possessory interests, (2) adding the present worth of unpaid future contract rents to the sale price of taxable possessory interest, (3) revaluing taxable possessory interests at the end of the reasonably anticipated term of possession, (4) periodically reviewing taxable possessory interests with stated terms of possession for declines in value, (5) deducting allowable expenses from gross income when valuing taxable possessory interests, and (6) properly issuing supplemental assessments for taxable possessory interests.

**Response:** We have reviewed the recommendations by the SBE survey team and will comply with their recommendations.

**Recommendation No. 8** – Improve mineral assessments by: (1) appraising mineral parcels as a single appraisal unit, and (2) making estimates of reserves for all mining properties and adjusting the base year value each year to account for production and other changes to reserves.

**Response:** We have reviewed the recommendations by the SBE survey team and will comply with their recommendations.